

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

922R0500

HOUSE BILL NO. 1156

Introduced by: Representatives Cutler, Blake, Engels, Fargen, Gibson, Romkema, Solberg, Solum, Thompson, and Vanderlinde and Senators Turbak Berry, Adelstein, Heidepriem, Jerstad, Knudson, Merchant, Nelson, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide health insurance coverage for contraceptive
2 drugs and devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No policy of group health insurance providing benefits for hospital and medical expenses
7 delivered in this state that is offered by a commercial health insurance company, by a nonprofit
8 medical and surgical plan corporation, by a nonprofit hospital service plan corporation, by a
9 health maintenance organization, by a preferred provider organization, by an individual practice
10 association, or by any similar mechanism may:

11 (1) Exclude or restrict benefits for prescription contraceptive drugs or devices that
12 prevent conception and that are approved by the Federal Drug Administration, or
13 generic equivalents approved as substitutable by the Federal Drug Administration,
14 if the policy or contract provides benefits for other outpatient prescription drugs or



1 devices; or

2 (2) Exclude or restrict benefits for outpatient contraceptive services that are provided for
3 the purpose of preventing conception if the policy or contract provides benefits for
4 other outpatient services provided by a health care professional.

5 The provisions of this section do not apply to policies that provide coverage for a specified
6 disease or other limited benefit coverage.

7 Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 No group policy or contract that is subject to section 1 of this Act and that provides for third-
10 party payment or prepayment of hospital or medical expenses may:

11 (1) Deny to an individual eligibility, or continued eligibility, to enroll in or to renew
12 coverage under the terms of the policy or contract because of the individual's use or
13 potential use of prescription contraceptive drugs or devices or use or potential use of
14 outpatient contraception services;

15 (2) Provide a monetary payment or rebate to a covered individual to encourage the
16 individual to accept less than the minimum benefits provided pursuant to section 1
17 of this Act;

18 (3) Penalize or otherwise reduce or limit the reimbursement of a health care professional
19 because the professional prescribes contraceptive drugs or devices or provides
20 contraceptive services;

21 (4) Provide incentives, monetary or otherwise, to a health care professional to induce the
22 professional to withhold from a covered individual contraceptive drugs or devices or
23 contraceptive services.

24 Section 3. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Nothing in this Act may be construed to prevent a third-party payer from including
3 deductibles, coinsurance, or copayments in the policy or contract, as follows:

4 (1) A deductible, coinsurance, or copayment for benefits for prescription contraceptive
5 drugs may not be greater than the deductible, coinsurance, or copayment for any
6 outpatient prescription drug for which coverage under the policy or contract is
7 provided;

8 (2) A deductible, coinsurance, or copayment for benefits for prescription contraceptive
9 devices may not be greater than the deductible, coinsurance, or copayment for any
10 outpatient health care services for which coverage under the policy or contract is
11 provided; and

12 (3) A deductible, coinsurance, or copayment for benefits for outpatient contraceptive
13 services may not be greater than the deductible, coinsurance, or copayment for any
14 outpatient prescription device for which coverage under the policy or contract is
15 provided.

16 Section 4. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Nothing in this Act may be construed to require a third-party payer under a policy or contract
19 to provide benefits for experimental or investigational contraceptive drugs or devices, or
20 experimental or investigational contraceptive services, except to the extent that the policy or
21 contract provides coverage for other experimental or investigational outpatient prescription
22 drugs or devices, or experimental or investigational outpatient health care services.

23 Section 5. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Nothing in this Act may be construed to limit or otherwise discourage the use of generic
2 equivalent drugs approved by the Federal Drug Administration, whenever available and
3 appropriate. If a brand name drug is requested by a covered individual and a suitable generic
4 equivalent is available and appropriate, nothing in this Act may be construed to prohibit a
5 third-party payer from requiring the covered individual to pay a deductible, coinsurance, or
6 copayment consistent with section 3 of this Act, in addition to the difference of the cost of the
7 brand name drug less the maximum covered amount for a generic equivalent.

8 Section 6. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any person who provides an individual policy or contract providing for third-party payment
11 or prepayment of hospital or medical expenses shall make available a coverage provision that
12 satisfies the requirements of this Act in the same manner as the requirements are applicable to
13 a group policy or contract under this Act. The policy or contract shall provide that the individual
14 policyholder may reject the coverage provision at the option of the policyholder.