

**HEALTH INSURANCE - CONTRACEPTIVE  
EQUITY AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Paula F. Julander**

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**LONG TITLE**

**General Description:**

This bill prohibits health insurance plans that cover prescription drugs and devices from refusing coverage for contraceptives.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits health insurance plans that cover prescription drugs and devices from refusing coverage for contraceptives;
- ▶ provides an exemption for religious employers; and
- ▶ provides enforcement.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a severability clause.

This bill takes effect on July 1, 2004.

**Utah Code Sections Affected:**

ENACTS:

**31A-22-635**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section 31A-22-635 is enacted to read:

29 **31A-22-635. Contraceptive equity.**

30 (1) As used in this section:

31 (a) "Covered person" means a policy holder, subscriber, certificate holder, enrollee, or  
32 other individual who is participating in, or receiving coverage under, a health insurance plan.

33 (b) "Health insurance plan" means any individual or group plan, policy, certificate,  
34 subscriber contract, or contract of insurance that is delivered, issued, renewed, modified,  
35 amended, or extended by a health insurer.

36 (c) "Health insurer" means a disability insurer, health care insurer, health maintenance  
37 organization, accident and sickness insurer, fraternal benefit society, nonprofit hospital service  
38 corporation, health service corporation, health care service plan, preferred provider  
39 organization or arrangement, self-insured employer, or multiple employer welfare arrangement.

40 (d) "Outpatient contraceptive services" means consultations, examinations, procedures,  
41 and medical services provided on an outpatient basis and related to the use of contraceptive  
42 drugs and devices to prevent pregnancy.

43 (2) (a) Except as permitted in Subsection (4):

44 (i) health insurance plans that provide benefits for prescription drugs or devices shall  
45 not exclude or restrict benefits to covered persons for any prescription contraceptive drug or  
46 device approved by the Food and Drug Administration; and

47 (ii) health insurance plans that provide benefits for outpatient services provided by a  
48 health care professional shall not exclude or restrict outpatient contraceptive services for  
49 covered persons.

50 (b) Except as permitted in Subsection (4), a health insurance plan is prohibited from:

51 (i) imposing deductibles, copayments, other cost-sharing mechanisms, or waiting  
52 periods for prescription contraceptive drugs or devices that are greater than deductibles,  
53 copayments, other cost-sharing mechanisms, or waiting periods for other covered prescription  
54 drugs or devices;

55 (ii) imposing deductibles, copayments, other cost-sharing mechanisms, or waiting  
56 periods for outpatient contraceptive services that are greater than deductibles, copayments,  
57 other cost-sharing mechanisms, or waiting periods for other covered outpatient services;

58 (iii) denying eligibility, continued eligibility, enrollment, or renewal of coverage to any

59 individual because of their use or potential use of contraceptives;

60 (iv) providing monetary payments or rebates to covered persons to encourage them to  
61 accept less than the minimum protections available under this section;

62 (v) penalizing or otherwise reducing or limiting the reimbursement of a health care  
63 professional because the professional prescribed contraceptive drugs or devices, or provided  
64 contraceptive services; and

65 (vi) providing incentives, monetary or otherwise, to a health care professional to induce  
66 the professional to withhold contraceptive drugs, devices, or services from covered persons.

67 (3) (a) In addition to any remedies at common law, the commissioner shall receive and  
68 review written complaints regarding compliance with this section.

69 (b) The commissioner may use all investigatory tools available to verify compliance  
70 with this section.

71 (c) If the commissioner determines that a health insurance plan is not in compliance  
72 with this section, the commissioner shall:

73 (i) impose a fine of up to \$10,000 per violation of this section, and an additional  
74 \$10,000 for every 30 days that a health insurance plan is not in compliance; and

75 (ii) suspend or revoke the insurer's certificate of authority, or deny the insurer's  
76 application for a certificate of authority.

77 (4) Notwithstanding any other provision of this section, a religious employer may  
78 request a health insurance plan without coverage for outpatient contraceptive services that are  
79 contrary to the religious employer's religious tenets. If requested, a health insurance plan shall  
80 be provided without coverage for outpatient contraceptive services. This Subsection (4) shall  
81 not be construed to deny an enrollee coverage of, and timely access to, outpatient contraceptive  
82 services.

83 (a) For purposes of this Subsection (4), a "religious employer" is an entity for which  
84 each of the following is true:

85 (i) the inculcation of religious values is the purpose of the entity;

86 (ii) the entity primarily employs persons who share the religious tenets of the entity;

87 (iii) the entity serves primarily persons who share the religious tenets of the entity; and

88 (iv) the entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii,  
89 of the Internal Revenue Code of 1986, as amended.

90 (b) Every religious employer that invokes the exemption provided under this  
91 Subsection (4) shall provide written notice to prospective enrollees prior to enrollment with the  
92 plan, listing the outpatient contraceptive services the employer refuses to cover for religious  
93 reasons.

94 (c) Nothing in this Subsection (4) shall be construed to:

95 (i) exclude coverage for outpatient contraceptive services ordered by a health care  
96 provider with prescriptive authority for reasons other than contraceptive purposes, such as  
97 decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for outpatient  
98 contraceptive services that are necessary to preserve the life or health of an enrollee;

99 (ii) deny or restrict in any way any existing right or benefit provided under law or by  
100 contract; or

101 (iii) require an individual or group health insurance plan to cover experimental or  
102 investigational treatments.

103 **Section 2. Severability clause.**

104 If any provision, word, phrase, or clause of this act, or the application thereof, to any  
105 person, entity, or circumstance should be held invalid, such invalidity shall not affect the  
106 remaining provisions, words, phrases, or clauses of this act which can be given effect without  
107 the invalid provisions, word, phrase, clause, or application and to this end, the provisions,  
108 words, phrases, or clauses of this act are declared severable.

109 **Section 3. Effective date.**

110 This bill takes effect on July 1, 2004.

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**Legislative Review Note**  
**as of 2-9-04 12:26 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0197**

**Health Insurance - Contraceptive Equity Amendments**

*19-Feb-04*

*4:25 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

Costs to the insurance industry are expected to be minor. Only one local school district (with PEHP) does not provide this benefit.

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**Office of the Legislative Fiscal Analyst**