

HOUSE BILL NO. 526
INTRODUCED BY C. KAUFMANN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR HEALTH INSURANCE COVERAGE OF CONTRACEPTIVE DRUGS, DEVICES, AND SERVICES; PROVIDING AN EXCEPTION FOR RELIGIOUS EMPLOYERS; DEFINING TERMS; AMENDING SECTIONS 33-22-101, 33-31-111, AND 33-35-306, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Coverage for contraceptive drugs, devices, and services.** (1) Except as provided in subsection (5), each group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state that provides benefits for drugs or devices prescribed by a medical practitioner may not exclude or restrict benefits for any prescriptive contraceptive drugs or devices that are approved for use by the United States food and drug administration.

(2) Except as provided in subsection (5), each group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state that provides benefits for outpatient services may not exclude or restrict benefits for outpatient contraceptive services.

(3) For the purposes of this section:

(a) the terms "device", "drug", and "medical practitioner" have the meanings provided in Title 37, chapter 2, part 1;

(b) the term "outpatient contraceptive services" means consultations, examinations, procedures, and medical services provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy;

(c) the term "religious employer" means an entity for which all of the following apply:

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

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

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

(iv) the entity does not receive public funding and is not staffed by public employees.

(4) This section also applies to the state employee group insurance program, the university system

employee group insurance program, any employee group insurance program of a city, town, county, school district, or other political subdivision of the state, and any self-funded multiple employer welfare arrangement that is not regulated by the Employee Retirement Income Security Act of 1974.

(5) (a) A religious employer may request and, if requested, a health insurance issuer shall issue to the religious employer a group or individual disability policy, certificate of insurance, or membership contract that excludes coverage for prescription contraceptive drugs, devices, or services that are contrary to the religious employer's religious tenets.

(b) Any health insurance policy issued pursuant to subsection (5)(a) must provide written notice to each insured or prospective insured that drugs, devices, or contraceptive services are excluded from coverage pursuant to subsection (5)(a). The notice must appear, in not less than 10-point type, in the policy, certificate of insurance, membership contract, application, or sales brochure.

(c) This section may not be construed as authorizing a group and individual disability policy, certificate of insurance, or membership contract to exclude coverage for prescription drugs ordered by a health care provider with prescriptive authority for reasons other than contraceptive purposes that are necessary to preserve the life or health of any person receiving benefits under the plan.

Section 2. Section 33-22-101, MCA, is amended to read:

"33-22-101. Exceptions to scope. Parts 1 through 4 of this chapter, except 33-22-107, 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-130 through 33-22-136, 33-22-141, 33-22-142, [section 1], 33-22-243, and 33-22-304, and part 19 of this chapter do not apply to or affect:

(1) any policy of liability or workers' compensation insurance with or without supplementary expense coverage;

(2) any group or blanket policy;

(3) life insurance, endowment, or annuity contracts or supplemental contracts that contain only those provisions relating to disability insurance as:

(a) provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or

(b) operate to safeguard contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract;

(4) reinsurance."

Section 3. Section 33-31-111, MCA, is amended to read:

"33-31-111. Statutory construction and relationship to other laws. (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

- (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;
- (b) the provisions of Title 33, chapter 22, part 19;
- (c) the requirements of 33-22-134 and 33-22-135;
- (d) network adequacy and quality assurance requirements provided under chapter 36; or
- (e) the requirements of Title 33, chapter 18, part 9.

(7) Chapter 1, parts 12 and 13, of this title, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, [section 1], 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations."

Section 4. Section 33-35-306, MCA, is amended to read:

"33-35-306. Application of insurance code to arrangements. (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions of Title 33:

(a) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

(b) Title 33, chapter 1, part 7;

(c) 33-3-308;

(d) Title 33, chapter 18, except 33-18-242;

(e) 33-22-131, 33-22-134, ~~and 33-22-135; and~~

~~_____~~ (f), [section 1], 33-22-525, and 33-22-526.

(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been issued a certificate of authority that has not been revoked."

NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

NEW SECTION. **Section 6. Applicability.** [This act] applies to all contracts issued or renewed on or after January 1, 2004.

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