HB 1140 | Contraceptive Access for All Act

ACLU-PA Position: Support

Bill summary

HB 1140 (PN 1449) would require insurance companies to cover all contraceptive drugs, devices, and other products and services at no cost to the consumer.

The FDA approved the first over-the-counter daily oral contraceptive in July 2023, but Pennsylvania still has no legal protections for contraceptive access. And given the fact that 80 percent of Pennsylvanians live in a county without an abortion clinic, access to contraceptive care could not be more important.

Nine of 10 women in the U.S. will use contraception at some point in their lives. For millions of people, access to birth control has meant the ability to support themselves financially, finish their education, and get and keep a job. But for too many people, cost can be a barrier to access, with disproportionate impact on Black and brown Pennsylvanians.

HB 1140 would ensure that no one loses access to contraception because of their income—and guarantees it for those who need, want, and deserve it.

What HB 1140 proposes

Creates a new standing order for contraceptives:

- The Secretary of Health or the Physician General of the Commonwealth will issue a statewide standing order for FDA-Approved over-the-counter emergency contraceptive drugs and FDA-approved over-the-counter contraceptive drugs
- A healthcare provider otherwise authorized to prescribe FDA-approved over-the-counter emergency contraceptive drugs or FDA-approved over-the-counter oral contraceptive drugs may dispense, prescribe, or distribute the drugs directly or by a standing order to a person within the Commonwealth.

Ensures coverage for all FDA-approved contraceptives:

- Requires that a government program or health insurance policy offered, issued, or renewed in the Commonwealth provide coverage for all FDA-approved contraceptive drugs, devices, and other products for which an enrollee or covered person obtained a prescription.
- Covers all FDA-approved over-the-counter emergency contraceptive drugs for which an enrollee or covered person obtained a prescription, or which is the subject of a standing order. Coverage will not be subject to prior authorization or step therapy.
- Covers all FDA-approved over-the-counter oral contraceptive drugs, for which an enrollee or covered person obtained a prescription, or which is the subject of a standing order. Coverage will not be subject to prior authorization or step therapy.

Provides requirements for dispensing contraceptives to ensure safe patient access:

- Mandatory coverage for prescription oral contraceptives intended to last for not more than a three-month period for the first time that the prescription oral contraceptive is dispensed to the enrollee or covered person.
- Mandatory coverage for a twelve-month period for any subsequent dispensing of the same prescription, which may be dispensed all at one or over the course of a twelve-month period, regardless of whether the enrollee or covered person was enrolled in a government program or health insurance policy at the time the prescription contraceptive was first dispensed.
- Items and services integral to the furnishing of contraceptive drugs, devices, and products or voluntary sterilization surgery, and items and services related to the insertion or removal of a contraceptive device are covered with no cost sharing.
- Contraceptive drugs, devices, and products used for other than contraceptive purposes are covered (such as endometriosis, pelvic inflammatory disease, etc.).

Defines religious exemption:

- Mirrors federal law on religious exemption.
- If contraceptives are prescribed to treat medical conditions for other than contraceptive purposes, there is no religious exemption because it is being used for medical purposes, not contraceptive purposes.

Ensures confidentiality for individuals seeking contraceptives:

- Mirrors HIPAA on confidentiality requirements.
- A government program or health insurer must permit and accommodate a reasonable request by an enrollee or covered person to receive communications from the government program or health insurer regarding the receipt of contraceptive care by alternative means or at alternative locations.
    - A request is deemed reasonable if the enrollee or covered person states clearly that the disclosure of all or part of that information could endanger the enrollee or covered person.
- If a government program or health insurer denies or requests additional information from the covered person or enrollee regarding a request for confidential communications, the governmental program or health insurer must transmit the denial or request to the covered person or enrollee to the alternative means or alternative locations selected by the covered person or enrollee.