§11 - Note

P.L. 2019, CHAPTER 361, approved January 16, 2020
Assembly, No. 5508 (Second Reprint)

AN ACT concerning health benefits coverage for contraceptives and

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. Section 1 of P.L.2005, c.251 (C.17:48-6ee) is amended to
read as follows:

1. a. A hospital service corporation that provides hospital or
medical expense benefits [for expenses incurred in the purchase of
outpatient prescription drugs under a contract] shall provide
coverage under every [such] contract delivered, issued, executed
or renewed in this State or approved for issuance or renewal in this
State by the Commissioner of Banking and Insurance, on or after
the effective date of this act, for expenses incurred in the purchase
of prescription female contraceptives [and the following services,

(1) Any contraceptive drug, device or product approved by the
United States Food and Drug Administration, which coverage shall
be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug,
device or product approved by the United States Food and Drug
Administration, coverage shall be provided for either the requested
contraceptive drug, device or product or for one or more therapeutic
equivalents of the requested drug, device or product.
(b) Coverage shall be provided without a prescription for all
contraceptive drugs available for over-the-counter sale that are
approved by the United States Food and Drug Administration.
(c) Coverage shall be provided without any infringement upon a
subscriber’s choice of contraception and medical necessity shall be
determined by the provider for covered contraceptive drugs, devices
or other products approved by the United States Food and Drug
Administration.

(2) Voluntary male and female sterilization.
(3) Patient education and counseling on contraception.
(4) Services related to the administration and monitoring of
drugs, devices, products and services required under this section,
including but not limited to:

(a) Management of side effects;
(b) Counseling for continued adherence to a prescribed regimen;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly AAP committee amendments adopted June 13, 2019.
2Senate floor amendments adopted December 16, 2019.
(c) Device insertion and removal;
(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and
(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.

For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for dispensing contraceptives for:
   [a.] (1) a three-month period for the first dispensing of the contraceptive; and
   [b.] (2) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective subscribers and subscribers. The provisions of this section shall not be construed as authorizing a hospital service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug, device, product, or procedure under the contract, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.
2(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).  

'c. This section shall apply to those contracts in which the hospital service corporation has reserved the right to change the premium.

d. Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

2. Section 2 of P.L.2005, c.251 (C.17:48A-7bb) is amended to read as follows:

2. a. A medical service corporation that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.

(4) Services related to the administration and monitoring of drugs, devices, products and services required under this section, including but not limited to:
(a) Management of side effects;
(b) Counseling for continued adherence to a prescribed regimen;
(c) Device insertion and removal;
(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and
(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.

1 For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for dispensing contraceptives for:
   a. a three-month period for the first dispensing of the contraceptive; and
   b. a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a medical service corporation shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective subscribers and subscribers. The provisions of this section shall not be construed as authorizing a medical service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

1 This subsection shall not be construed as authorizing a medical service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).
coinsurance, copayment, or any other cost-sharing requirement on
the coverage shall be imposed.

2(2) In the case of a high deductible health plan, benefits for
male sterilization or male contraceptives shall be provided at the
lowest deductible and other cost-sharing permitted for a high
deductible health plan under section 223(c)(2)(A) of the Internal
Revenue Code (26 U.S.C. s.223). ²

¹[2.1 d] This section shall apply to those contracts in which
the medical service corporation has reserved the right to change the
premium.

¹[2.1 d] Nothing in this section shall limit coverage of any additional
preventive service for women, as identified or recommended by the
United States Preventive Services Task Force or the Health
Resources and Services Administration of the United States
Department of Health and Human Services pursuant to the
provisions of 42 U.S.C. 300gg-13.¹

(cf: P.L.2017, c.241, s.2)

3. Section 3 of P.L.2005, c.251 (C.17:48E-35.29) is amended
to read as follows:

3. a. A health service corporation that provides hospital or
medical expense benefits ¹[for expenses incurred in the purchase of
outpatient prescription drugs under a contract]¹ shall provide
coverage under every ¹[such]¹ contract delivered, issued, executed
or renewed in this State or approved for issuance or renewal in this
State by the Commissioner of Banking and Insurance, on or after
the effective date of this act, for expenses incurred in the purchase
of prescription female contraceptives¹, and the following services,

(1) Any contraceptive drug, device or product approved by the
United States Food and Drug Administration, which coverage shall
be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug,
device or product approved by the United States Food and Drug
Administration, coverage shall be provided for either the requested
contraceptive drug, device or product or for one or more therapeutic
equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all
contraceptive drugs available for over-the-counter sale that are
approved by the United States Food and Drug Administration.

(c) Coverage shall be provided without any infringement upon a
subscriber’s choice of contraception and medical necessity shall be
determined by the provider for covered contraceptive drugs, devices
or other products approved by the United States Food and Drug
Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.
(4) Services related to the administration and monitoring of
drugs, devices, products and services required under this section,
including but not limited to:
(a) Management of side effects;
(b) Counseling for continued adherence to a prescribed regimen;
(c) Device insertion and removal;
(d) Provision of alternative contraceptive drugs, devices or
products deemed medically appropriate in the judgment of the
subscriber’s health care provider; and
(e) Diagnosis and treatment services provided pursuant to, or as
a follow-up to, a service required under this section.

For the purposes of this section, "prescription female
contraceptives" means any drug or device used for contraception
[by a female], which is approved by the federal Food and Drug
Administration for that purpose[, that can only be purchased in this
State with a prescription written by a health care professional
licensed or authorized to write prescriptions, and includes, but is
not limited to, birth control pills and diaphragms.]

b. The coverage provided shall include prescriptions for
dispensing contraceptives for:

[a.] (1) a three-month period for the first dispensing of the
contraceptive; and

[b.] (2) a six-month period for any subsequent dispensing of
the same contraceptive, regardless of whether coverage under the
contract was in effect at the time of the first dispensing, except that
an entity subject to this section may provide coverage for a supply
of contraceptives that is for less than a six-month period, if a six-
month period would extend beyond the term of the contract.

A religious employer may request, and a health service
corporation shall grant, an exclusion under the contract for the
coverage required by this section if the required coverage conflicts
with the religious employer's bona fide religious beliefs and
practices. A religious employer that obtains such an exclusion shall
provide written notice thereof to prospective subscribers and
subscribers. The provisions of this section shall not be construed as
authorizing a health service corporation to exclude coverage for
prescription drugs that are prescribed for reasons other than
contraceptive purposes or for prescription female contraceptives
that are necessary to preserve the life or health of a subscriber. For
the purposes of this section, "religious employer" means an
employer that is a church, convention or association of churches or
an elementary or secondary school that is controlled, operated or
principally supported by a church or by a convention or association
of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).]

b. [The] (1) Except as provided in paragraph (2) of
this subsection, the benefits shall be provided to the same extent as
for any other "[outpatient prescription] service," drug, device, product, or procedure under the contract, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

This section shall apply to those contracts in which the health service corporation has reserved the right to change the premium.

Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

(cf: P.L.2017, c.241, s.3)

4. Section 4 of P.L.2005, c.251 (C.17B:27-46.1ee) is amended to read as follows:

4. a. A group health insurer that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a policy shall provide coverage under every such policy delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.
(2) Voluntary male and female sterilization.
(3) Patient education and counseling on contraception.
(4) Services related to the administration and monitoring of
drugs, devices, products and services required under this section,
including but not limited to:
   (a) Management of side effects;
   (b) Counseling for continued adherence to a prescribed regimen;
   (c) Device insertion and removal;
   (d) Provision of alternative contraceptive drugs, devices or
   products deemed medically appropriate in the judgment of the
subscriber’s health care provider; and
   (e) Diagnosis and treatment services provided pursuant to, or as
a follow-up to, a service required under this section.

\[\text{For the purposes of this section, "prescription female}
\text{contraceptives" means any drug or device used for contraception}
\text{by a female}, which is approved by the federal Food and Drug
\text{Administration for that purpose, that can only be purchased in this}
\text{State with a prescription written by a health care professional}
\text{licensed or authorized to write prescriptions, and includes, but is}
\text{not limited to, birth control pills and diaphragms.}\]

b. The coverage provided shall include prescriptions for
dispensing contraceptives for:
   \[\text{[a.] (1) a three-month period for the first dispensing of the}
\text{contraceptive; and}\]
   \[\text{[b.] (2) a six-month period for any subsequent dispensing of}
\text{the same contraceptive, regardless of whether coverage under the}
\text{contract was in effect at the time of the first dispensing, except that}
an entity subject to this section may provide coverage for a supply
of contraceptives that is for less than a six-month period, if a six-
month period would extend beyond the term of the contract.}\]

\[\text{A religious employer may request, and an insurer shall grant, an}
exclusion under the policy for the coverage required by this section}
if the required coverage conflicts with the religious employer's bona
fide religious beliefs and practices. A religious employer that
obtains such an exclusion shall provide written notice thereof to
prospective insureds and insureds. The provisions of this section
shall not be construed as authorizing an insurer to exclude coverage
for prescription drugs that are prescribed for reasons other than
contraceptive purposes or for prescription female contraceptives
that are necessary to preserve the life or health of an insured. For
the purposes of this section, "religious employer" means an
employer that is a church, convention or association of churches or
an elementary or secondary school that is controlled, operated or
principally supported by a church or by a convention or association
of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).}\]
(1) Except as provided in paragraph (2) of this subsection, the benefits shall be provided to the same extent as for any other outpatient prescription drug, device, product, or procedure under the policy, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

c. This section shall apply to those policies in which the insurer has reserved the right to change the premium.

d. Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

(e) Section 5 of P.L.2005, c.251 (C.17B:26-2.1y) is amended to read as follows:

5. An individual health insurer that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a policy shall provide coverage under every such policy delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(a) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(i) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(ii) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(iii) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices
or other products approved by the United States Food and Drug
Administration.

(2) Voluntary male and female sterilization.
(3) Patient education and counseling on contraception.
(4) Services related to the administration and monitoring of
drugs, devices, products and services required under this section,
including but not limited to:
(a) Management of side effects;
(b) Counseling for continued adherence to a prescribed regimen;
(c) Device insertion and removal;
(d) Provision of alternative contraceptive drugs, devices or
products deemed medically appropriate in the judgment of the
subscriber’s health care provider; and
(e) Diagnosis and treatment services provided pursuant to, or as
a follow-up to, a service required under this section.

1 For the purposes of this section, "prescription female
contraceptives" means any drug or device used for contraception
by a female, which is approved by the federal Food and Drug
Administration for that purpose, that can only be purchased in this
State with a prescription written by a health care professional
licensed or authorized to write prescriptions, and includes, but is
not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for
dispensing contraceptives for:
[a.] (1) a three-month period for the first dispensing of the
contraceptive; and
[b.] (2) a six-month period for any subsequent dispensing of
the same contraceptive, regardless of whether coverage under the
contract was in effect at the time of the first dispensing, except that
an entity subject to this section may provide coverage for a supply
of contraceptives that is for less than a six-month period, if a six-
month period would extend beyond the term of the contract.

[A religious employer may request, and an insurer shall grant, an
exclusion under the policy for the coverage required by this section
if the required coverage conflicts with the religious employer's bona
fide religious beliefs and practices. A religious employer that
obtains such an exclusion shall provide written notice thereof to
prospective insureds and insureds. The provisions of this section
shall not be construed as authorizing an insurer to exclude coverage
for prescription drugs that are prescribed for reasons other than
contraceptive purposes or for prescription female contraceptives
that are necessary to preserve the life or health of an insured. For
the purposes of this section, "religious employer" means an
employer that is a church, convention or association of churches or
an elementary or secondary school that is controlled, operated or
principally supported by a church or by a convention or association
of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that
qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

(1) Except as provided in paragraph (2) of this subsection, the benefits shall be provided to the same extent as for any other outpatient prescription service, drug, device, product, or procedure under the policy, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

This section shall apply to those policies in which the insurer has reserved the right to change the premium.

Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

A certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued on or after the effective date of this act for a health maintenance organization that provides health care services for outpatient prescription drugs under a contract, unless the health maintenance organization provides health care services for prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices
or other products approved by the United States Food and Drug Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.

(4) Services related to the administration and monitoring of drugs, devices, products and services required under this section, including but not limited to:

(a) Management of side effects;

(b) Counseling for continued adherence to a prescribed regimen;

(c) Device insertion and removal;

(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and

(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.

For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception [by a female], which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for dispensing contraceptives for:

(a) (1) a three-month period for the first dispensing of the contraceptive; and

(b) (2) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the health care services required by this section if the required health care services conflict with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective enrollees and enrollees. The provisions of this section shall not be construed as authorizing a health maintenance organization to exclude health care services for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an enrollee. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally
supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

1[b.] c. [2] The [1] (1) Except as provided in paragraph (2) of this subsection, the health care services shall be provided to the same extent as for any other [1](outpatient prescription) service, [1] drug, device, product, or procedure under the contract, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

2(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

3[c.] d. The provisions of this section shall apply to those contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

4e. Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

(cf: P.L.2017, c.241, s.6)

7. Section 7 of P.L.2005, c.251 (C.17B:27A-7.12) is amended to read as follows:

7. a. An individual health benefits plan required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4) that provides benefits for expenses incurred in the purchase of outpatient prescription drugs shall provide coverage for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.
(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.

(4) Services related to the administration and monitoring of drugs, devices, products and services required under this section, including but not limited to:

(a) Management of side effects;

(b) Counseling for continued adherence to a prescribed regimen;

(c) Device insertion and removal;

(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and

(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.¹

¹For the purposes of this section, “prescription female contraceptives” means any drug or device used for contraception [by a female], which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.²

b.¹ The coverage provided shall include prescriptions for dispensing contraceptives for:

[a.] (1) a three-month period for the first dispensing of the contraceptive; and

[b.] (2) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a carrier shall grant, an exclusion under the health benefits plan for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective covered persons and covered persons. The provisions of this section shall not be construed as authorizing a carrier to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a covered person. For the purposes of this section, "religious employer" means an employer that is a church,
convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

(1) Except as provided in paragraph (2) of this subsection, the benefits shall be provided to the same extent as for any other outpatient prescription service, drug, device, product, or procedure under the health benefits plan, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

(2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

This section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

(cf: P.L.2017, c.241, s.7)

Section 8 of P.L.2005, c.251 (C.17B:27A-19.15) is amended to read as follows:

8. A small employer health benefits plan required pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) that provides benefits for expenses incurred in the purchase of outpatient prescription drugs shall provide coverage for expenses incurred in the purchase of prescription female contraceptives, and the following services, drugs, devices, products, and procedures on an in-network basis:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.
(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.

(4) Services related to the administration and monitoring of drugs, devices, products and services required under this section, including but not limited to:

(a) Management of side effects;

(b) Counseling for continued adherence to a prescribed regimen;

(c) Device insertion and removal;

(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and

(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.

1 For the purposes of this section, “prescription female contraceptives” means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for dispensing contraceptives for:

[a.] (1) a three-month period for the first dispensing of the contraceptive; and

[b.] (2) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a carrier shall grant, an exclusion under the health benefits plan for the coverage required by this section if the required coverage conflicts with the religious employer’s bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective covered persons and covered persons. The provisions of this section shall not be construed as authorizing a carrier to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a covered person. For the purposes of this section, “religious employer” means an employer that is a church,
convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

17 (1) Unless as provided in paragraph (2) of this subsection, the benefits shall be provided to the same extent as for any other outpatient prescription service, drug, device, product, or procedure under the health benefits plan, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

18 (2) In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

19 This section shall apply to all small employer health benefits plans in which the carrier has reserved the right to change the premium.

20 Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

21 (cf: P.L.2017, c.241, s.8)

22 9. Section 9 of P.L.2005, c.251 (C.17:48F-13.2) is amended to read as follows:

23 a. A prepaid prescription service organization that provides benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives, and the services, drugs, devices, products, and procedures on an in-network basis as determined to be required to be covered by the commissioner pursuant to subsection b. of this section.

24 b. The Commissioner of Banking and Insurance shall determine, in the commissioner’s discretion, which provisions of the coverage requirements applicable to insurers pursuant to P.L. 2017, c. (C. ) (pending before the Legislature as this bill,) shall apply to prepaid prescription organizations, and shall adopt regulations in accordance with the commissioner’s determination.
For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

The coverage provided shall include prescriptions for dispensing contraceptives for:

(a) a three-month period for the first dispensing of the contraceptive; and

(b) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

A religious employer may request, and a prepaid prescription service organization shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective enrollees and enrollees. The provisions of this section shall not be construed as authorizing a prepaid prescription service organization to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an enrollee. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

Except as provided in paragraph (2) of this subsection, the benefits shall be provided to the same extent as for any other outpatient prescription service, drug device, product, or procedure under the contract, except no deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage shall be imposed.

In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).
This section shall apply to those prepaid prescription contracts in which the prepaid prescription service organization has reserved the right to change the premium.

Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.1

(cf: P.L.2017, c.241, s.9)

10. Section 10 of P.L.2005, c.251 (C.52:14-17.29j) is amended to read as follows:

10. a. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act 1[that provides benefits for expenses incurred in the purchase of outpatient prescription drugs]1 shall provide benefits for expenses incurred in the purchase of prescription female contraceptives1, and the following services, drugs, devices, products, and procedures 2on an in-network basis2:

(1) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, which coverage shall be subject to all of the following conditions:

(a) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, coverage shall be provided for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(b) Coverage shall be provided without a prescription for all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(c) Coverage shall be provided without any infringement upon a subscriber’s choice of contraception and medical necessity shall be determined by the provider for covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(2) Voluntary male and female sterilization.

(3) Patient education and counseling on contraception.

(4) Services related to the administration and monitoring of drugs, devices, products and services required under this section, including but not limited to:

(a) Management of side effects;

(b) Counseling for continued adherence to a prescribed regimen;

(c) Device insertion and removal;

(d) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the subscriber’s health care provider; and
(e) Diagnosis and treatment services provided pursuant to, or as a follow-up to, a service required under this section.

For the purposes of this section, “prescription female contraceptives” means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

b. The coverage provided shall include prescriptions for dispensing contraceptives for:

[a.] (1) a three-month period for the first dispensing of the contraceptive; and

[b.] (2) a six-month period for any subsequent dispensing of the same contraceptive, regardless of whether coverage under the contract was in effect at the time of the first dispensing, except that an entity subject to this section may provide coverage for a supply of contraceptives that is for less than a six-month period, if a six-month period would extend beyond the term of the contract.

The contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

In the case of a high deductible health plan, benefits for male sterilization or male contraceptives shall be provided at the lowest deductible and other cost-sharing permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

d. Nothing in this section shall limit coverage of any additional preventive service for women, as identified or recommended by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services pursuant to the provisions of 42 U.S.C. 300gg-13.

(cf: P.L.2017, c.241, s.10)

11. This act shall take effect on the 90th day next following enactment and shall apply to policies or contracts issued or renewed on or after the effective date.

Revises law requiring health benefits coverage for certain contraceptives.