HOUSE DOCKET, NO. 450 FILED ON: 1/13/2017

# HOUSE . . . . . No. 536

## The Commonwealth of Massachusetts

PRESENTED BY:

***Patricia A. Haddad and John W. Scibak***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to advancing contraceptive coverage and economic security in our state (ACCESS).

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Patricia A. Haddad* | *5th Bristol* | *1/13/2017* |
| *John W. Scibak* | *2nd Hampshire* | *1/13/2017* |
| *Harriette L. Chandler* | *First Worcester* | *11/7/2017* |
| *Stephen Kulik* | *1st Franklin* | *2/2/2017* |
| *José F. Tosado* | *9th Hampden* | *11/7/2017* |
| *Denise Provost* | *27th Middlesex* | *11/7/2017* |
| *Carole A. Fiola* | *6th Bristol* | *11/7/2017* |
| *Jennifer E. Benson* | *37th Middlesex* | *11/7/2017* |
| *David M. Rogers* | *24th Middlesex* | *11/7/2017* |
| *Sarah K. Peake* | *4th Barnstable* | *11/7/2017* |
| *Jay R. Kaufman* | *15th Middlesex* | *11/7/2017* |
| *Chris Walsh* | *6th Middlesex* | *11/7/2017* |
| *Brendan P. Crighton* | *Third Essex* | *11/7/2017* |
| *Jason M. Lewis* | *Fifth Middlesex* | *11/7/2017* |
| *Cory Atkins* | *14th Middlesex* | *11/7/2017* |
| *Michael J. Barrett* | *Third Middlesex* | *11/7/2017* |
| *Daniel Cahill* | *10th Essex* | *11/7/2017* |

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|---|---|---|
| *Kenneth I. Gordon* | *21st Middlesex* | *11/7/2017* |
| *Barbara A. L'Italien* | *Second Essex and Middlesex* | *11/7/2017* |
| *Danielle W. Gregoire* | *4th Middlesex* | *11/7/2017* |
| *Lori A. Ehrlich* | *8th Essex* | *11/7/2017* |
| *Jack Lewis* | *7th Middlesex* | *11/7/2017* |
| *Mike Connolly* | *26th Middlesex* | *11/7/2017* |
| *Smitty Pignatelli* | *4th Berkshire* | *11/7/2017* |
| *John J. Lawn, Jr.* | *10th Middlesex* | *11/7/2017* |
| *Daniel M. Donahue* | *16th Worcester* | *11/7/2017* |
| *Natalie Higgins* | *4th Worcester* | *11/7/2017* |
| *Anne M. Gobi* | *Worcester, Hampden, Hampshire and Middlesex* | *11/7/2017* |
| *Frank I. Smizik* | *15th Norfolk* | *11/7/2017* |
| *Michael S. Day* | *31st Middlesex* | *11/7/2017* |
| *Kevin G. Honan* | *17th Suffolk* | *11/7/2017* |
| *David Paul Linsky* | *5th Middlesex* | *11/7/2017* |
| *Ruth B. Balser* | *12th Middlesex* | *11/7/2017* |
| *Carmine L. Gentile* | *13th Middlesex* | *11/7/2017* |
| *Steven Ultrino* | *33rd Middlesex* | *11/7/2017* |
| *Claire D. Cronin* | *11th Plymouth* | *11/7/2017* |
| *Adrian Madaro* | *1st Suffolk* | *11/7/2017* |
| *Solomon Goldstein-Rose* | *3rd Hampshire* | *11/7/2017* |
| *Dylan Fernandes* | *Barnstable, Dukes and Nantucket* | *11/7/2017* |
| *William M. Straus* | *10th Bristol* | *11/7/2017* |
| *Paul A. Schmid, III* | *8th Bristol* | *11/7/2017* |
| *Marjorie C. Decker* | *25th Middlesex* | *11/7/2017* |
| *Christine P. Barber* | *34th Middlesex* | *11/7/2017* |
| *Jonathan Hecht* | *29th Middlesex* | *11/7/2017* |
| *Louis L. Kafka* | *8th Norfolk* | *11/7/2017* |
| *Paul Tucker* | *7th Essex* | *11/7/2017* |
| *Daniel J. Hunt* | *13th Suffolk* | *11/7/2017* |
| *Kay Khan* | *11th Middlesex* | *11/7/2017* |
| *Sean Garballey* | *23rd Middlesex* | *11/7/2017* |
| *Paul R. Heroux* | *2nd Bristol* | *11/7/2017* |
| *James B. Eldridge* | *Middlesex and Worcester* | *11/7/2017* |
| *Paul W. Mark* | *2nd Berkshire* | *11/7/2017* |
| *Paul McMurtry* | *11th Norfolk* | *11/7/2017* |
| *Juana B. Matias* | *16th Essex* | *11/7/2017* |
| *Diana DiZoglio* | *14th Essex* | *11/7/2017* |

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| *Patrick M. O'Connor* | *Plymouth and Norfolk* | *11/7/2017* |
| *Michelle M. DuBois* | *10th Plymouth* | *11/7/2017* |
| *Jennifer L. Flanagan* | *Worcester and Middlesex* | *11/7/2017* |
| *Tricia Farley-Bouvier* | *3rd Berkshire* | *11/7/2017* |
| *William C. Galvin* | *6th Norfolk* | *11/7/2017* |
| *Evandro C. Carvalho* | *5th Suffolk* | *11/7/2017* |
| *James M. Cantwell* | *4th Plymouth* | *11/7/2017* |
| *Peter V. Kocot* | *1st Hampshire* | *11/7/2017* |
| *Ann-Margaret Ferrante* | *5th Essex* | *11/7/2017* |
| *Elizabeth A. Malia* | *11th Suffolk* | *11/7/2017* |
| *John J. Mahoney* | *13th Worcester* | *11/7/2017* |
| *Kate Hogan* | *3rd Middlesex* | *11/7/2017* |
| *Denise C. Garlick* | *13th Norfolk* | *11/7/2017* |
| *Joan Meschino* | *3rd Plymouth* | *11/7/2017* |
| *Jay D. Livingstone* | *8th Suffolk* | *11/7/2017* |
| *Gailanne M. Cariddi* | *1st Berkshire* | *11/7/2017* |
| *William Driscoll* | *7th Norfolk* | *11/7/2017* |
| *Daniel J. Ryan* | *2nd Suffolk* | *11/7/2017* |
| *Daniel Cullinane* | *12th Suffolk* | *11/7/2017* |
| *Edward F. Coppinger* | *10th Suffolk* | *11/7/2017* |
| *Mary S. Keefe* | *15th Worcester* | *11/7/2017* |
| *Gerard Cassidy* | *9th Plymouth* | *11/7/2017* |
| *Harold P. Naughton, Jr.* | *12th Worcester* | *11/7/2017* |
| *Bud Williams* | *11th Hampden* | *11/7/2017* |
| *Stephan Hay* | *3rd Worcester* | *11/7/2017* |
| *James J. O'Day* | *14th Worcester* | *11/7/2017* |
| *Aaron Vega* | *5th Hampden* | *11/7/2017* |
| *Colleen M. Garry* | *36th Middlesex* | *11/7/2017* |
| *Carolyn C. Dykema* | *8th Middlesex* | *11/7/2017* |
| *Paul Brodeur* | *32nd Middlesex* | *11/7/2017* |
| *Eileen M. Donoghue* | *First Middlesex* | *11/7/2017* |
| *Joan B.  Lovely* | *Second Essex* | *11/7/2017* |
| *Byron Rushing* | *9th Suffolk* | *11/7/2017* |
| *Michael O. Moore* | *Second Worcester* | *11/7/2017* |
| *Thomas M. Stanley* | *9th Middlesex* | *11/7/2017* |
| *Brian Murray* | *10th Worcester* | *11/7/2017* |
| *Jeffrey Sánchez* | *15th Suffolk* | *11/7/2017* |
| *Alice Hanlon Peisch* | *14th Norfolk* | *11/7/2017* |
| *Walter F. Timilty* | *Norfolk, Bristol and Plymouth* | *11/7/2017* |

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|---|---|---|
| *Carlos González* | *10th Hampden* | *11/7/2017* |
| *Linda Dorcena Forry* | *First Suffolk* | *11/7/2017* |
| *Michael J. Moran* | *18th Suffolk* | *11/7/2017* |
| *Nick Collins* | *4th Suffolk* | *11/7/2017* |

HOUSE DOCKET, NO. 450 FILED ON: 1/13/2017

# HOUSE . . . . . No. 536

By Representatives Haddad of Somerset and Scibak of South Hadley, a petition (accompanied by bill, House, No. 536) of Patricia A. Haddad, John W. Scibak and others relative to advancing contraceptive insurance coverage. Financial Services.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court**
**(2017-2018)**

An Act relative to advancing contraceptive coverage and economic security in our state (ACCESS).

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 32A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after section 27 the following section:

Section 28. (a) Any coverage offered by the commission to any active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for:

(1) all Food and Drug Administration (”FDA”)-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee’s provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, the Commission shall provide coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, the Commission shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to an enrollee of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this subsection, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(b) (1) Coverage provided under this subsection shall not be subject to any deductible, coinsurance, copayment or any other cost-sharing requirement. Any coverage offered by the commission shall not impose any restrictions or delays in the coverage, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee under this section shall also be provided for such enrollee's covered spouse and covered dependents.

(3) Nothing in this section shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within the his/her scope of practice, for reasons other than contraceptive purposes, such as for decreasing the risk of ovarian cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of such enrollee, or such enrollee's covered spouse, and/or covered dependents.

(4) Nothing in this section shall be construed to deny or restrict in any way the group insurance commission's authority to ensure plan compliance with this chapter.

(5) Nothing in this section shall be construed to require the commission to cover experimental or investigational treatments.

(c) For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the

contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 2. Chapter 118E of the General Laws, as so appearing, is hereby amended by inserting after section 10I the following section:

10J (a) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for:

(1) all FDA-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by an enrollee's provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, the division shall provide coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, the division shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this subsection, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(b) (1) The division shall not impose a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage provided pursuant to this subsection. Cost sharing shall not be imposed on any person with coverage under this chapter.

The division shall not impose any restrictions or delays on the coverage required under this section, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee under this section shall be the same for such enrollee's covered spouse and covered dependents.

(3) Nothing in this section shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of such enrollee, or such enrollee's covered spouse and/or covered dependents.

(4) Nothing in this section shall be construed to deny or restrict in any way the division of medical assistance's authority to ensure its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan are in compliance with this chapter.

(5) Nothing in this section shall be construed to require the division to cover experimental or investigational treatments.

(c) For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 3. Chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after section 47W(c) the following:

(d) An individual policy of accident and sickness insurance issued pursuant to section 108 that provides hospital expense and surgical expense and any group blanket policy of accident and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical expense insurance, delivered, issued or renewed by agreement between the insurer and the policyholder, within or without the Commonwealth, (hereinafter "policy") shall provide benefits for residents of the Commonwealth and all group members having a principal place of employment within the Commonwealth coverage for all of the following services and contraceptive methods:

(1) all FDA-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, a policy shall provide coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, a policy shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this section, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(e) (1) A policy subject to this section shall not impose a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage provided pursuant to this section. Except as otherwise authorized under this section, a policy shall not impose any restrictions or delays on the coverage required under this section, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee shall be the same for such enrollee's covered spouse and covered dependents.

(f)(1) This section shall not apply to a policy if such policy is purchased by an employer that is a church or qualified church-controlled organization.

(2) A church or qualified church-controlled organization that invokes the exemption provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care methods and services such employer refuses to cover for religious reasons.

(g) Nothing in this section shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian

cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of an enrollee.

(h) Nothing in this section shall be construed to deny or restrict in any way the division of insurance's authority to ensure compliance with this chapter.

(i) Nothing in this section shall be construed to require an individual or group policy of accident or sickness to cover experimental or investigational treatments.

(j) For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

"Church", a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

"Qualified church-controlled organization", described in section 501(c)(3) of the Internal Revenue Code, other than an organization which--

(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 4. Chapter 176A of the General Laws, as so appearing, is hereby amended by inserting after section 8W(c) the following:

(d) Any contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within or without the Commonwealth and that provides benefits for outpatient services shall provide to all individual subscribers and members within the Commonwealth and to all group members having a principal place of employment within the Commonwealth coverage for all of the following services and contraceptive methods:

(1) all FDA-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, an individual or group hospital service plan shall provide coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, an individual or group hospital service plan shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this subsection, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(e) (1) A contract subject to this section shall not impose a deductible, coinsurance, copayment or any cost-sharing requirement on the coverage. Except as otherwise authorized under this section, a contract shall not impose any restrictions or delays on the coverage required

under this section, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee under this subsection shall be the same for an enrollee's covered spouse and covered dependents.

(f) (1) The requirements of subsection (d) shall not apply to a contract between a subscriber and a corporation under an individual or group hospital service plan that is delivered, issued, or renewed within or without the Commonwealth that is purchased by an employer that is a church or qualified church-controlled organization.

(2) A church or qualified church-controlled organization that invokes the exemption provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care methods and services such employer refuses to cover for religious reasons.

(g) Nothing in this subsection shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of an enrollee.

(h) Nothing in this subsection shall be construed to deny or restrict in any way the division of insurance's authority to ensure contract compliance with this chapter.

(i) Nothing in this section shall be construed to require a contract to cover experimental or investigational treatments.

(j) For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

"Church", a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

"Qualified church-controlled organization", described in section 501(c)(3) of the Internal Revenue Code, other than an organization which--

(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the

contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 5. Chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after section 4W(c) the following:

(d) Any subscription certificate under an individual or group medical service agreement that is delivered, issued or renewed within or without the Commonwealth and that provides benefits for outpatient services shall provide to all individual subscribers and members within the Commonwealth and to all group members having a principal place of employment within the Commonwealth coverage for all of the following services and contraceptive methods:

(1) all FDA-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, an individual or group medical service agreement shall provide for coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, an individual or group medical service agreement shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this subsection, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(e) (1) A medical service agreement subject to this section shall not impose a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage provided. Except as otherwise authorized under this section, a medical service agreement shall not impose any restrictions or delays on the coverage required under this section, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee under this subsection shall be the same for such enrollee's covered spouse and covered dependents.

(f) (1) The requirements of this subsection shall not apply to a medical service agreement that is delivered, issued, or renewed within or without the Commonwealth that is purchased by an employer that is a church or qualified church-controlled organization.

(2) A church or qualified church-controlled organization that invokes the exemption provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to

enrollment with the plan, listing the contraceptive health care methods and services the employer refuses to cover for religious reasons.

(g) Nothing in this subsection shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of an enrollee.

(h) Nothing in this subsection shall be construed to deny or restrict in any way the division of insurance's authority to ensure medical service agreement compliance with this chapter.

(i) Nothing in this subsection shall be construed to require an individual or group medical service agreement to cover experimental or investigational treatments.

(j) For purposes of this section, the following definitions shall apply, unless the context clearly requires otherwise:

"Church", a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

"Qualified church-controlled organization", described in section 501(c)(3) of the Internal Revenue Code, other than an organization which--

(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after section 4O(c) the following:

(d) Any individual or group health maintenance contract that is issued, renewed or delivered within or without the Commonwealth and that provides benefits for outpatient prescription drugs or devices shall provide to residents of the Commonwealth and to persons

having a principal place of employment within the Commonwealth coverage for all of the following services and contraceptive methods:

(1) all FDA-approved contraceptive drugs, devices and other products. This includes all FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's provider or otherwise authorized under state or federal law. The following apply:

(i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or product, a health maintenance contract shall provide coverage for either the original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

(ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable by the covered person's provider, a health maintenance contract shall defer to the determination and judgment of the attending provider and provide coverage for an alternate prescribed contraceptive drug, device, or product;

(2) all FDA-approved contraceptive drugs available over the counter without a prescription;

(3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a 12-month period;

(4) voluntary sterilization procedures;

(5) patient education and counseling on contraception; and

(6) follow-up services related to the drugs, devices, products and procedures covered under this section, including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(e) (1) A health maintenance contract shall not impose a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage provided. Cost sharing shall not be imposed on any MassHealth beneficiary. Except as otherwise authorized under this section, a health maintenance contract shall not impose any restrictions or delays on the coverage required under this section, including medical management techniques such as denials, step therapy, or prior authorization.

(2) Benefits for an enrollee under this section shall be the same for such enrollee's covered spouse and covered dependents.

(f) (1) The requirements of this subsection shall not apply to a health maintenance contract if that policy is purchased by an employer that is a church or qualified church-controlled organization.

(2) A church or qualified church-controlled organization that invokes the exemption provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(g) Nothing in this subsection shall be construed to exclude coverage for contraceptive drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve the life or health of an enrollee.

(h) Nothing in this subsection shall be construed to deny or restrict in any way the division of insurance's authority to ensure health maintenance contract compliance with this chapter.

(i) Nothing in this subsection shall be construed to require an individual or group health maintenance contract to cover experimental or investigational treatments.

(j) For purposes of this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Church", a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"Provider", an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or professional practice.

"Qualified church-controlled organization", described in section 501(c)(3) of the Internal Revenue Code, other than an organization which--

(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that they (a) contain identical amounts of the same active drug ingredient in the same dosage form and route of administration, and (b) meet compendial or other applicable standards of strength, quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence code by the FDA.

SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed on or after September 1, 2017.