

SENATE No. 2204

The Commonwealth of Massachusetts

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

SENATE, Monday, November 6, 2017

The committee on Financial Services to whom was referred the petition (accompanied by bill, Senate, No. 499) of Harriette L. Chandler, Robert M. Koczera, Jennifer E. Benson, Sarah K. Peake and other members of the General Court for legislation relative to women's health and economic equity, - reports the accompanying bill (Senate, No. 2204).

For the committee,
James B. Eldridge

SENATE No. 2204

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 all of the following services and contraceptive methods:

6 (1) all Food and Drug Administration ("FDA")-approved contraceptive drugs,
7 devices and other products; provided that coverage shall not be required for male condoms or
8 FDA-approved oral contraceptive drugs with no therapeutic equivalent. The following apply:

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

13 (ii) If there is a therapeutic equivalent of a drug, device, or other product
14 for an FDA-approved contraceptive method, the Commission may provide coverage for more
15 than one drug, device, or other product and may impose cost-sharing requirements as long as at
16 least one drug, device, or other product for that method is available without cost-sharing;
17 provided that if an individual's attending provider recommends a particular FDA-approved
18 contraceptive, based on a medical determination with respect to that individual, the insurer shall
19 provide coverage, subject to the Commission's utilization management procedures, for the
20 prescribed contraceptive drug, device, or product without cost-sharing.

21 (2) all FDA-approved emergency contraception available over-the-counter, either
22 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

30 (4) voluntary female sterilization procedures;

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

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

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

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

43 (3) Nothing in this section shall be construed to exclude coverage for
44 contraceptive drugs, devices, products and procedures as prescribed by a provider for reasons
45 other than contraceptive purposes, such as for decreasing the risk of ovarian cancer or
46 eliminating symptoms of menopause or for contraception that is necessary to preserve the life or
47 health of such enrollee, or such enrollee's covered spouse, and/or covered dependents.

48 (4) The group insurance commission shall ensure plan compliance with this
49 chapter.

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

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

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

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

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

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

70 (1) all FDA-approved contraceptive drugs, devices and other products, provided
71 that coverage shall not be required for male condoms or FDA-approved oral contraceptives with
72 no therapeutic equivalent. The following apply:

73 (i) Where the FDA has approved one or more therapeutic equivalents of a
74 contraceptive drug, device, or product, the division is not required to include all such

75 therapeutically equivalent versions in its formulary, so long as at least one is included and
76 covered without cost-sharing in accordance with this section;

77 (ii) If there is a therapeutic equivalent of a drug, device, or other product
78 for an FDA-approved contraceptive method, the division may provide coverage for more than
79 one drug, device, or other product and may impose cost-sharing requirements as long as at least
80 one drug, device, or other product for that method is available without cost-sharing; provided,
81 however, that if an individual's attending provider recommends a particular FDA-approved
82 contraceptive, based on a medical determination with respect to that individual, the division shall
83 provide coverage, subject to the division's utilization management procedures, for the prescribed
84 contraceptive drug, device, or product without cost-sharing; and

85 (iii) Appeals of an adverse determination of a request for coverage of an
86 alternative FDA-approved contraceptive drug, device, or other product without cost-sharing shall
87 be subject to the grievance process laid out in section 47 of chapter 118E;

88 (2) all FDA-approved emergency contraception available over-the-counter, either
89 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

97 (4) voluntary female sterilization procedures;
98 (5) patient education and counseling on contraception; and
99 (6) follow-up services related to the drugs, devices, products and procedures
100 covered under this subsection, including, but not limited to, management of side effects,
101 counseling for continued adherence, and device insertion and removal.

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

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

110 (3) Nothing in this section shall be construed to exclude coverage for
111 contraceptive drugs, devices, products and procedures prescribed by a provider for reasons other
112 than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating
113 symptoms of menopause or for contraception that is necessary to preserve the life or health of
114 such enrollee, or such enrollee's covered spouse and/or covered dependents.

115 (4) Nothing in this section shall be construed to deny or restrict in any way the
116 division of medical assistance's authority to ensure its contracted health insurers, health plans,
117 health maintenance organizations, behavioral health management firms and third-party

118 administrators under contract to a Medicaid managed care organization or primary care clinician
119 plan are in compliance with this chapter.

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

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

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

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

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

136 (d) An individual policy of accident and sickness insurance issued pursuant to section
137 108 that provides hospital expense and surgical expense and any group blanket policy of accident
138 and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical

139 expense insurance, delivered, issued or renewed by agreement between the insurer and the
140 policyholder, within or without the Commonwealth, (hereinafter “policy”) shall provide benefits
141 for residents of the Commonwealth and all group members having a principal place of
142 employment within the Commonwealth coverage for all of the following services and
143 contraceptive methods:

144 (1) all FDA-approved contraceptive drugs, devices and other products, provided
145 that coverage shall not be required for male condoms or FDA-approved oral contraceptive drugs
146 with no therapeutic equivalent. The following apply:

147 (i) Where the FDA has approved one or more therapeutic equivalents of a
148 contraceptive drug, device, or product, a policy is not required to include all such therapeutically
149 equivalent versions in its formulary, as long as at least one is included and covered without cost-
150 sharing and in accordance with this section;

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

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

162 (2) all FDA-approved emergency contraception available over-the-counter, either
163 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

171 (4) voluntary female sterilization procedures;

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

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

176 (e) (1) Coverage provided under this section shall not be subject to any deductible,
177 coinsurance, copayment or any other cost-sharing requirement, except as provided for un
178 paragraph (d)(1)(i)-(ii) or as otherwise required under federal law. Any covered offered under
179 this section shall not impose any unreasonable restrictions or delays on the coverage, in

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

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

185 (f) (1) This section may not apply to a policy if such policy is purchased by an
186 employer that is a church or qualified church-controlled organization, at the request of the
187 employer.

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

192 (g) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
193 devices, products and procedures prescribed by a provider for reasons other than contraceptive
194 purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause
195 or for contraception that is necessary to preserve the life or health of an enrollee.

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

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

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

201 “Church”, a church, a convention or association of churches, or an elementary or
202 secondary school which is controlled, operated, or principally supported by a church or by a
203 convention or association of churches.

204 “Provider”, an individual or facility licensed, certified, or otherwise authorized or
205 permitted by law to administer health care in the ordinary course of business or professional
206 practice acting within the scope of that licensure.

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

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

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

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

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

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

231 (1) all FDA-approved contraceptive drugs, devices and other products, provided
232 that coverage shall not be required for male condoms or FDA-approved oral contraceptive drugs
233 with no therapeutic equivalent. The following apply:

234 (i) Where the FDA has approved one or more therapeutic equivalents of a
235 contraceptive drug, device, or product, an individual or group hospital service plan is not
236 required to include all such therapeutically equivalent versions in its formulary, as long as at
237 least one is included and covered without cost-sharing and in accordance with this section;

238 (ii) If there is a therapeutic equivalent of a drug, device, or other product
239 for an FDA-approved contraceptive method, an individual or group hospital service plan may
240 provide coverage for more than one drug, device, or other product and may impose cost-sharing
241 requirements as long as at least one drug, device, or other product for that method is available
242 without cost-sharing; provided, however, that if an individual's attending provider recommends a
243 particular FDA-approved contraceptive, based on a medical determination with respect to that

244 individual, the insurer shall provide coverage, subject to a plan's utilization management
245 procedures, for the prescribed contraceptive drug, device, or product without cost-sharing; and

246 (iii) Appeals of an adverse determination of a request for coverage of an
247 alternative FDA-approved contraceptive drug, device or other product without cost sharing shall
248 be subject to the expedited grievance process under section 13 of chapter 176O;

249 (2) all FDA-approved emergency contraception available over-the-counter, either
250 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

258 (4) voluntary female sterilization procedures;

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

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

263 (e) (1) Coverage provided under this section shall not be subject to any deductible,
264 coinsurance, copayment or any cost-sharing requirement, except as provided for in paragraph

265 (d)(1), or as otherwise required under federal law. Any coverage offered under this section shall
266 not impose any unreasonable restrictions or delays in the coverage, in accordance with the
267 requirements of Chapter 176O; provided that reasonable medical management techniques may
268 be applied to coverage within a method category, as defined by the FDA, but not across types of
269 methods.

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

272 (f) (1) The requirements of subsection (d) may not apply to a contract between a
273 subscriber and a corporation under an individual or group hospital service plan that is delivered,
274 issued, or renewed within or without the Commonwealth that is purchased by an employer that is
275 a church or qualified church-controlled organization, at the request of the employer.

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

280 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
281 drugs, devices, products and procedures prescribed by a provider for reasons other than
282 contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of
283 menopause or for contraception that is necessary to preserve the life or health of an enrollee.

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

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

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

289 “Church”, a church, a convention or association of churches, or an elementary or
290 secondary school which is controlled, operated, or principally supported by a church or by a
291 convention or association of churches.

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

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

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

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

304 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
305 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that

306 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
307 and route of administration, and (b) meet compendial or other applicable standards of strength,
308 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the
309 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
310 code by the FDA.

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

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

318 (1) all FDA-approved contraceptive drugs, devices and other products, provided
319 that coverage shall not be required for male condoms or FDA-approved oral contraceptive drugs
320 with no therapeutic equivalent. The following apply:

321 (i) Where the FDA has approved one or more therapeutic equivalents of a
322 contraceptive drug, device, or product, an individual or group hospital service plan is not
323 required to include all such therapeutically equivalent versions in its formulary, as long as at
324 least one is included and covered without cost-sharing and in accordance with this section;

325 (ii) If there is a therapeutic equivalent of a drug, device, or other product
326 for an FDA-approved contraceptive method, an individual or group hospital service plan may
327 provide coverage for more than one drug, device, or other product and may impose cost-sharing

328 requirements as long as at least one drug, device, or other product for that method is available
329 without cost-sharing; provided, however, that if an individual's attending provider recommends a
330 particular FDA-approved contraceptive, based on a medical determination with respect to that
331 individual, the insurer shall provide coverage, subject to a plan's utilization management
332 procedures, for the prescribed contraceptive drug, device, or product without cost-sharing; and

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

336 (2) all FDA-approved emergency contraception available over-the-counter, either
337 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

345 (4) voluntary female sterilization procedures;

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

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

350 (e) (1) Coverage provided under this section shall not be subject to any deductible,
351 coinsurance, copayment or any other cost-sharing requirement, except as provided for in
352 subsection (d)(1)(i) and (ii), or otherwise as required under federal law. Any coverage offered
353 under this section shall not impose any unreasonable restrictions or delays in the coverage, in
354 accordance with the requirements of Chapter 176O; provided that reasonable medical
355 management techniques may be applied to coverage within a method category, as defined by the
356 FDA, but not across types of methods.

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

359 (f) (1) The requirements of this subsection may not apply to a medical service
360 agreement that is delivered, issued, or renewed within or without the Commonwealth that is
361 purchased by an employer that is a church or qualified church-controlled organization, at the
362 request of the employer.

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

367 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
368 drugs, devices, products and procedures prescribed by a provider for reasons other than

369 contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of
370 menopause or for contraception that is necessary to preserve the life or health of an enrollee.

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

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

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

376 “Church”, a church, a convention or association of churches, or an elementary or
377 secondary school which is controlled, operated, or principally supported by a church or by a
378 convention or association of churches.

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

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

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

387 (ii) normally receives more than 25 percent of its support from either (I)
388 governmental sources, or (II) receipts from admissions, sales of merchandise, performance of

389 services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or
390 both.

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

398 SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by
399 inserting after section 4O(c) the following:

400 (d) Any individual or group health maintenance contract that is issued, renewed or
401 delivered within or without 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 within the Commonwealth coverage for all of the
404 following services and contraceptive methods:

405 (1) all FDA-approved contraceptive drugs, devices and other products, provided
406 that coverage shall not be required for male condoms or FDA-approved contraceptive drugs with
407 no therapeutic equivalent. The following apply:

408 (i) Where the FDA has approved one or more therapeutic equivalents of a
409 contraceptive drug, device, or product, a health maintenance contract is not required to include

410 all such therapeutically equivalent versions in its formulary, so long as at least one is included
411 and covered without cost-sharing and in accordance with this section;

412 (ii) If there is a therapeutic equivalent of a drug, device, or other product
413 for an FDA-approved contraceptive method, a health maintenance plan may provide coverage
414 for more than one drug, device, or other product for that method and may impose cost-sharing;
415 provided, however, that if an individual's attending provider recommends a particular FDA-
416 approved contraceptive, based on a medical determination with respect to that individual, the
417 health maintenance plan shall provide coverage, subject to the plan's utilization management
418 procedures, for the prescribed contraceptive drug, device or product without cost-sharing; and

419 (iii) Appeals of an adverse determination of a request for coverage of an
420 alternative FDA-approved contraceptive drug, device, or other product without cost-sharing shall
421 be subject to the expedited grievance process under section 13 of chapter 176O;

422 (2) all FDA-approved emergency contraception available over-the-counter, either
423 with a prescription, or dispensed consistent with the requirements of section 19A of chapter 94C;

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

431 (4) voluntary female sterilization procedures;

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

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

436 (e) (1) Coverage provided under this section shall not be subject to any deductible,
437 coinsurance, copayment or any other cost-sharing requirement, except as provided for in
438 paragraph (d)(1)(i)-(ii) or as otherwise required under federal law. Any coverage offered under
439 this section shall not impose any unreasonable restrictions or delays in the coverage, in
440 accordance with the requirements of chapter 176O; provided that reasonable medical
441 management techniques may be applied to coverage within a method category, as defined by the
442 FDA, but not across types of methods.

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

445 (f) (1) The requirements of this subsection may not apply to a health maintenance
446 contract if that policy is purchased by an employer that is a church or qualified church-controlled
447 organization, at the request of the employer.

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

452 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
453 drugs, devices, products and procedures as prescribed by a provider for reasons other than
454 contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of
455 menopause or for contraception that is necessary to preserve the life or health of an enrollee.

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

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

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

461 “Church”, a church, a convention or association of churches, or an elementary or
462 secondary school which is controlled, operated, or principally supported by a church or by a
463 convention or association of churches.

464 “Provider”, an individual or facility licensed, certified, or otherwise authorized or
465 permitted by law to administer health care in the ordinary course of business or professional
466 practice acting within the scope of that licensure.

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

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

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

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

483 SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and
484 certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter
485 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed more than six
486 months from the effective date of this act.