

1 **AMENDMENTS PROHIBITING HEALTH**
2 **INSURANCE DISCRIMINATION**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Scott D. McCoy**

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Accident and Health Insurance Chapter of the Insurance Code to
10 require health insurance policies and health maintenance organization contracts to
11 provide coverage for the cost of prescriptive contraceptives.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires health insurance policies and health maintenance organization contracts to
15 provide coverage for the cost of prescriptive contraceptives;
16 ▶ defines contraceptives article; and
17 ▶ provides a religious exemption for coverage of prescriptive contraceptives.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2005.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **31A-22-613**, as last amended by Chapter 116, Laws of Utah 2001

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

27 Section 1. Section **31A-22-613** is amended to read:



28 **31A-22-613. Permitted provisions for accident and health insurance policies.**

29 The following provisions may be contained in an accident and health insurance policy,
30 but if they are in that policy, they shall conform to at least the minimum requirements for the
31 policyholder in this section.

32 (1) Any provision respecting change of occupation may provide only for a lower
33 maximum benefit payment and for reduction of loss payments proportionate to the change in
34 appropriate premium rates, if the change is to a higher rated occupation, and this provision
35 shall provide for retroactive reduction of premium rates from the date of change of occupation
36 or the last policy anniversary date, whichever is the more recent, if the change is to a lower
37 rated occupation.

38 (2) Section 31A-22-405 applies to misstatement of age in accident and health policies,
39 with the appropriate modifications of terminology.

40 (3) Any policy which contains a provision establishing, as an age limit or otherwise, a
41 date after which the coverage provided by the policy is not effective, and if that date falls
42 within a period for which a premium is accepted by the insurer or if the insurer accepts a
43 premium after that date, the coverage provided by the policy continues in force, subject to any
44 right of cancellation, until the end of the period for which the premium was accepted. This
45 Subsection (3) does not apply if the acceptance of premium would not have occurred but for a
46 misstatement of age by the insured.

47 (4) Any provision dealing with preexisting conditions shall be consistent with
48 Subsections 31A-22-605(9)(a) and 31A-22-609(2), and any applicable rule adopted by the
49 commissioner.

50 (5) (a) If an insured is otherwise eligible for maternity benefits, a policy may not
51 contain language which requires an insured to obtain any additional preauthorization or
52 preapproval for customary and reasonable maternity care expenses or for the delivery of the
53 child after an initial preauthorization or preapproval has been obtained from the insurer for
54 prenatal care. A requirement for notice of admission for delivery is not a requirement for
55 preauthorization or preapproval, however, the maternity benefit may not be denied or
56 diminished for failure to provide admission notice. The policy may not require the provision of
57 admission notice by only the insured patient.

58 (b) This Subsection (5) does not prohibit an insurer from:

- 59 (i) requiring a referral before maternity care can be obtained;
- 60 (ii) specifying a group of providers or a particular location from which an insured is
61 required to obtain maternity care; or
- 62 (iii) limiting reimbursement for maternity expenses and benefits in accordance with the
63 terms and conditions of the insurance contract so long as such terms do not conflict with
64 Subsection (5)(a).
- 65 (6) An insurer may only represent that a policy:
- 66 (a) offers a vision benefit if the policy:
- 67 (i) charges a premium for the benefit; and
- 68 (ii) provides reimbursement for materials or services provided under the policy; and
- 69 (b) covers laser vision correction, whether photorefractive keratectomy, laser assisted
70 in-situ keratomelusus, or related procedure, if the policy:
- 71 (i) charges a premium for the benefit; and
- 72 (ii) the procedure is at least a partially covered benefit.
- 73 (7) (a) For purposes of this Subsection (7):
- 74 (i) "Contraceptive article" means:
- 75 (A) any prescription drug, medicine, mixture, preparation, instrument, article, or device
76 of any nature that is:
- 77 (I) approved by the Federal Food and Drug Administration to prevent a pregnancy; and
78 (II) prescribed by a licensed health care provider for use to prevent a pregnancy; or
79 (B) any hormonal compound that is taken orally and that is approved by the Federal
80 Food and Drug Administration for use to prevent a pregnancy.
- 81 (ii) "Contraceptive article" does not include any drug, medicine, mixture, preparation,
82 instrument, article, or device of any nature that is prescribed by a licensed health care
83 professional for use in terminating a pregnancy.
- 84 (b) Except as provided in Subsection (7)(c), a health insurance policy or health
85 maintenance organization contract that provides coverage for outpatient prescription drugs
86 shall cover to the same extent and subject to the same policy or contract terms:
- 87 (i) contraceptive articles; and
- 88 (ii) outpatient services for contraceptive articles.
- 89 (c) Notwithstanding any other provision of this section, a religious employer may

90 request a health insurance policy or health maintenance organization contract without coverage
91 for prescriptive contraceptive articles or methods that are contrary to the religious employer's
92 religious tenets. If requested, a health insurance policy or health maintenance organization
93 contract shall be provided without coverage for contraceptive articles or methods.

94 (i) For purposes of this Subsection (7)(c), a "religious employer" is an entity for which
95 each of the following is true:

96 (A) the inculcation of religious values is the purpose of the entity;

97 (B) the entity primarily employs persons who share the religious tenets of the entity;

98 (C) the entity serves primarily persons who share the religious tenets of the entity; and

99 (D) the entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii,

100 of the Internal Revenue Code of 1986, as amended.

101 (ii) Every religious employer that invokes the exemption provided under this
102 Subsection (7)(c) shall provide written notice to prospective enrollees prior to enrollment with
103 the plan, listing the contraceptive articles or methods the employer refuses to cover for
104 religious reasons.

105 (d) Nothing in this Subsection (7) shall be construed to:

106 (i) exclude coverage for prescriptive contraceptive articles or methods ordered by a
107 health care provider with prescriptive authority for reasons other than contraceptive purposes,
108 such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for
109 prescription contraception that is necessary to preserve the life or health of an enrollee;

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

112 (iii) require an individual or group health insurance policy or health maintenance
113 organization contract to cover experimental or investigational treatments.

114 **Section 2. Effective date.**

115 This bill takes effect on July 1, 2005.

Legislative Review Note

as of 12-14-04 3:26 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel