

**WOMEN'S HEALTH CARE PARITY**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Paula F. Julander**

**This act amends provisions related to Health Insurance. The act requires health insurance policies and health maintenance contracts to provide coverage for the cost of prescriptive contraceptives. This act provides a religious exemption for coverage of prescriptive contraceptives. This act provides an effective date.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

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

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

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

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

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

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

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

(3) Any policy which contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy is not effective, and if that date falls within a period for which a premium is accepted by the insurer or if the insurer accepts a premium after that



date, the coverage provided by the policy continues in force, subject to any right of cancellation, until the end of the period for which the premium was accepted. This Subsection (3) does not apply if the acceptance of premium would not have occurred but for a misstatement of age by the insured.

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

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

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

(i) requiring a referral before maternity care can be obtained;

(ii) specifying a group of providers or a particular location from which an insured is required to obtain maternity care; or

(iii) limiting reimbursement for maternity expenses and benefits in accordance with the terms and conditions of the insurance contract so long as such terms do not conflict with Subsection (5)(a).

(6) An insurer may only represent that a policy:

(a) offers a vision benefit if the policy:

(i) charges a premium for the benefit; and

(ii) provides reimbursement for materials or services provided under the policy; and

(b) covers laser vision correction, whether photorefractive keratectomy, laser assisted in-situ keratomelusus, or related procedure, if the policy:

(i) charges a premium for the benefit; and

(ii) the procedure is at least a partially covered benefit.

(7) (a) For purposes of this Subsection (7):

(i) "contraceptive article" means:

59 (A) any prescription drug, medicine, mixture, preparation, instrument, article, or device  
60 of any nature that is:

61 (I) approved by the federal Food and Drug Administration to prevent a pregnancy; and

62 (II) prescribed by a licensed health care provider for use to prevent a pregnancy; or

63 (B) any hormonal compound that is taken orally and that is approved by the federal Food  
64 and Drug Administration for use to prevent a pregnancy;

65 (ii) "contraceptive article" does not include any drug, medicine, mixture, preparation,  
66 instrument, article, or device of any nature that is prescribed by a licensed health care professional  
67 for use in terminating a pregnancy.

68 (b) Except as provided in Subsection (7)(c), a health insurance policy or health  
69 maintenance organization contract that provides coverage for outpatient prescription drugs shall  
70 cover to the same extent and subject to the same policy or contract terms:

71 (i) contraceptive articles; and

72 (ii) outpatient services for contraceptive articles.

73 (c) Notwithstanding any other provision of this section, a religious employer may request  
74 a health insurance policy or health maintenance contract without coverage for prescriptive  
75 contraceptive articles or methods that are contrary to the religious employer's religious tenets. If  
76 requested, a health insurance policy or health maintenance contract shall be provided without  
77 coverage for contraceptive articles or methods.

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

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

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

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

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

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

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

89 (i) exclude coverage for prescriptive contraceptive articles or methods ordered by a health

90 care provider with prescriptive authority for reasons other than contraceptive purposes, such as  
91 decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for prescription  
92 contraception that is necessary to preserve the life or health of an enrollee;

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

95 (iii) require an individual or group health insurance policy or health maintenance contract  
96 to cover experimental or investigational treatments.

97 Section 2. **Effective date.**

98 This act takes effect on July 1, 2002.

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**Legislative Review Note**

**as of 12-27-01 4:02 PM**

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

**Office of Legislative Research and General Counsel**