

# FINAL BILL REPORT

## SHB 1234

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Synopsis as Enacted

**Brief Description:** Addressing private health plan coverage of contraceptives.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Robinson, Lytton, Senn, Frame, Doglio, Tarleton, Hansen, Jinkins, Cody, Ortiz-Self, Riccelli, Stambaugh, Macri, Pollet, Tharinger, Clibborn, Stonier, Caldier, Sells, Gregerson, Wylie, Kilduff, McBride, Goodman, Bergquist, Ormsby, Stanford, Slatter and Kloba).

**House Committee on Health Care & Wellness**  
**Senate Committee on Health Care**

### **Background:**

#### Federal Law on Contraceptive Coverage.

Under the Affordable Care Act (ACA), all health plans must cover preventive services without cost-sharing. By rule, preventive services include all Food and Drug Administration (FDA)-approved contraceptive methods. Vasectomies and drugs that induce abortions are not included in this coverage mandate.

Pursuant to federal rules, a health plan purchased or offered by a religious employer is not required to cover contraceptives. A health plan purchased or offered by a nonprofit religious organization, such as a religiously affiliated hospital, is not required to cover contraceptives if the organization certifies that it has religious objections (in which case the carrier covers the cost).

In *Burwell v. Hobby Lobby*, the United States Supreme Court ruled that requiring a closely held corporation to cover contraceptives without cost-sharing violates the Religious Freedom Restoration Act (RFRA) when such coverage violates the corporation's religious beliefs. The RFRA does not apply to state laws, so the ruling does not apply to state coverage mandates.

#### State Law on Contraceptive Coverage.

The ACA requires non-grandfathered individual and small group market health plans to offer the "essential health benefits" both inside and outside of the Health Benefit Exchange. States establish the essential health benefits using a supplemented benchmark plan. Prescription drugs, including all FDA-approved contraceptive methods and prescription-based

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sterilization procedures for women, are included in Washington's essential health benefits package. A health carrier may apply cost-sharing requirements to this contraceptive coverage.

By rule, state-regulated health plans that provide generally comprehensive coverage of prescription drugs may not exclude prescription contraceptives or cover them on a less favorable basis than other covered prescription drugs. This requirement applies regardless of whether the plan is subject to the essential health benefits requirement. The rule permits a health carrier to require cost-sharing for prescription contraceptives to the same extent that such cost-sharing is required for other covered prescription drugs. "Prescription contraceptives" include all FDA-approved contraceptive drugs, devices, and prescription barrier methods.

**Summary:**

A health plan issued or renewed on or after January 1, 2018, that covers contraceptive drugs must provide reimbursement for a 12-month refill of contraceptive drugs obtained at one time by the enrollee, unless the enrollee requests a smaller supply or the prescribing provider instructs that the enrollee must receive a smaller supply.

The plan must allow enrollees to receive the drugs on-site at the provider's office, if available. Any dispensing practices required by the plan must follow clinical guidelines for appropriate prescribing and dispensing to ensure the health of the patient while maximizing access to effective contraceptive drugs. The plan may limit refills that may be obtained in the last quarter of the plan year if a 12-month supply of the contraceptive drug has already been dispensed during the plan year.

"Contraceptive drugs" are defined to mean all drugs approved by the Food and Drug Administration that are used to prevent pregnancy, including hormonal drugs administered orally, transdermally, and intravaginally.

**Votes on Final Passage:**

House	93	5
Senate	48	1

**Effective:** July 23, 2017