

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

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

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

<i>Carlos González</i>	<i>10th Hampden</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>

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:

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

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

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

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

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

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

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

21 (4) voluntary sterilization procedures;

22 (5) patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

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

55 10J (a) The division and its contracted health insurers, health plans, health maintenance
56 organizations, behavioral health management firms and third-party administrators under contract
57 to a Medicaid managed care organization or primary care clinician plan shall provide coverage
58 for:

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

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

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

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

71 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
72 12-month period;

73 (4) voluntary sterilization procedures;

74 (5) patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

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

112 (d) An individual policy of accident and sickness insurance issued pursuant to section
113 108 that provides hospital expense and surgical expense and any group blanket policy of accident
114 and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical
115 expense insurance, delivered, issued or renewed by agreement between the insurer and the
116 policyholder, within or without the Commonwealth, (hereinafter “policy”) shall provide benefits
117 for residents of the Commonwealth and all group members having a principal place of
118 employment within the Commonwealth coverage for all of the following services and
119 contraceptive methods:

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

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

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

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

132 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
133 12-month period;

134 (4) voluntary sterilization procedures;
135 (5) patient education and counseling on contraception; and
136 (6) follow-up services related to the drugs, devices, products and procedures covered
137 under this section, including, but not limited to, management of side effects, counseling for
138 continued adherence, and device insertion and removal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

205 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
206 12-month period;

207 (4) voluntary sterilization procedures;

208 (5) patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

238 “Church”, a church, a convention or association of churches, or an elementary or
239 secondary school which is controlled, operated, or principally supported by a church or by a
240 convention or association of churches.

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

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

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

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

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

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

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

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

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

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

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

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

279 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
280 12-month period;

281 (4) voluntary sterilization procedures;

282 (5) patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

326

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

334 SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by
335 inserting after section 40(c) the following:

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

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

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

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

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

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

353 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
354 12-month period;

355 (4) voluntary sterilization procedures;

356 (5) patient education and counseling on contraception; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

408 SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and
409 certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter
410 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed on or after
411 September 1, 2017.