

Senate Bill 894

Sponsored by Senator STEINER HAYWARD, Representatives HOYLE, KENY-GUYER, WILLIAMSON, Senator GELSER, Representative SMITH WARNER, Senator ROSENBAUM, Representatives VEGA PEDERSON, LININGER; Senators BURDICK, DEMBROW, DEVLIN, MONNES ANDERSON, ROBLAN, SHIELDS, Representatives BARKER, BARNHART, BOONE, BUCKLEY, CLEM, DOHERTY, FREDERICK, GOMBERG, GREENLICK, HELM, NOSSE, PILUSO, RAYFIELD, READ

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires health insurance policies or certificates that include prescription drug benefits, health benefit plans and the state medical assistance program to cover costs of specified women's health care drugs and services. Limits cost-sharing for services and drugs used to terminate pregnancy.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to women's health care; creating new provisions; amending ORS 743A.066 and 743A.080;
3 and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. The Legislative Assembly finds and declares that:

5
6 **(1) Access to the full range of health benefits and preventive services guaranteed under**
7 **the laws of this state provides Oregonians with the opportunity to lead healthier and more**
8 **productive lives.**

9 **(2) Contraception, abortion and preconception and postpartum care are health care ser-**
10 **vices that are critical to women's health.**

11 **(3) Reproductive health care is an essential part of primary care for women between the**
12 **ages of 15 and 50, and often women seek routine medical care only for reproductive health**
13 **care services.**

14 **(4) For the average American woman who wants two children, the period that begins with**
15 **trying to conceive her first child and lasts through the weaning of her second child will take**
16 **three to five years, while trying to avoid pregnancy will span three decades of the woman's**
17 **life.**

18 **(5) Neither a woman's income level nor her type of insurance should prevent her from**
19 **accessing a full range of pregnancy-related care, including contraception and abortion ser-**
20 **vices.**

21 **(6) Restrictions on and barriers to coverage for contraception, abortion, and precon-**
22 **ception and postpartum care have a disproportionate impact on low-income women, women**
23 **of color, immigrant women and young women, who are often disadvantaged in their access**
24 **to the resources, information and services necessary to prevent an unintended pregnancy**
25 **or to carry a pregnancy to term.**

26 **(7) Nearly half of all pregnancies in the United States and Oregon are unintended.**

27 **(8) Unintended childbearing can be associated with many negative consequences, such as**
28 **delayed prenatal care, maternal depression, increased risk of experiencing physical violence**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 during pregnancy, low birth weight, decreased mental and physical health of the child and
2 low educational attainment for the child.

3 (9) Ninety-nine percent of sexually active women use birth control at least once during
4 their lifetimes.

5 (10) Even though the most common reason women use a contraceptive is to prevent
6 pregnancy, most women who use a contraceptive cite health benefits not related to preg-
7 nancy prevention as an additional reason for using the contraceptive, and many women who
8 take birth control pills use the birth control pills exclusively for purposes not related to
9 pregnancy prevention.

10 (11) Cost-sharing requirements can dramatically reduce the use of preventive health care
11 measures, particularly for women in lower-income households.

12 (12) Eliminating cost sharing for contraceptives leads to sizable increases in the use of
13 preventive health care measures.

14 (13) Access to birth control has been directly connected to the economic success of
15 women and the ability of women to participate in society equally. It is vital that the full
16 range of contraceptives be made available to women because contraindications may restrict
17 the use of certain types of the most effective contraceptive methods for a particular woman.

18 (14) Claim management methods and utilization controls used by public and private
19 health plans, such as denials of coverage, step therapy or prior authorization, can impede a
20 woman's access to the contraceptive method that is most safe and effective for her.

21 (15) Restrictions on abortion coverage interfere with a woman's personal decision-
22 making, her health and well-being and her constitutionally protected right to a safe and legal
23 medical procedure.

24 **SECTION 2.** Section 3 of this 2015 Act is added to and made a part of the Insurance Code.

25 **SECTION 3.** (1) As used in this section, "health benefit plan" has the meaning given that
26 term in ORS 743.730.

27 (2) The coverage under a health benefit plan for services or drugs to terminate a preg-
28 nancy may not:

29 (a) Impose a copayment or coinsurance amount that exceeds 10 percent of the cost of the
30 service or drug; or

31 (b) Be subject to a deductible.

32 (3) An insurer offering a health benefit plan through the health insurance exchange may
33 use funds from an allocation account established pursuant to 42 U.S.C. 18023(b)(2)(B) to off-
34 set the cost of complying with this section with respect to that plan.

35 **SECTION 4.** ORS 743A.066 is amended to read:

36 743A.066. [(1) A prescription drug benefit program, or a prescription drug benefit offered under a
37 health benefit plan as defined in ORS 743.730 or under a student health insurance policy, must provide
38 payment, coverage or reimbursement for:]

39 [(a) Prescription contraceptives; and]

40 [(b) If covered for other drug benefits under the program, plan or policy, outpatient consultations,
41 examinations, procedures and medical services that are necessary to prescribe, dispense, deliver, dis-
42 tribute, administer or remove a prescription contraceptive.]

43 [(2) The coverage required by subsection (1) of this section may be subject to provisions of the
44 program, plan or policy that apply equally to other prescription drugs covered by the program, plan
45 or policy, including but not limited to required copayments, deductibles and coinsurance.]

1 [(3) As used in this section, “contraceptive” means a drug or device approved by the United States
2 Food and Drug Administration to prevent pregnancy.]

3 [(4) A religious employer is exempt from the requirements of this section with respect to a pre-
4 scription drug benefit program or a health benefit plan it provides to its employees. A “religious em-
5 ployer” is an employer:]

6 [(a) Whose purpose is the inculcation of religious values;]

7 [(b) That primarily employs persons who share the religious tenets of the employer;]

8 [(c) That primarily serves persons who share the religious tenets of the employer; and]

9 [(d) That is a nonprofit organization under section 6033(a)(2)(A)(i) or (iii) of the Internal Revenue
10 Code.]

11 **(1) As used in this section, “contraceptive” means a drug, device or product that is ef-
12 fective in preventing pregnancy.**

13 **(2) A policy or certificate of health insurance that includes a prescription drug benefit
14 and a health benefit plan as defined in ORS 743.730 must provide coverage for:**

15 **(a) All contraceptives approved by the United States Food and Drug Administration; and**

16 **(b) The consultations, examinations, procedures and medical services that are necessary
17 to prescribe, dispense, insert, deliver, distribute, administer or remove a contraceptive de-
18 scribed in paragraph (a) of this subsection.**

19 **(3) The coverage required by subsection (2) of this section:**

20 **(a) Must reimburse a health care provider or dispensing entity for a dispensing of
21 contraceptives intended to last for a 12-month period;**

22 **(b) May not require a copayment, deductible or other form of cost-sharing; and**

23 **(c) May not require a prescription for a contraceptive that is available for purchase over
24 the counter.**

25 **(4) The coverage required by this section may not be denied to an enrollee who receives
26 a 12-month supply of contraceptives under subsection (3) of this section and, within the
27 12-month period for which the contraceptives were dispensed, changes her method of
28 contraception.**

29 **(5) This section may not be construed to permit the denial of care on the basis of race,
30 color, national origin, sex, sexual orientation, age or disability.**

31 **(6) A health benefit plan may not impose restrictions or delays on the coverage required
32 by this section except as specifically authorized by this section.**

33 [(5)] **(7) This section is exempt from the provisions of ORS 743A.001.**

34 **SECTION 5.** ORS 743A.080 is amended to read:

35 743A.080. (1) As used in this section[,]:

36 **(a) “Breast-feeding support and supplies” includes all services and supplies needed for a
37 woman to successfully breast-feed her child, such as:**

38 **(A) An electric breast pump, purchased or rented, that is capable of initiating lactation
39 in a postpartum woman and extracting human milk from both breasts of a lactating woman;**

40 **(B) Kits associated with breast pumps; and**

41 **(C) Lactation counseling.**

42 **(b) “Health benefit plan” has the meaning given that term in ORS 743.730.**

43 **(c) “Postpartum care” means the services, described as postpartum care best practices
44 in the guidelines for perinatal care published by the American Congress of Obstetricians and
45 Gynecologists, that are provided during a period that begins after labor and delivery and ends**

1 **12 months after the date of delivery.**

2 **(d) “Preconception care” means:**

3 **(A) Preventative services and health care management used to identify and address**
 4 **biomedical, behavioral and social risks to a woman’s health or pregnancy, emphasizing fac-**
 5 **tors that must be acted on before conception; and**

6 **(B) The services that are described as preconception care best practices in the guidelines**
 7 **for perinatal care published by the American Congress of Obstetricians and Gynecologists.**

8 **(e) “Pregnancy care” means:**

9 **(A) The care necessary to support a healthy pregnancy and to manage pregnancy-related**
 10 **medical complications and care related to labor and delivery up to the birth of the baby; and**

11 **(B) The services described as pregnancy care best practices in the guidelines for perinatal**
 12 **care published by the American Congress of Obstetricians and Gynecologists.**

13 **(2) [All] A health benefit [plans as defined in ORS 743.730] plan must provide payment or re-**
 14 **imbursement for expenses associated with preconception care, contraceptives described in ORS**
 15 **743A.066 (2)(a), pregnancy care [and], childbirth, postpartum care, breast-feeding support and**
 16 **supplies and abortion.**

17 **(3) A health benefit plan must provide payment or reimbursement for folic acid without**
 18 **a prescription.**

19 **(4) A health benefit plan must provide payment or reimbursement for timely and ade-**
 20 **quate access to out-of-network providers, at no extra cost, of services listed in subsection**
 21 **(2) of this section if:**

22 **(a) The in-network providers with the training, experience, specialization or linguistic**
 23 **and cultural competence to provide the service are not available in the plan at the lowest tier**
 24 **of cost-sharing;**

25 **(b) The in-network providers available to the enrollee do not, based on moral or religious**
 26 **objections, provide the service; or**

27 **(c)(A) The enrollee’s primary care provider determines that the enrollee needs a group**
 28 **of related services;**

29 **(B) One or more of the services are not available at the lowest tier of cost-sharing from**
 30 **an in-network provider; and**

31 **(C) The enrollee’s primary care provider determines that providing the services sepa-**
 32 **rately would subject the enrollee to unnecessary risk.**

33 **(5) Benefits [provided under] described in this section [shall] must be extended to all enrollees,**
 34 **enrolled spouses and enrolled dependents.**

35 **(6) This section may not be construed to permit the denial of care on the basis of race,**
 36 **color, national origin, sex, sexual orientation, age or disability.**

37 **(7) If the enforcement of this section, with respect to a particular health benefit plan, is**
 38 **inconsistent with a prescribed condition for this state’s receipt of federal funds, the De-**
 39 **partment of Consumer and Business Services may approve the plan for delivery in this state**
 40 **and waive the requirements of this section but only to the minimum extent necessary to**
 41 **comply with the condition for federal funding.**

42 **SECTION 6. Section 7 of this 2015 Act is added to and made a part of ORS chapter 414.**

43 **SECTION 7. Notwithstanding ORS 414.690, the care and services prescribed by the**
 44 **Oregon Health Authority under ORS 414.065 must include preconception care, contraceptives,**
 45 **pregnancy care, childbirth, postpartum care and breast-feeding support and supplies, as de-**

1 **fined in ORS 743A.080, and abortion.**

2 **SECTION 8. Section 3 of this 2015 Act and the amendments to ORS 743A.066 and 743A.080**
3 **by sections 4 and 5 of this 2015 Act apply to policies and certificates of health insurance is-**
4 **sued, renewed, extended or modified on or after the effective date of this 2015 Act.**

5 **SECTION 9. This 2015 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
7 **on its passage.**

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