

COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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BULLETIN 2016-03

TO: Commercial Health Insurers; Blue Cross Blue Shield of Massachusetts, Inc.; and Health Maintenance Organizations Offering or Renewing Insured Health Products in Massachusetts

FROM: Daniel R. Judson, Commissioner of Insurance 

DATE: January 19, 2016

RE: Federal Requirement that Carriers Cover Certain Contraceptives Without Any Consumer Cost-Sharing

The Division of Insurance (“Division”) issues this Bulletin to inform insured health carriers (“Carriers”) about a recent document released jointly by the federal Departments of Health and Human Services, Labor, and the Treasury (collectively, “Departments”) regarding coverage for preventive health care services under the federal Patient Protection and Affordable Care Act (“ACA”). The Departments released *Affordable Care Act Implementation FAQs (Set 26)* on May 11, 2015.¹

Federal Rules for Preventive Health Care Services

Section 2713 of the Public Health Service Act, as amended by the ACA, and its implementing regulations relating to the coverage of preventive health care services require that non-grandfathered insured health plans in the individual and group markets provide benefits, without cost-sharing (*i.e.*, copayments, coinsurance or deductibles) for certain preventive items and services listed in the current recommendations of the United States Preventive Services Task Force, the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices, and in specific guidelines supported by the Health Resources and Services Administration (“HRSA”).

Contraceptive Services

Among the HRSA guidelines are specific guidelines associated with contraceptive methods, sterilization procedures, and patient education and counseling for women with reproductive capacity. Carriers are required to ensure access to the full range of contraceptive methods approved by the federal Food and Drug Administration (“FDA”), but may use reasonable medical management techniques to control costs and promote efficient delivery of care. If a Carrier uses reasonable medical management techniques within a specific method of contraception, the Carrier must also

¹ FAQ Set 26, issued May 11, 2015, is available at http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/aca_implementation_faqs26.pdf.

have an exceptions process to waive the applicable cost sharing for any individual for whom the carrier's designated form of contraception would be deemed medically inappropriate by the individual's provider

In FAQ Set 26, the Departments clarify that Carriers must cover, without cost-sharing, at least one form of contraception in each of the methods that the FDA has identified for women in its Birth Control Guide.² The Birth Control Guide currently lists 18 methods of contraception for women, including, but not limited to, oral contraceptives, patches, and vaginal rings. Coverage without cost-sharing must include the clinical services, including patient education and counseling, needed to provide and discontinue the contraceptive method, including the cost of medical devices and procedures to insert and remove these devices.

Effective Date of Amended Requirements

It is noted in the Departments' clarifying guidance that the amended requirements apply for coverage that becomes effective for plan years that begin on or after July 10, 2015. Carriers should amend their certificates of coverage and formularies and develop consumer communications, where necessary, to ensure compliance with the Departments' requirements for coverage of these preventive health care services without cost-sharing.

If you have any questions about this Bulletin, please consider contacting Kevin Beagan at 617-521-7323 or Kevin.beagan@state.ma.us.

² The Birth Control Guide is available at <http://www.fda.gov/downloads/ForConsumers/ByAudience/ForWomen/FreePublications/UCM356451.pdf>.