

SENATE No. 2210

The Commonwealth of Massachusetts

—————
In the One Hundred and Ninetieth General Court
(2017-2018)
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SENATE, Monday, November 13, 2017

The committee on Ways and Means, to whom was referred the House Bill relative to advancing contraceptive coverage and economic security in our state (ACCESS) (House, No. 4009) (also based on Senate, No. 2204),-- reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2210; and by inserting before the enacting clause the following emergency preamble:- “Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith contraceptive coverage and economic security in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.”.

For the committee,
Karen E. Spilka

SENATE No. 2210

The Commonwealth of Massachusetts

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

1 SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the
2 following section:-

3 Section 28. (a) Coverage offered by the commission to an active or retired employee of
4 the commonwealth insured under the group insurance commission shall provide coverage for the
5 following services and contraceptive methods:

6 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
7 and other products; provided, however, that coverage shall not be required for male condoms or
8 FDA-approved oral contraceptive drugs that do not have a therapeutic equivalent; and provided
9 further, that:

10 (A) if the FDA has approved 1 or more therapeutic equivalents of a
11 contraceptive drug, device or product, the commission shall not be required to include all such
12 therapeutically equivalent versions in its formulary as long as at least 1 is included and covered
13 without cost-sharing and in accordance with this section; and

14 (B) if there is a therapeutic equivalent of a drug, device or other product
15 for an FDA-approved contraceptive method, the commission may provide coverage for more

16 than 1 drug, device or other product and may impose cost-sharing requirements as long as at
17 least 1 drug, device or other product for that method is available without cost-sharing; provided,
18 however, that if an individual's attending provider recommends a particular FDA-approved
19 contraceptive based on a medical determination with respect to that individual, regardless of
20 whether the contraceptive has a therapeutic equivalent, the insurer shall provide coverage,
21 subject to the commission's utilization management procedures, for the prescribed contraceptive
22 drug, device or product without cost-sharing;

23 (ii) FDA-approved emergency contraception available over-the-counter, whether
24 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

25 (iii) prescription contraceptives intended to last: (A) for not more than a 3-month
26 period for the first time the prescription contraceptive is dispensed to the covered person; and (B)
27 for not more than a 12-month period for any subsequent dispensing of the same prescription,
28 which may be dispensed all at once or over the course of the 12-month period, regardless of
29 whether the covered person was enrolled in a plan or policy under this chapter at the time the
30 prescription contraceptive was first dispensed; provided, however, that the insured may not fill
31 more than one 12-month prescription in a single dispensing per plan year;

32 (iv) voluntary female sterilization procedures;

33 (v) patient education and counseling on contraception; and

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

37 (b) (1) Coverage provided under this section shall not be subject to any deductible,
38 coinsurance, copayment or any other cost-sharing requirement, except as provided for in
39 subclauses (A) and (B) of clause (i) of subsection (a) or as otherwise required under federal law.
40 Coverage offered under this section shall not impose unreasonable restrictions or delays in the
41 coverage; provided, however, that reasonable medical management techniques may be applied to
42 coverage within a method category, as defined by the FDA, but not across types of methods.

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

45 (c) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
46 devices, products and procedures as prescribed by a provider for reasons other than contraceptive
47 purposes, including, but not limited to, decreasing the risk of ovarian cancer, eliminating
48 symptoms of menopause or providing contraception that is necessary to preserve the life or
49 health of the enrollee or the enrollee's covered spouse or covered dependents.

50 (d) The commission shall ensure plan compliance with this chapter.

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

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

55 "Provider", an individual or facility licensed, certified or otherwise authorized or
56 permitted by law to administer health care in the ordinary course of business or professional
57 practice acting within the scope of their license.

58 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
59 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
60 product in that it contains an identical amount of the same active drug ingredient in the same
61 dosage form and route of administration and meets compendial or other applicable standards of
62 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
63 another contraceptive drug, device or product by the FDA.

64 SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after
65 section 10J the following section:-

66 Section 10K. (a) The division and its contracted health insurers, health plans, health
67 maintenance organizations, behavioral health management firms and third-party administrators
68 under contract to a Medicaid managed care organization or primary care clinician plan shall
69 provide coverage for the following services and contraceptive methods:

70 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
71 and other products; provided, however, that coverage shall not be required for male condoms or
72 FDA-approved oral contraceptives that do not have a therapeutic equivalent; and provided
73 further, that:

74 (A) if the FDA has approved 1 or more therapeutic equivalents of a
75 contraceptive drug, device or product, the division shall not be required to include all such
76 therapeutically equivalent versions in its formulary as long as at least 1 is included and covered
77 without cost-sharing and in accordance with this section;

78 (B) if there is a therapeutic equivalent of a drug, device or other product
79 for an FDA-approved contraceptive method, the division may provide coverage for more than 1

80 drug, device or other product and may impose cost-sharing requirements as long as at least 1
81 drug, device or other product for that method is available without cost-sharing; provided,
82 however, that if an individual's attending provider recommends a particular FDA-approved
83 contraceptive based on a medical determination with respect to that individual, regardless of
84 whether the contraceptive has a therapeutic equivalent, the division shall provide coverage,
85 subject to the division's utilization management procedures, for the prescribed contraceptive
86 drug, device or product without cost-sharing; and

87 (C) appeals of an adverse determination of a request for coverage of an
88 alternative FDA-approved contraceptive drug, device or other product without cost-sharing shall
89 be subject to the grievance process under section 47 of chapter 118E;

90 (ii) FDA-approved emergency contraception available over-the-counter, whether
91 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

92 (iii) prescription contraceptives intended to last: (A) for not more than a 3-month
93 period for the first time the prescription contraceptive is dispensed to the covered person; and (B)
94 for not more than a 12-month period for any subsequent dispensing of the same prescription,
95 which may be dispensed all at once or over the course of the 12-month period, regardless of
96 whether the covered person was enrolled with the division at the time the prescription
97 contraceptive was first dispensed; provided, however, that the insured may not fill more than one
98 12-month prescription in a single dispensing per plan year;

99 (iv) voluntary female sterilization procedures;

100 (v) patient education and counseling on contraception; and

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

104 (b) (1) Coverage provided under this section shall not be subject to any deductible,
105 coinsurance, copayment or any other cost-sharing requirement, except as provided for in
106 subclauses (A) and (B) of clause (i) of subsection (a) or as otherwise required under federal law.
107 Coverage provided under this section shall not impose unreasonable restrictions or delays in the
108 coverage; provided, however, that reasonable medical management techniques may be applied to
109 coverage within a method category, as defined by the FDA, but not across types of methods.

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

112 (c) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
113 devices, products and procedures prescribed by a provider for reasons other than contraceptive
114 purposes including, but not limited to, decreasing the risk of ovarian cancer, eliminating
115 symptoms of menopause or providing contraception that is necessary to preserve the life or
116 health of the enrollee or the enrollee's covered spouse or covered dependents.

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

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

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

125 “Provider”, an individual or facility licensed, certified or otherwise authorized or
126 permitted by law to administer health care in the ordinary course of business or professional
127 practice acting within the scope of their license.

128 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
129 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
130 product in that it contains an identical amount of the same active drug ingredient in the same
131 dosage form and route of administration and meets compendial or other applicable standards of
132 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
133 another contraceptive drug, device or product by the FDA.

134 SECTION 3. Section 47W of chapter 175 of the General Laws, as appearing in the 2016
135 Official Edition, is hereby amended by adding the following 7 subsections:

136 (d) An individual policy of accident and sickness insurance issued under section 108 that
137 provides benefits for hospital expenses and surgical expenses and any group blanket policy of
138 accident and sickness insurance issued under section 110 that provides benefits for hospital
139 expenses and surgical expenses delivered, issued or renewed by agreement between the insurer
140 and the policyholder, within or outside the commonwealth shall provide benefits for residents of
141 the commonwealth and all group members having a principal place of employment in the
142 commonwealth coverage for all of the following services and contraceptive methods:

143 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
144 and other products; provided, however, that coverage shall not be required for male condoms or

145 FDA-approved oral contraceptive drugs that do not have a therapeutic equivalent; and provided
146 further, that:

147 (A) if the FDA has approved 1 or more therapeutic equivalents of a
148 contraceptive drug, device or product, a policy of accident and sickness insurance shall not be
149 required to include all such therapeutically equivalent versions in its formulary as long as at least
150 1 is included and covered without cost-sharing and in accordance with this subsection;

151 (B) if there is a therapeutic equivalent of a drug, device or other product
152 for an FDA-approved contraceptive method, a policy of accident and sickness insurance may
153 provide coverage for more than 1 drug, device or other product and may impose cost-sharing
154 requirements as long as at least 1 drug, device or other product for that method is available
155 without cost-sharing; provided, however, that if an individual's attending provider recommends a
156 particular FDA-approved contraceptive based on a medical determination with respect to that
157 individual, regardless of whether the contraceptive has a therapeutic equivalent, the policy of
158 accident and sickness insurance shall provide coverage, subject to that policy's utilization
159 management procedures, for the prescribed contraceptive drug, device or product without cost-
160 sharing; and

161 (C) appeals of an adverse determination of a request for coverage of an
162 alternative FDA-approved contraceptive drug, device or other product without cost-sharing shall
163 be subject to the expedited grievance process under section 13 of chapter 176O;

164 (ii) FDA-approved emergency contraception available over-the-counter, whether
165 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

166 (iii) prescription contraceptives intended to last for: (A) not more than a 3-month
167 period for the first time the prescription contraceptive is dispensed to the covered person; and (B)
168 for not more than a 12-month period for any subsequent dispensing of the same prescription,
169 which may be dispensed all at once or over the course of the 12-month period, regardless of
170 whether the covered person was enrolled in the policy at the time the prescription was first
171 dispensed; provided, however, that a corporation shall not be required to provide coverage for
172 more than one 12-month prescription in a single dispensing per plan year;

173 (iv) voluntary female sterilization procedures;

174 (v) patient education and counseling on contraception; and

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

178 (e) (1) Coverage provided under subsection (d) shall not be subject to any deductible,
179 coinsurance, copayment or any other cost-sharing requirement, except as provided for in
180 subclauses (A) and (B) of clause (i) of subsection (d) or as otherwise required under federal law.
181 Coverage offered under said subsection (d) shall not impose unreasonable restrictions or delays in
182 the coverage, in accordance with the requirements of chapter 176O; provided, however, that
183 reasonable medical management techniques may be applied to coverage within a method
184 category, as defined by the FDA, but not across types of methods.

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

187 (f) A policy of accident and sickness insurance that is purchased by an employer that is a
188 church or qualified church-controlled organization shall be exempt from subsection (d) at the
189 request of the employer. An employer that invokes the exemption under this subsection shall
190 provide written notice to prospective enrollees prior to enrollment with the plan and such notice
191 shall list the contraceptive health care methods and services for which the employer will not
192 provide coverage for religious reasons.

193 (g) Nothing in subsection (d) shall be construed to exclude coverage for contraceptive
194 drugs, devices, products and procedures prescribed by a provider for reasons other than
195 contraceptive purposes, including, but not limited to, decreasing the risk of ovarian cancer,
196 eliminating symptoms of menopause or providing contraception that is necessary to preserve the
197 life or health of an enrollee or the enrollee's covered spouse or covered dependents.

198 (h) The commissioner of insurance shall ensure that plans issued under subsection (d)
199 comply with this chapter.

200 (i) Nothing in subsection (d) shall be construed to require a policy of accident and
201 sickness insurance to cover experimental or investigational treatments.

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

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

207 “Provider”, an individual or facility licensed, certified or otherwise authorized or
208 permitted by law to administer health care in the ordinary course of business or professional
209 practice acting within the scope of their license.

210 “Qualified church-controlled organization”, an organization described in section
211 501(c)(3) of the federal Internal Revenue Code, other than an organization that:

212 (i) offers goods, services or facilities for sale, other than on an incidental basis, to the
213 general public, other than goods, services or facilities that are sold at a nominal charge that is
214 substantially less than the cost of providing such goods, services or facilities; and (ii) normally
215 receives more than 25 per cent of its support from: (A) governmental sources; (B) receipts from
216 admissions, sales of merchandise, performance of services or furnishing of facilities, in activities
217 which are not unrelated trades or businesses; or (C) both clauses (A) and (B).

218 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
219 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
220 product in that it contains an identical amount of the same active drug ingredient in the same
221 dosage form and route of administration and meets compendial or other applicable standards of
222 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
223 another contraceptive drug, device or product by the FDA.

224 SECTION 4. Section 8W of chapter 176A of the General Laws, as so appearing, is
225 hereby amended by adding the following 7 subsections:

226 (d) A contract between a subscriber and the corporation under an individual or group
227 hospital service plan that is delivered, issued or renewed within or outside the commonwealth
228 and provides benefits for outpatient services shall provide to all individual subscribers and

229 members in the commonwealth and to all group members having a principal place of
230 employment in the commonwealth coverage for all of the following services and contraceptive
231 methods:

232 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
233 and other products; provided, however, that coverage shall not be required for male condoms or
234 FDA-approved oral contraceptive drugs that do not have a therapeutic equivalent; and provided
235 further, that:

236 (A) if the FDA has approved 1 or more therapeutic equivalents of a
237 contraceptive drug, device or product, a hospital service plan shall not be required to include all
238 such therapeutically equivalent versions in its formulary as long as at least 1 is included and
239 covered without cost-sharing and in accordance with this subsection;

240 (B) if there is a therapeutic equivalent of a drug, device or other product
241 for an FDA-approved contraceptive method, a hospital service plan may provide coverage for
242 more than 1 drug, device or other product and may impose cost-sharing requirements as long as
243 at least 1 drug, device or other product for that method is available without cost-sharing;
244 provided, however, that if an individual's attending provider recommends a particular FDA-
245 approved contraceptive based on a medical determination with respect to that individual,
246 regardless of whether the contraceptive has a therapeutic equivalent, an individual or group
247 hospital service plan shall provide coverage, subject to a plan's utilization management
248 procedures, for the prescribed contraceptive drug, device or product without cost-sharing; and

249 (C) appeals of an adverse determination of a request for coverage of an
250 alternative FDA-approved contraceptive drug, device or other product without cost sharing shall
251 be subject to the expedited grievance process under section 13 of chapter 176O;

252 (ii) FDA-approved emergency contraception available over-the-counter, whether
253 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

254 (iii) prescription contraceptives intended to last for: (i) not more than a 3-month
255 period for the first time the prescription contraceptive is dispensed to the covered person; and (ii)
256 not more than a 12-month period for any subsequent dispensing of the same prescription, which
257 may be dispensed all at once or over the course of the 12-month period, regardless of whether the
258 covered person was enrolled in the policy, contract or plan at the time the prescription
259 contraceptive was first dispensed; provided, however, that a corporation shall not be required to
260 provide coverage for more than one 12-month prescription in a single dispensing per plan year;

261 (iv) voluntary female sterilization procedures;

262 (v) patient education and counseling on contraception; and

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

266 (e) (1) Coverage provided under subsection (d) shall not be subject to any deductible,
267 coinsurance, copayment or any cost-sharing requirement except as provided for in subclauses
268 (A) and (B) of clause (i) of subsection (d) or as otherwise required under federal law. Coverage
269 offered under subsection (d) shall not impose any unreasonable restriction or delay in the

270 coverage, in accordance with the requirements of chapter 176O; provided, however, that
271 reasonable medical management techniques may be applied to coverage within a method
272 category, as defined by the FDA, but not across types of methods.

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

275 (f) A hospital service plan that is delivered, issued or renewed within or outside the
276 commonwealth that is purchased by an employer that is a church or qualified church-controlled
277 organization shall be exempt from subsection (d) at the request of the employer. An employer
278 that invokes the exemption under this subsection shall provide written notice to prospective
279 enrollees prior to enrollment with the plan and such notice shall list the contraceptive health care
280 methods and services for which the employer will not provide coverage for religious reasons.

281 (g) Nothing in subsection (d) shall exclude coverage for contraceptive drugs, devices,
282 products and procedures prescribed by a provider for a reason other than contraceptive purposes,
283 including, but not limited to, decreasing the risk of ovarian cancer, eliminating symptoms of
284 menopause or providing contraception that is necessary to preserve the life or health of an
285 enrollee or the enrollee's covered spouse or covered dependents.

286 (h) The commissioner of insurance shall ensure compliance with this chapter.

287 (i) Nothing in subsection (d) shall be construed to require a hospital service plan to cover
288 experimental or investigational treatments.

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

291 “Church”, a church, a convention or association of churches or an elementary or
292 secondary school that is controlled, operated or principally supported by a church or by a
293 convention or association of churches.

294 “Provider”, an individual or facility licensed, certified or otherwise authorized or
295 permitted by law to administer health care in the ordinary course of business or professional
296 practice acting within the scope of their license.

297 “Qualified church-controlled organization”, an organization described in section
298 501(c)(3) of the federal Internal Revenue Code, other than an organization that: (i) offers goods,
299 services or facilities for sale, other than on an incidental basis, to the general public, other than
300 goods, services or facilities that are sold at a nominal charge that is substantially less than the
301 cost of providing such goods, services or facilities; and (ii) normally receives more than 25 per
302 cent of its support from: (A) governmental sources; (B) receipts from admissions, sales of
303 merchandise, performance of services or furnishing of facilities in activities that are not unrelated
304 trades or businesses; or (C) both clauses (A) and (B).

305 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
306 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
307 product in that it contains an identical amount of the same active drug ingredient in the same
308 dosage form and route of administration and meets compendial or other applicable standards of
309 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
310 another contraceptive drug, device or product by the FDA.

311 SECTION 5. Section 4W of chapter 176B of the General Laws, as so appearing, is
312 hereby amended by adding the following 7 subsections:-

313 (d) A subscription certificate under an individual or group medical service agreement that
314 is delivered, issued or renewed within or outside the commonwealth and that provides benefits
315 for outpatient services shall provide to all individual subscribers and members in the
316 commonwealth and to all group members having a principal place of employment in the
317 commonwealth coverage for the following services and contraceptive methods:

318 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
319 and other products; provided, however, that coverage shall not be required for male condoms or
320 FDA-approved oral contraceptive drugs that do not have a therapeutic equivalent; and provided
321 further, that:

322 (A) if the FDA has approved 1 or more therapeutic equivalents of a
323 contraceptive drug, device or product, an individual or group hospital service plan shall not be
324 required to include all such therapeutically equivalent version in its formulary as long as at least
325 1 is included and covered without cost-sharing and in accordance with this subsection;

326 (B) if there is a therapeutic equivalent of a drug, device or other product
327 for an FDA-approved contraceptive method, a medical service agreement may provide coverage
328 for more than 1 drug, device or other product and may impose cost-sharing requirements as long
329 as at least 1 drug, device or other product for that method is available without cost-sharing;
330 provided, however, that if an individual's attending provider recommends a particular FDA-
331 approved contraceptive based on a medical determination with respect to that individual,
332 regardless of whether the contraceptive has a therapeutic equivalent, a medical service agreement
333 shall provide coverage, subject to a plan's utilization management procedures, for the prescribed
334 contraceptive drug, device or product without cost-sharing; and

335 (C) appeals of an adverse determination of a request for coverage of an
336 alternative FDA-approved contraceptive drug, device or other product without cost sharing shall
337 be subject to the expedited grievance process under section 13 of chapter 176O;

338 (ii) FDA-approved emergency contraception available over-the-counter, whether
339 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

340 (iii) prescription contraceptives intended to last: (A) for not more than a 3-month
341 period for the first time the prescription contraceptive is dispensed to the covered person; and (B)
342 for not more than a 12-month period for any subsequent dispensing of the same prescription,
343 which may be furnished or dispensed all at once or over the course of the 12 months, regardless
344 of whether the covered person was enrolled in the policy, contract or plan at the time the
345 prescription contraceptive was first dispensed; provided, however, that a corporation shall not be
346 required to provide coverage for more than one 12-month prescription in a single dispensing per
347 plan year;

348 (iv) voluntary female sterilization procedures;

349 (v) patient education and counseling on contraception; and

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

353 (e) (1) Coverage provided under subsection (d) shall not be subject to any deductible,
354 coinsurance, copayment or any other cost-sharing requirement except as provided for in
355 subclauses (A) and (B) of clause (i) of subsection (d) or otherwise as required under federal law.

356 Coverage offered under said subsection (d) shall not impose unreasonable restrictions or delays
357 in the coverage, in accordance with the requirements of chapter 176O; provided, however, that
358 reasonable medical management techniques may be applied to coverage within a method
359 category, as defined by the FDA, but not across types of methods.

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

362 (f) A medical service agreement that is delivered, issued or renewed within or outside the
363 commonwealth that is purchased by an employer that is a church or qualified church-controlled
364 organization shall be exempt from subsection (d) at the request of the employer. An employer
365 that invokes the exemption under this subsection shall provide written notice to prospective
366 enrollees prior to enrollment with the plan and such notice shall list the contraceptive health care
367 methods and services for which the employer will not provide coverage for religious reasons.

368 (g) Nothing in subsection (d) shall be construed to exclude coverage for contraceptive
369 drugs, devices, products and procedures prescribed by a provider for reasons other than
370 contraceptive purposes, including, but not limited to, decreasing the risk of ovarian cancer,
371 eliminating symptoms of menopause or providing contraception that is necessary to preserve the
372 life or health of an enrollee or the enrollee's covered spouse or covered dependents.

373 (h) The commissioner shall ensure compliance with this chapter.

374 (i) Nothing in subsection (d) shall be construed to require a medical service agreement to
375 cover experimental or investigational treatments.

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

378 “Church”, a church, a convention or association of churches or an elementary or
379 secondary school that is controlled, operated or principally supported by a church or by a
380 convention or association of churches.

381 “Provider”, an individual or facility licensed, certified or otherwise authorized or
382 permitted by law to administer health care in the ordinary course of business or professional
383 practice, acting within the scope of their license.

384 “Qualified church-controlled organization”, an organization described in section
385 501(c)(3) of the federal Internal Revenue Code, other than an organization that: (i) offers goods,
386 services or facilities for sale, other than on an incidental basis, to the general public, other than
387 goods, services or facilities that are sold at a nominal charge that is substantially less than the
388 cost of providing such goods, services or facilities; and (ii) normally receives more than 25 per
389 cent of its support from: (A) governmental sources; (B) receipts from admissions, sales of
390 merchandise, performance of services or furnishing of facilities in activities that are not unrelated
391 trades or businesses; or (C) both clauses (A) and (B).

392 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
393 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
394 product in that it contains an identical amount of the same active drug ingredient in the same
395 dosage form and route of administration and meets compendial or other applicable standards of
396 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
397 another contraceptive drug, device or product by the FDA.

398 SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by
399 inserting after section 40(c) the following 7 subsections:

400 (d) An individual or group health maintenance contract that is issued, renewed or
401 delivered within or outside the commonwealth and that provides benefits for outpatient
402 prescription drugs or devices shall provide to residents of the commonwealth and to persons
403 having a principal place of employment in the commonwealth coverage for the following
404 services and contraceptive methods:

405 (i) Food and Drug Administration, FDA, approved contraceptive drugs, devices
406 and other products; provided, however, that coverage shall not be required for male condoms or
407 FDA-approved oral contraceptive drugs that do not have a therapeutic equivalent; provided
408 further, that:

409 (A) if the FDA has approved 1 or more therapeutic equivalents of a
410 contraceptive drug, device or product, a health maintenance contract shall not be required to
411 include all such therapeutically equivalent versions in its formulary as long as at least 1 is
412 included and covered without cost-sharing and in accordance with this subsection;

413 (B) if there is a therapeutic equivalent of a drug, device or other product
414 for an FDA-approved contraceptive method, a health maintenance contract may provide
415 coverage for more than 1 drug, device or other product for that method and may impose cost-
416 sharing requirements as long as at least 1 drug, device or other product for that method is
417 available without cost-sharing; provided, however, that if an individual's attending provider
418 recommends a particular FDA-approved contraceptive based on a medical determination with
419 respect to that individual, regardless of whether the contraceptive has a therapeutic equivalent,

420 the health maintenance contract shall provide coverage, subject to the plan's utilization
421 management procedures, for the prescribed contraceptive drug, device or product without cost-
422 sharing; and

423 (C) appeals of an adverse determination of a request for coverage of an
424 alternative FDA-approved contraceptive drug, device or other product without cost-sharing shall
425 be subject to the expedited grievance process under section 13 of chapter 176O;

426 (ii) FDA-approved emergency contraception available over-the-counter, whether
427 with a prescription or dispensed consistent with the requirements of section 19A of chapter 94C;

428 (iii) prescription contraceptives intended to last: (A) for not more than a 3-month
429 period for the first time the prescription contraceptive is dispensed to the covered person; and (B)
430 for not more than a 12-month period for any subsequent dispensing of the same prescription,
431 which may be dispensed all at once or over the course of the 12-month period, regardless of
432 whether the covered person was enrolled in the plan at the time the prescription contraceptive
433 was first dispensed; provided, however, that a corporation shall not be required to provide
434 coverage for more than one 12-month prescription in a single dispensing per plan year;

435 (iv) voluntary female sterilization procedures;

436 (v) patient education and counseling on contraception; and

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

440 (e) (1) Coverage provided under subsection (d) shall not be subject to any deductible,
441 coinsurance, copayment or any other cost-sharing requirement except as provided for in
442 subclauses (A) and (B) of clause (i) of subsection (d) or as otherwise required under federal law.
443 Coverage offered under said subsection (d) shall not impose unreasonable restrictions or delays
444 in the coverage, in accordance with the requirements of chapter 176O; provided, however, that
445 reasonable medical management techniques may be applied to coverage within a method
446 category, as defined by the FDA, but not across types of methods.

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

449 (f) A health maintenance contract that is purchased by an employer that is a church or
450 qualified church-controlled organization shall be exempt from subsection (d) at the request of the
451 employer. An employer that invokes the exemption under this subsection shall provide written
452 notice to prospective enrollees prior to enrollment with the plan and such notice shall list the
453 contraceptive health care methods and services for which the employer will not provide coverage
454 for religious reasons.

455 (g) Nothing in subsection (d) shall be construed to exclude coverage for contraceptive
456 drugs, devices, products and procedures as prescribed by a provider for reasons other than
457 contraceptive purposes, including, but not limited to, decreasing the risk of ovarian cancer,
458 eliminating symptoms of menopause or providing contraception that is necessary to preserve the
459 life or health of an enrollee or the enrollee's covered spouse or covered dependents.

460 (h) The commissioner shall ensure compliance with this chapter.

461 (i) Nothing in subsection (d) shall be construed to require a health maintenance contract
462 to cover experimental or investigational treatments.

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

465 “Church”, a church, a convention or association of churches or an elementary or
466 secondary school that is controlled, operated or principally supported by a church or by a
467 convention or association of churches.

468 “Provider”, an individual or facility licensed, certified or otherwise authorized or
469 permitted by law to administer health care in the ordinary course of business or professional
470 practice acting within the scope of their license.

471 “Qualified church-controlled organization”, an organization described in section
472 501(c)(3) of the federal Internal Revenue Code, other than an organization that:(i) offers goods,
473 services or facilities for sale, other than on an incidental basis, to the general public, other than
474 goods, services or facilities that are sold at a nominal charge that is substantially less than the
475 cost of providing such goods, services or facilities; and(ii) normally receives more than 25 per
476 cent of its support from: (A) governmental sources; or (B) receipts from admissions, sales of
477 merchandise, performance of services or furnishing of facilities in activities that are not unrelated
478 trades or businesses; or (C) both clauses (A) and (B).

479 “Therapeutic equivalent”, a contraceptive drug, device or product that is: (i) approved as
480 safe and effective; (ii) pharmaceutically equivalent to another contraceptive drug, device or
481 product in that it contains an identical amount of the same active drug ingredient in the same
482 dosage form and route of administration and meets compendial or other applicable standards of

483 strength, quality, purity and identity; and (iii) assigned the same therapeutic equivalence code as
484 another contraceptive drug, device or product by the FDA.

485 SECTION 7. Sections 1 to 6, inclusive, shall apply to all policies, contracts and
486 certificates of health insurance subject to chapters 32A, 118E, 175, 176A, 176B and 176G of the
487 General Laws that are delivered, issued or renewed not less than 6 months from the effective
488 date of this act.”