



OFFICE OF THE
HEALTH INSURANCE COMMISSIONER
STATE OF RHODE ISLAND

May 15, 2024

The Honorable Marvin L. Abney
Chairperson, House Committee on Finance
Rhode Island State House
82 Smith Street
Providence, RI 02903

Dear Chairperson Abney:

I write on behalf of the Office of the Health Insurance Commissioner (OHIC) to share technical and substantive concerns regarding [House Bill 7255](#). This legislation attempts to propose all individual or group health insurance contracts provide coverage for FDA-approved prescription contraceptive drugs, devices, and products. The comments in this letter pertain to Chapters 27-18, 27-19, 27-20, and 27-41. Section 5, which includes proposed changes to Chapter 40-8, falls under the jurisdiction of the Executive Office of Health and Human Services.

OHIC has the following technical concerns:

- Rhode Island insurance laws do not typically employ the phrase “issued pursuant to this title,” in the context of health plans. Instead, the phrase is typically employed in the context of a “license” or “order” issued pursuant to Title 27. The proposed use of this phrase in the context of this bill may lead to unintended legal challenges and/or interpretations.
- OHIC suggests the bill’s language in subsections (a) and (i) under § 27-18-57, which are subsections (a) and (h) under § § 27-19-48, 27-20-43, and 27-41-59, be harmonized to ensure consistency in the applicability of the provisions.
- OHIC questions the bill’s sporadic use of the phrase “group or blanket policy”, including the intentionality in drafting the bill in a manner that makes certain of the bill’s requirements only applicable to “a group or blanket policy.”
- OHIC notes that subsections (a)(1)(iii) and (b) are inconsistent on the topic of utilization review and medical management.

Regarding proposed subsection (j) under § 27-18-57, which is subsection (i) under § § 27-19-48, 27-20-43, and 27-41-59, the use of the phrase “contraception that is necessary to preserve the life or health of an enrollee” as an example of “contraceptive drugs, devices or products [used] for reasons other than contraceptive purposes,” appears contradictory and could benefit from some added specificity to ensure that the bill is interpreted as intended.

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Additionally, OHIC recommends the last two sentences of proposed subsection (j) under § 27-18-57, which is subsection (i) under § § 27-19-48, 27-20-43, and 27-41-59, which address the issue of penalties for violations, be deleted from the bill on account of being unnecessary and counterproductive to the goals of the bill. These sentences reference an outdated penalty provision of state insurance laws, enacted in 1956 before the effective date of Rhode Island's Administrative Procedures Act, that is only operable in the context of bringing a civil action in a state court (as opposed to an administrative action, the enforcement mechanism widely utilized by state regulators) and only operable against willful violations. OHIC notes that, given the provisions of R.I.G.L. § 42-14-16 setting forth administrative penalties and procedures for any violation of Title 27, this bill need not include penalty language to ensure enforcement.

Finally, OHIC recommends the deletion of subsection § 27-18-57(k), which is subsection (j) under § § 27-19-48, 27-20-43, and 27-41-59, for the following reasons:

- First, to the extent these subsections require OHIC to adopt rules and regulations for the implementation of the bill's provisions after engaging in an extensive stakeholder meetings "to consider factors and processes relevant to contraception coverage," this requirement is both unnecessary and will require significant additional agency funding to achieve. Apart from certain statutory drafting issues identified above that cannot be solved through regulations, the bill's requirements are straightforward and specific. It is unclear to OHIC what additional provisions would need to be, or could be, addressed in regulation nor how any such regulations could be informed by extensive stakeholder meetings.
- Second, the "random reviews" and associated annual report requirement referenced within these subsections are vague, unnecessary, and potentially counterproductive. OHIC thoughtfully allocates its available enforcement resources among the statutory requirements placed under its jurisdiction through a variety of methods not limited to random reviews.

Thank you for your continued leadership and hard work on all matters related to the health of Rhode Islanders.

Sincerely,



Cory B. King
Health Insurance Commissioner

CC: Honorable Members of the House Committee on Finance
Honorable Karen Alzate
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House

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