SPONSOR: Rep. Minor-Brown & Rep. Heffernan & Rep. Longhurst & Rep. Dorsey Walker & Rep. Bush & Sen. Gay & Sen. Lockman & Sen. S. McBride & Sen. Townsend
Reps. Baumbach, Griffith, K. Johnson, Morrison, Neal, Phillips, Romer, Wilson-Anton; Sens. Hansen, Hoffner, Huxtable, Pinkney, Poore, Sokola, Sturgeon, Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 110

AN ACT TO AMEND TITLES 18, 29, AND 31 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE FOR TERMINATION OF PREGNANCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§502. Definitions.

As used in this chapter:

(3) "Carrier" means any entity that provides health insurance under § 505(3) of this title.

§ 525. Insurance coverage for serious mental illness and drug and alcohol dependency for recipients of aid under § 505(3) of this title.

(a) *Definitions.* — For the purposes of this section, the following words and phrases shall have the following meanings:

(2) ~~"Carrier" means any entity that provides health insurance under § 505(3) of this title.~~

§ 531. Annual behavioral health well check [Effective Jan. 1, 2024].

(a) As used in this section:

(2) ~~"Carrier" means any entity that provides health insurance under § 505(3) of this title.~~

§ 532. Services related to termination of pregnancy.

(a) Carriers shall cover services related to the termination of pregnancy in all health benefit plans delivered or issued for delivery under § 505(3) of this title.

(b) Coverage provided under this section may not be subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement.

(c) A carrier must provide coverage for the full scope of services permissible under the law.

(d) Coverage provided under this section may not require a referral or prior authorization as a condition of coverage.

(e) If a policy or contract limits an insured's access to a network of participating providers for other health-care services, then it may limit access for services related to termination of pregnancy, but the policy or contract must include in all its provider networks sufficient numbers of providers of termination of pregnancy services to accommodate the direct access needs of their enrollees.

(f) Coverage provided under this section must be funded by State resources if services are not eligible for federal funds.

Section 2. Amend Chapter 1, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 102. Definitions.

As used in this part:

(12) "Religious employer" means an employer that is both of the following:

a. A church, convention, association of churches, or elementary or secondary school that is controlled, operated, or principally supported by a church or convention or association of churches.

b. Qualified as a tax-exempt organization under 26 U.S.C. § 501(c) (3).

Section 3. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3370F. Services related to termination of pregnancy.

(a) As used in this section:

(1) "Carrier" means any entity that provides health insurance in this State that is subject to the provisions of this chapter. "Carrier" includes an insurance company, health service corporation, managed care organization, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

(2) "Health benefit plan" means as defined in § 3342A of this title.

(b) A carrier shall cover services related to the termination of pregnancy for enrollees.

(1) a. Except as provided in paragraph (b)(1)b. of this section, coverage provided under this section may not be subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement.

b. The limitations on cost-sharing in paragraph (b)(1)a. of this section do not apply to a high deductible health plan or a catastrophic health plan if the limitations would cause such plan to lose its status as a high deductible health plan under § 223(c)(2) of the Internal Revenue Code or a catastrophic health plan under § 1302(e) of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18022(e).

(2) A carrier must provide coverage for the full scope of services permissible under the law.

(3) Coverage provided under this section may not require a referral or prior authorization as a condition of coverage.

(4) If a policy or contract limits an insured's access to a network of participating providers for other health-care services, then it may limit access for services related to termination of pregnancy, but the policy or contract must include in all its provider networks sufficient numbers of providers of termination of pregnancy services to accommodate the direct access needs of their enrollees.

(c) This section applies to all policies, contracts, or certificates issued, renewed, modified, altered, amended, or reissued on or after January 1, 2025.

Section 4. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3571AA. Services related to termination of pregnancy.

(a) As used in this section:

(1) "Carrier" means any entity that provides health insurance in this State that is subject to the provisions of this chapter. "Carrier" includes an insurance company, health service corporation, managed care organization, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

(2) "Health benefit plan" means as defined in § 3342A of this title.

(b) A carrier subject to this section shall cover services related to the termination of pregnancy for enrollees.

(1) a. Except as provided in paragraph (b)(1)b. of this section, coverage provided under this section may not be subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement.

b. The limitations on cost-sharing in paragraph (b)(1)a. of this section do not apply to a high deductible health plan if the limitations would cause the plan to lose its status as a high deductible health plan. under § 223(c)(2) of the Internal Revenue Code.

(2) A carrier must provide coverage for the full scope of services permissible under the law.

(3) Coverage provided under this section may not require a referral or prior authorization as a condition of coverage.

(4) If a policy or contract limits an insured's access to a network of participating providers for other health-care services, then it may limit access for services related to termination of pregnancy, but the policy or contract must include in all its provider networks sufficient numbers of providers of termination of pregnancy services to accommodate the direct access needs of their enrollees.

(c) (1) A religious employer may request, and the plan must grant, an exclusion from the coverage requirement if the coverage requirement conflicts with the religious organization's bona fide religious beliefs and practices. If such employer obtains an exclusion, it must provide its employees reasonable and timely notice of the exclusion.

(2) An exclusion under this subsection does not authorize the exclusion of coverage for services related to the termination of pregnancy that are necessary to preserve the life or health of a covered individual.

(d) This section applies to all policies, contracts, or certificates issued, renewed, modified, altered, amended, or reissued on or after January 1, 2025.

Section 5. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5217. Services related to the termination of pregnancy.

The plan shall provide coverage for services related to the termination of pregnancy. Such coverage may not be subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement and must cover the full scope of services permissible under the law.

Section 6. Sections 1 and 5 of this Act take effect January 1 of the year following enactment. Sections 2, 3, and 4 of this Act are effective upon enactment.

SYNOPSIS

Section 1 amends Title 31 to require all health benefit plans delivered or issued for Medicaid to cover services related to the termination of pregnancy. Coverage provided under this section is not subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement and must cover the full scope of services permissible under the law. It also moves the definition of "carrier" out of individual provisions and into the general definition section for the chapter.

Sections 2 adds a definition of "religious employer." Sections 3 and 4 amend Title 18 to require both individual and group health carriers to cover services related to the termination of pregnancy with identical cost-sharing prohibitions. Certain types of limited coverage plans are exempt from the requirement, and HDHP and catastrophic plans are exempt from the cost-sharing prohibitions if such requirements would cause them to lose their status and treatment under federal law. A religious employer may obtain an exclusion from the carrier if the requirements conflict with the organization's bona fide religious beliefs and practices.

Section 5 amends Title 29 to require coverage for services related to the termination of pregnancy under the state employee health plan. Coverage shall not be subject to any deductible, coinsurance, copayment, or any other cost-sharing requirement and shall apply to the full scope of services permissible under the law.

The changes to Medicaid and the state employee health plan are effective January 1 of the year following enactment. The changes to insurance requirements for private group, blanket, and individual coverage are effective for policies issued, renewed, or altered after January 1, 2025.

This substitute differs from the original bill as follows: (1) It makes several technical corrections; (2) It limits the permissible applications of referral, prior authorization, and in-network requirements to ensure full and timely access to covered services; (3) It explicitly states that the State will fund coverage of services for Medicaid recipients that are required under this Act for which federal funding may not be used; (4) It adds a definition of religious employer and requires a religious employer to cover services when the life or health of the mother is at risk; (5) It changes the effective and application dates of the coverage requirements.