

CHAPTER 361
SB 421 - FINAL VERSION

2May2018... 1753h
05/23/2018 2097EBA

2018 SESSION

18-2993
01/05

SENATE BILL **421**

AN ACT relative to insurance coverage for prescription contraceptives.

SPONSORS: Sen. Soucy, Dist 18; Sen. Bradley, Dist 3; Sen. Innis, Dist 24; Sen. Lasky, Dist 13; Rep. M. MacKay, Hills. 30; Rep. P. Schmidt, Straf. 19; Rep. Chandley, Hills. 22; Rep. W. Marsh, Carr. 8

COMMITTEE: Commerce

ANALYSIS

This bill clarifies insurance coverage for prescription contraceptive drugs and prescription contraceptive devices and for contraceptive services.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to insurance coverage for prescription contraceptives.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 361:1 New Section; Coverage for Prescription Contraceptive Devices and for
2 Contraceptive Services. Amend RSA 415 by inserting after section 6-v the following new
3 section:

4 415:6-w Coverage for Prescription Contraceptive Drugs and Prescription
5 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or
6 renews any individual policy of accident or health insurance providing benefits for
7 medical or hospital expenses, shall provide to certificate holders of such insurance, who
8 are residents of this state, coverage for outpatient contraceptive services under the
9 same terms and conditions as for other outpatient services. "Outpatient contraceptive
10 services" means consultations, examinations, and medical services, provided on an
11 outpatient basis and related to the use of contraceptive methods to prevent pregnancy
12 which have been approved by the U.S. Food and Drug Administration. Each insurer that
13 issues or renews any individual policy of accident or health insurance providing
14 benefits for medical or hospital expenses shall cover all prescription contraceptive
15 drugs and contraceptive devices approved by the U.S. Food and Drug Administration.
16 Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-
17 month period if prescribed in that quantity. An insurer shall not impose utilization
18 review requirements or other limitations to control the prescribing or dispensing of
19 contraceptives to an amount that is less than a 12-month supply, if that quantity is
20 prescribed. An insurer shall not be required to cover more than one 12-month
21 contraceptive prescription in a single dispensing per plan year. A deductible,
22 copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the
23 coverage of prescription contraceptive drugs and contraceptive devices approved by the
24 FDA under this section. Notwithstanding any other provision of law, if there is a
25 therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,
26 an insurer may impose cost-sharing requirements as long as at least one drug or device
27 for that method is available without cost-sharing; provided that if an individual's
28 provider recommends a particular FDA-approved contraceptive drug or device based on
29 a medical determination, the insurer shall provide coverage for the prescribed

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1 contraceptive drug or device without cost-sharing. Nothing in this section shall be
2 construed as altering the terms and conditions of a contract relating to prescription
3 drugs and outpatient services. Notwithstanding any provision of law or rule to the
4 contrary, the coverage under this section shall apply to the medical assistance program,
5 pursuant to RSA 161 and RSA 167.

6 361:2 Coverage for Prescription Contraceptive Drugs and Prescription
7 Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i to read as
8 follows:

9 415:18-i Coverage for Prescription Contraceptive Drugs and Prescription
10 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or
11 renews any group policy of accident or health insurance providing benefits for medical
12 or hospital expenses, which provides coverage for outpatient services shall provide to
13 each group, or to the portion of each group comprised of certificate holders of such
14 insurance who are residents of this state, coverage for outpatient contraceptive services
15 under the same terms and conditions as for other outpatient services. "Outpatient
16 contraceptive services" means consultations, examinations, and medical services,
17 provided on an outpatient basis and related to the use of contraceptive methods to
18 prevent pregnancy which [has] **have** been approved by the U.S. Food and Drug
19 Administration. Each insurer that issues or renews any policy of group accident or
20 health insurance providing benefits for medical or hospital expenses [~~which provides a~~
21 ~~prescription rider~~] shall cover all prescription contraceptive drugs and prescription
22 contraceptive devices approved by the U.S. Food and Drug Administration [~~under the~~
23 ~~same terms and conditions as other prescription drugs~~]. **Coverage shall include**
24 **contraceptives dispensed in a quantity intended to last for a 12-month period, if**
25 **prescribed in that quantity. An insurer shall not impose utilization review**
26 **requirements or other limitations to control the prescribing or dispensing of**
27 **contraceptives to an amount that is less than a 12-month supply, if that quantity is**
28 **prescribed. An insurer shall not be required to cover more than one 12-month**
29 **contraceptive prescription in a single dispensing per plan year. A deductible,**
30 **copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the**
31 **coverage of prescription contraceptive drugs and contraceptive devices approved by the**
32 **FDA under this section. Notwithstanding any other provision of law, if there is a**
33 **therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,**
34 **an insurer may impose cost-sharing requirements as long as at least one drug or device**
35 **for that method is available without cost-sharing; provided that if an individual's**
36 **provider recommends a particular FDA-approved contraceptive drug or device based on**
37 **a medical determination, the insurer shall provide coverage for the prescribed**

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1 ***contraceptive drug or device without cost-sharing.*** Nothing in this section shall be
2 construed as altering the terms and conditions of a contract relating to prescription
3 drugs and outpatient services. ***Notwithstanding any provision of law or rule to the***
4 ***contrary, the coverage under this section shall apply to the medical assistance program,***
5 ***pursuant to RSA 161 and RSA 167.***

6 361:3 Coverage for Prescription Contraceptive Drugs and Prescription
7 Contraceptive Devices and for Contraceptive Services; Health Service Corporations.
8 Amend RSA 420-A:17-c to read as follows:

9 420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription
10 Contraceptive Devices and for Contraceptive Services. Every health service corporation
11 and every other similar corporation licensed under the laws of another state that issues
12 or renews any policy of group accident or health insurance providing benefits for
13 medical or hospital expenses, which provides coverage for outpatient services shall
14 provide to each group, or to the portion of each group comprised of certificate holders of
15 such insurance who are residents of this state, coverage for outpatient contraceptive
16 services under the same terms and conditions as for other outpatient services.
17 "Outpatient contraceptive services" means consultations, examinations, and medical
18 services, provided on an outpatient basis and related to the use of contraceptive
19 methods to prevent pregnancy which ~~[has]~~ ***have*** been approved by the U.S. Food and
20 Drug Administration. Each health service corporation and every other similar
21 corporation licensed under the laws of a different state that issues or renews any group
22 policy of accident or health insurance providing benefits for medical or hospital
23 expenses ~~[which provides a prescription rider]~~ shall cover all prescription contraceptive
24 drugs and prescription contraceptive devices approved by the U.S. Food and Drug
25 Administration ~~[under the same terms and conditions as other prescription drugs]~~.
26 ***Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-***
27 ***month period, if prescribed in that quantity. An insurer shall not impose utilization***
28 ***review requirements or other limitations to control the prescribing or dispensing of***
29 ***contraceptives to an amount that is less than a 12-month supply, if that quantity is***
30 ***prescribed. An insurer shall not be required to cover more than one 12-month***
31 ***contraceptive prescription in a single dispensing per plan year. A deductible,***
32 ***copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the***
33 ***coverage of prescription contraceptive drugs and contraceptive devices approved by the***
34 ***FDA under this section. Notwithstanding any other provision of law, if there is a***
35 ***therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,***
36 ***an insurer may impose cost-sharing requirements as long as at least one drug or device***
37 ***for that method is available without cost-sharing; provided that if an individual's***

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1 *provider recommends a particular FDA-approved contraceptive drug or device based on*
2 *a medical determination, the insurer shall provide coverage for the prescribed*
3 *contraceptive drug or device without cost-sharing.* Nothing in this section shall be
4 construed as altering the terms and conditions of a contract relating to prescription
5 drugs and outpatient services. *Notwithstanding any provision of law or rule to the*
6 *contrary, the coverage under this section shall apply to the medical assistance program,*
7 *pursuant to RSA 161 and RSA 167.*

8 361:4 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read
9 as follows:

10 420-A:2 Applicable Statutes. Every health service corporation shall be governed by
11 this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this
12 title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
13 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o,
14 RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, ***RSA 415:6-w***, RSA 415:18, V, RSA 415:18, XVI and
15 XVII, RSA 415:18, VII-a, RSA 415:18-a, ***RSA 415:18-i***, RSA 415:18-j, RSA 415:18-o, RSA
16 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA
17 415:18-aa, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of
18 title XXXVII wherein such corporations are specifically included. Every health service
19 corporation and its agents shall be subject to the fees prescribed for health service
20 corporations under RSA 400-A:29, VII.

21 361:5 Health Services Corporations; Applicable Statutes; Effective January 1, 2021.
22 Amend RSA 420-A:2 to read as follows:

23 420-A:2 Applicable Statutes. Every health service corporation shall be governed by
24 this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this
25 title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
26 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o,
27 RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, ***RSA 415:6-w***, RSA 415:18, V, RSA 415:18, XVI and
28 XVII, RSA 415:18, VII-a, RSA 415:18-a, ***RSA 415:18-i***, RSA 415:18-j, RSA 415:18-o, RSA
29 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA
30 415:18-aa, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of
31 title XXXVII wherein such corporations are specifically included. Every health service
32 corporation and its agents shall be subject to the fees prescribed for health service
33 corporations under RSA 400-A:29, VII.

34 361:6 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-
35 B:20, III to read as follows:

36 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
37 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, ***RSA***

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1 **415:6-w**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, **RSA 415:18-i**, RSA 415:18-j, RSA
2 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA
3 415:18-z, RSA 415:18-aa, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to
4 health maintenance organizations.

5 361:7 Health Maintenance Organizations; Statutory Construction; Effective January
6 1, 2021. Amend RSA 420-B:20, III to read as follows:

7 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA
8 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, **RSA 415:6-w**,
9 RSA 415:18, VII-a, RSA 415:18, XVI and XVII, **RSA 415:18-i**, RSA 415:18-j, RSA 415:18-r, RSA
10 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415-
11 A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance
12 organizations.

13 361:8 Contingent Version; Coverage for Prescription Contraceptive Devices and for
14 Contraceptive Services. RSA 415:6-w is repealed and reenacted to read as follows::

15 415:6-w Coverage for Prescription Contraceptive Drugs and Prescription
16 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or
17 renews any individual policy of accident or health insurance providing benefits for
18 medical or hospital expenses, shall provide to certificate holders of such insurance, who
19 are residents of this state, coverage for outpatient contraceptive services under the
20 same terms and conditions as for other outpatient services. "Outpatient contraceptive
21 services" means consultations, examinations, and medical services, provided on an
22 outpatient basis, including the initial screening provided through a pharmacy pursuant
23 to RSA 318:47-l at a rate established by contract between the pharmacy and the insurer
24 or its pharmacy benefits manager, and related to the use of contraceptive methods to
25 prevent pregnancy which have been approved by the U.S. Food and Drug
26 Administration. Each insurer that issues or renews any individual policy of accident or
27 health insurance providing benefits for medical or hospital expenses shall cover all
28 prescription contraceptive drugs and contraceptive devices approved by the U.S. Food
29 and Drug Administration. Coverage shall include contraceptives dispensed in a
30 quantity intended to last for a 12-month period if prescribed in that quantity. An
31 insurer shall not impose utilization review requirements or other limitations to control
32 the prescribing or dispensing of contraceptives to an amount that is less than a 12-
33 month supply, if that quantity is prescribed. An insurer shall not be required to cover
34 more than one 12-month contraceptive prescription in a single dispensing per plan year.
35 A deductible, copayment, coinsurance, or other cost-sharing requirement shall not be
36 imposed on the coverage of prescription contraceptive drugs and contraceptive devices
37 approved by the FDA under this section. Notwithstanding any other provision of law, if

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1 there is a therapeutic equivalent of a drug or device for an FDA-approved contraceptive
2 method, an insurer may impose cost-sharing requirements as long as at least one drug or
3 device for that method is available without cost-sharing; provided that if an individual's
4 provider recommends a particular FDA-approved contraceptive drug or device based on
5 a medical determination, the insurer shall provide coverage for the prescribed
6 contraceptive drug or device without cost-sharing. Nothing in this section shall be
7 construed as altering the terms and conditions of a contract relating to prescription
8 drugs and outpatient services. Notwithstanding any provision of law or rule to the
9 contrary, the coverage under this section shall apply to the medical assistance program,
10 pursuant to RSA 161 and RSA 167.

11 361:9 Contingent Version; Coverage for Prescription Contraceptive Drugs and
12 Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i
13 to read as follows:

14 415:18-i Coverage for Prescription Contraceptive Drugs and Prescription
15 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or
16 renews any group policy of accident or health insurance providing benefits for medical
17 or hospital expenses, which provides coverage for outpatient services shall provide to
18 each group, or to the portion of each group comprised of certificate holders of such
19 insurance who are residents of this state, coverage for outpatient contraceptive services
20 under the same terms and conditions as for other outpatient services. "Outpatient
21 contraceptive services" means consultations, examinations, and medical services,
22 provided on an outpatient basis, including the initial screening provided through a
23 pharmacy pursuant to RSA 318:47-l at a rate established by contract between the
24 pharmacy and the insurer or its pharmacy benefits manager, and related to the use of
25 contraceptive methods to prevent pregnancy which [~~has~~] **have** been approved by the
26 U.S. Food and Drug Administration. Each insurer that issues or renews any policy of
27 group accident or health insurance providing benefits for medical or hospital expenses
28 [~~which provides a prescription rider~~] shall cover all prescription contraceptive drugs
29 and prescription contraceptive devices approved by the U.S. Food and Drug
30 Administration [~~under the same terms and conditions as other prescription drugs~~].
31 ***Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-***
32 ***month period, if prescribed in that quantity. An insurer shall not impose utilization***
33 ***review requirements or other limitations to control the prescribing or dispensing of***
34 ***contraceptives to an amount that is less than a 12-month supply, if that quantity is***
35 ***prescribed. An insurer shall not be required to cover more than one 12-month***
36 ***contraceptive prescription in a single dispensing per plan year. A deductible,***
37 ***copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the***

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1 *coverage of prescription contraceptive drugs and contraceptive devices approved by the*
2 *FDA under this section. Notwithstanding any other provision of law, if there is a*
3 *therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,*
4 *an insurer may impose cost-sharing requirements as long as at least one drug or device*
5 *for that method is available without cost-sharing; provided that if an individual's*
6 *provider recommends a particular FDA-approved contraceptive drug or device based on*
7 *a medical determination, the insurer shall provide coverage for the prescribed*
8 *contraceptive drug or device without cost-sharing. Nothing in this section shall be*
9 *construed as altering the terms and conditions of a contract relating to prescription*
10 *drugs and outpatient services. Notwithstanding any provision of law or rule to the*
11 *contrary, the coverage under this section shall apply to the medical assistance program,*
12 *pursuant to RSA 161 and RSA 167.*

13 361:10 Contingent Version; Coverage for Prescription Contraceptive Drugs and
14 Prescription Contraceptive Devices and for Contraceptive Services; Health Service
15 Corporations. Amend RSA 420-A:17-c to read as follows:

16 420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription
17 Contraceptive Devices and for Contraceptive Services. Every health service corporation
18 and every other similar corporation licensed under the laws of another state that issues
19 or renews any policy of group accident or health insurance providing benefits for
20 medical or hospital expenses, which provides coverage for outpatient services shall
21 provide to each group, or to the portion of each group comprised of certificate holders of
22 such insurance who are residents of this state, coverage for outpatient contraceptive
23 services under the same terms and conditions as for other outpatient services.
24 "Outpatient contraceptive services" means consultations, examinations, and medical
25 services, provided on an outpatient basis, including the initial screening provided
26 through a pharmacy pursuant to RSA 318:47-1 at a rate established by contract between
27 the pharmacy and the insurer or its pharmacy benefits manager, and related to the use
28 of contraceptive methods to prevent pregnancy which ~~[has]~~ **have** been approved by the
29 U.S. Food and Drug Administration. Each health service corporation and every other
30 similar corporation licensed under the laws of a different state that issues or renews any
31 group policy of accident or health insurance providing benefits for medical or hospital
32 expenses ~~[which provides a prescription rider]~~ shall cover all prescription contraceptive
33 drugs and prescription contraceptive devices approved by the U.S. Food and Drug
34 Administration ~~[under the same terms and conditions as other prescription drugs].~~
35 *Coverage shall include contraceptives dispensed in a quantity intended to last for a 12-*
36 *month period, if prescribed in that quantity. An insurer shall not impose utilization*
37 *review requirements or other limitations to control the prescribing or dispensing of*

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1 *contraceptives to an amount that is less than a 12-month supply, if that quantity is*
2 *prescribed. An insurer shall not be required to cover more than one 12-month*
3 *contraceptive prescription in a single dispensing per plan year. A deductible,*
4 *copayment, coinsurance, or other cost-sharing requirement shall not be imposed on the*
5 *coverage of prescription contraceptive drugs and contraceptive devices approved by the*
6 *FDA under this section. Notwithstanding any other provision of law, if there is a*
7 *therapeutic equivalent of a drug or device for an FDA-approved contraceptive method,*
8 *an insurer may impose cost-sharing requirements as long as at least one drug or device*
9 *for that method is available without cost-sharing; provided that if an individual's*
10 *provider recommends a particular FDA-approved contraceptive drug or device based on*
11 *a medical determination, the insurer shall provide coverage for the prescribed*
12 *contraceptive drug or device without cost-sharing. Nothing in this section shall be*
13 *construed as altering the terms and conditions of a contract relating to prescription*
14 *drugs and outpatient services. Notwithstanding any provision of law or rule to the*
15 *contrary, the coverage under this section shall apply to the medical assistance program,*
16 *pursuant to RSA 161 and RSA 167.*

17 361:11 Contingency. If HB 1822 of the 2018 legislative session becomes law, sections
18 1, 2, and 3 of this act shall not take effect and sections 8, 9, and 10 shall take effect
19 January 1, 2019 at 12:01 a.m. If HB 1822 does not become law, sections 1, 2, and 3 shall
20 take effect January 1, 2019 and sections 8, 9, and 10 shall not take effect.

21 361:12 Effective Date.

22 I. Sections 1, 2, 3, 8, 9, and 10 shall take effect as provided in section 11 of this act.

23 II. Sections 5 and 7 of this act shall take effect January 1, 2021 at 12:02 a.m.

III. The remainder of this act shall take effect January 1, 2019.

Approved: July 02, 2018

Effective Date:

I. Sections 1,2,3,8,9 and 10 shall take effect as provided in section 11.

II. Sections 5 and 7 shall take effect January 1, 2021 at 12:02 a.m.

III. Remainder shall take effect January 1, 2019.