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ENGROSSED SUBSTITUTE SENATE BILL 5512

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Costa, Winsley, Kline, Patterson, Gardner, Prentice, Long, Goings, Snyder, Fraser, Brown, Kohl-Welles, Jacobsen, Spanel, Fairley, Haugen, Wojahn, Thibaudeau, Loveland, Bauer, Eide, B. Sheldon, McAuliffe, T. Sheldon, Heavey and Shin)

Read first time 02/22/1999.

1 AN ACT Relating to contraceptive health care benefits; adding new  
2 sections to chapter 48.43 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that: (1) Over half  
5 of all pregnancies are unintended; (2) by reducing rates of unintended  
6 pregnancy, contraceptives help reduce the need for abortion; (3)  
7 unintended pregnancies lead to higher rates of infant mortality, low  
8 birth weight, and maternal morbidity, and threaten the economic  
9 viability of families; (4) contraceptive services are part of basic  
10 health care, allowing families to both adequately space desired  
11 pregnancies and avoid unintended pregnancy; (5) many health carriers  
12 cover prescription drugs and devices but exclude prescription  
13 contraceptives and contraceptive devices; (6) women of child-bearing  
14 age spend significantly more than men on out-of-pocket health care  
15 costs, with contraceptives and reproductive health care services  
16 accounting for most of this disparity; (7) lack of contraceptive  
17 coverage in health plans places many effective forms of contraceptives  
18 beyond the financial reach of many women, leading to unintended  
19 pregnancies; and (8) the ability to plan her childbearing is central to

1 a woman's ability to participate on an equal basis in education and  
2 employment.

3 The legislature intends to reduce the number of unintended  
4 pregnancies and ensure access to contraceptive services in health plans  
5 that cover prescription drugs and outpatient health services. The  
6 legislature also intends to further the goal of eliminating sex  
7 discrimination in health benefits for women.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW  
9 to read as follows:

10 (1) The definitions in this subsection apply throughout this  
11 section unless the context clearly requires otherwise.

12 (a) "Prescription contraceptive drugs and devices" means  
13 prescription contraceptive drugs and devices approved by the federal  
14 food and drug administration, including oral contraceptives,  
15 intrauterine devices (IUDs), injectables, hormonal implants,  
16 diaphragms, cervical caps, and emergency contraception.

17 (b) "Outpatient contraceptive services" means services necessary  
18 for the effective use of contraception, including family planning  
19 consultations, examinations, procedures for inserting, removing, or  
20 dispensing prescription contraceptive methods, and laboratory services  
21 provided on an outpatient basis and related to the use of contraceptive  
22 methods, including natural family planning.

23 (2) Health carriers shall not exclude or restrict an enrollee's  
24 access to:

25 (a) Prescription contraceptive drugs and devices approved by the  
26 federal food and drug administration if the enrollee's health plan  
27 provides benefits for prescription drugs; or

28 (b) Outpatient contraceptive services, if the enrollee's health  
29 plan provides benefits for outpatient health services.

30 (3) Except as provided in subsection (4) of this section, a health  
31 carrier shall not create or impose disincentives for utilization of the  
32 benefits required by subsection (2) of this section.

33 (4) Nothing in this section shall be construed as:

34 (a) Preventing a health carrier from imposing deductibles,  
35 coinsurance, other cost-sharing requirements, or other limitations in  
36 relation to providing prescription contraceptive drugs and devices, or  
37 outpatient contraceptive services, provided that such deductible,  
38 coinsurance, other cost-sharing requirement, or other limitation is not

1 greater than or different from the deductible, coinsurance, other cost-  
2 sharing requirement, or other limitation for other prescription drugs,  
3 devices, or outpatient health care services covered under the plan;

4 (b) Requiring a health carrier to cover experimental or  
5 investigative prescription contraceptive drugs and devices, or  
6 outpatient contraceptive services, except to the extent that a plan  
7 provides coverage for other experimental or investigative prescription  
8 drugs, devices, or outpatient health care services; or

9 (c) Allowing a health carrier to limit a health care provider's  
10 ability to prescribe contraceptive drugs for medical purposes such as  
11 decreasing risk of ovarian cysts or eliminating symptoms of menopause.

12 (5) This section applies to health plans issued or renewed on or  
13 after the effective date of this section.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW  
15 to read as follows:

16 (1) The legislature recognizes that every individual possesses a  
17 fundamental right to exercise their religious beliefs. The legislature  
18 further recognizes that in developing public policy, conflicting  
19 religious beliefs must be respected. Therefore, while recognizing the  
20 right of religious objection to participating in the provision of  
21 contraceptive health care services, the state shall also recognize the  
22 right of individuals to access the prescription contraceptive drugs and  
23 devices and outpatient contraceptive health care services required by  
24 this section and section 2 of this act.

25 (2)(a) No individual health care provider, religiously sponsored  
26 health carrier, or health care facility may be required by law or  
27 contract in any circumstances to participate in the provision of or  
28 payment for prescription contraceptive drugs and devices and outpatient  
29 contraceptive services if they object to doing so for reason of  
30 conscience or religion. No person may be discriminated against in  
31 employment or professional privileges because of such an objection.

32 (b) The provisions of (a) of this subsection are not intended to  
33 result in an enrollee being denied timely access to prescription  
34 contraceptive drugs and devices and outpatient contraceptive services.

35 (3)(a) Health carriers that are not religiously sponsored shall  
36 allow enrollees whose health care provider or plan-designated health  
37 care facility declines to participate in the provision of contraceptive  
38 health care services to use another health care provider or health care

1 facility with whom the plan contracts to ensure timely access to  
2 qualified providers within the local community. If all of the  
3 providers or facilities with whom the carrier contracts within the  
4 enrollee's local community decline to participate in the provision of  
5 contraceptive health care services, the carrier shall contract with a  
6 provider or facility within the enrollee's local community that will  
7 provide such services.

8 (b) Each religiously sponsored health carrier that invokes the  
9 religious exemption provided under subsection (2)(a) of this section  
10 shall: (i) Provide written notice to enrollees upon enrollment with  
11 the plan, listing the contraceptive health services they refuse to  
12 cover for reason of conscience or religion; (ii) provide written  
13 information describing how an enrollee may directly access prescription  
14 drugs and devices and outpatient contraceptive health care services in  
15 an expeditious manner; and (iii) ensure that enrollees refused services  
16 under this section have prompt access to the information developed  
17 under (b)(ii) of this subsection.

18 (4)(a) No individual or religious organization may be required to  
19 purchase coverage for contraceptive health care services if they object  
20 to doing so for reason of conscience or religion. The provision of  
21 this subsection shall not result in an enrollee being denied coverage  
22 of, and timely access to, prescription contraceptive drugs and devices  
23 and outpatient contraceptive services.

24 (b) Health carriers that are not religiously sponsored shall allow  
25 religious organizations opposed to contraceptive health services to  
26 refuse to pay for coverage of such benefits in a group plan. Health  
27 carriers shall allow enrollees in a health plan exempted under this  
28 subsection to directly purchase coverage of prescription drugs and  
29 devices and outpatient contraceptive services from the carrier. The  
30 enrollee's cost of purchasing such coverage shall not exceed the  
31 enrollee's pro rata share of the price the group purchaser would have  
32 paid for such coverage had the group plan not invoked a religious  
33 exemption.

34 (5) Nothing in this section requires a health carrier, health care  
35 facility, or health care provider to provide any health care services  
36 without appropriate payment of premium or fee.

37 NEW SECTION. **Sec. 4.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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