



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1140

PRINTER'S NO. 3288

PRIME SPONSOR: Krueger

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	\$0	See Fiscal Impact
Insurance Regulation and Oversight Fund	\$0	See Fiscal Impact

SUMMARY:

This legislation requires health insurance companies and the Medical Assistance (MA) and Children's Health Insurance Program (CHIP) managed care plans to cover all contraceptives that have been approved by the Food and Drug Administration (FDA) and cannot impose cost-sharing to the covered person.

ANALYSIS:

House Bill 1140 Printer's Number 3288 requires health insurance companies that offer, issue, or renew health care policies in the commonwealth and the MA and CHIP programs to cover medically necessary contraceptives and voluntary adult sterilization as follows:

- All FDA-approved contraceptive drugs, devices, and other products for which a covered person can obtain a prescription.
- All FDA-approved over-the-counter emergency contraceptive drugs for which a covered person can obtain a prescription, or which is subject to a standing order issued by either the Secretary of Health or the Physician General of the Commonwealth.
- All FDA-approved over-the-counter oral contraceptives drugs for which a covered person can obtain a prescription, or which is subject to a standing order issued by either the Secretary of Health or the Physician General of the Commonwealth.
- Voluntary adult male or adult female sterilization surgery.
- Items and services needed to provide the contraception drugs, devices, and products or voluntary sterilization surgery including any required patient screening, education and counseling and items and services related to the insertion or removal of a contraceptive device.

Health insurance companies and the MA or CHIP programs must provide the covered contraception without cost to the covered individuals.

The Department of Insurance must include in their annual report information on the number, type and disposition of complaints, grievances, internal appeals, and adverse benefit determinations filed with a health insurance company or MA or CHIP program.

In addition, the Department of Insurance is able to impose penalties for any non-compliance with this legislation. Penalties include a fine of not more than \$5,000 for each violation, and a fine of not more than \$10,000 for each willful violation. The legislation imposes limits on the total amount of fines that can be assessed against an individual insurance company (\$500,000) or against any other person subject to these requirements (\$100,000) within a single calendar year.

Both the Department of Human Services and the Department of Insurance may promulgate regulations to implement, administer, and enforce the requirements in this legislation.

This legislation will take effect in 60 days from enactment.

FISCAL IMPACT:

Department of Insurance

The Department of Insurance oversees the health insurance companies' compliance with requirements included in this legislation. Additionally, the department investigates any potential compliance issues and, if necessary, would impose any resulting penalties, as required by this legislation. The department does not currently anticipate any increase in administrative costs due to the payment method requirements, which is funded through the Insurance Regulation and Oversight Fund.

The collection of penalties and fines by the Department may result in increased revenue received by the commonwealth for the Insurance Regulation and Oversight Fund. However, the number of insurance companies that would be found to be out of compliance with these requirements and have fines assessed is unknown at this time. Therefore, any increased revenue to the commonwealth due to fines imposed by this legislation is currently indeterminate.

Children's Health Insurance Program

The Department of Human Services pays each MCO participating in the CHIP a monthly rate for each individual eligible for CHIP and enrolled into that MCO. These MCO rates are required to cover primary and preventive care services¹ which includes contraceptive drugs, devices, or products and voluntary adult sterilization for individuals that are 18 years of age. The MCO must maintain a network of MA providers and make payment to those providers when they provide MA services to the individuals enrolled into the MCO. Preventative Services are provided with no cost-sharing or co-payment due from the individual. Therefore, there is no fiscal impact to the commonwealth due to this legislation.

MA Fee-for-Service

The MA Fee-for-Service Program currently covers all FDA-approved contraceptive drugs, devices, or products and voluntary adult sterilization with no co-payment requirement for the covered person. There is no fiscal impact to the commonwealth due to this legislation.

MA Managed Care

The Department of Human Services pays each MCO participating in the MA managed care program a monthly rate for each individual eligible for MA and enrolled into that MCO. These MCO rates cover all health care services for which that individual is eligible under the program including medically necessary contraceptive drugs, devices, or products and voluntary adult sterilization. The MCO must maintain a network of MA providers and make payment to those providers when they provide MA services to the individuals enrolled into the MCO.

Assuming this legislation is enacted in June, the legislation will take effect in August 2024. Therefore, there is no fiscal impact to 2023/24.

For 2024/25, the MCO rates paid by the Department for August to December 2024 are likely to remain unchanged. For MCO rates effective January 1, 2025, the Department and its actuary must consider the impact of this legislation during development of the MCO rates as MCO rates are required to be actuarially sound. At this time, any change in the MCO rates resulting from the enactment of this legislation cannot be determined, so the fiscal impact to the commonwealth is currently indeterminate.

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House Appropriations Committee (D)

DATE: June 25, 2024

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.

¹ CHIP Eligibility and Benefits Handbook, released April 5, 2017, page 50.