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SEARCH

The Administration	Constituent Services	Press Office	Agenda	Legislation & Executive Orders	Get Involved
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[Home](#) > [Press Office](#) > [Press Releases](#) >DEVAL PATRICK
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Massachusetts Contraception Coverage Laws Fact Sheet**This fact sheet details Massachusetts state laws regarding access to contraception for individuals and exemptions for religious institutions**[View Massachusetts Contraception Laws Fact Sheet \(PDF\)](#) **The Law**

A 2002 Massachusetts law (Chapter 49 of the Acts of 2002, "An Act Providing Equitable Coverage of Services Under Health Plans") mandated that employers offering health insurance must include "outpatient contraceptive services under the same terms and conditions as for such other outpatient services." (Senate Bill No. 2139, signed by Acting Governor Jane Swift, March 2002). This law became effective in March 2002, and it is still valid today.

In 2006, the Massachusetts Legislature passed and Governor Romney signed "An Act Providing Access to Affordable, Quality, Accountable Health Care," also known as Chapter 58 of the Acts of 2006. Chapter 58 made no changes to the 2002 law requiring equal treatment of contraception.

Chapter 58 charged the newly established Massachusetts Health Care Connector Authority to define what constitutes "minimum creditable coverage" (MCC) for health insurance.

In 2007, the Connector issued guidelines for MCC, which included outpatient prescription drug coverage. Since prescription drug coverage is an outpatient service, any health plan that meets the MCC requirements must also provide contraceptive services in order to comply with the 2002 law.

The requirement that a plan provide prescription drug coverage in order to meet minimum creditable coverage standards became effective on January 1, 2009. (The regulation was adopted by the Connector board in July 2007, but some of the requirements were phased in over time).

Religious Exemptions

The 2002 Act does provide an exemption for certain religious employers that meet the definition of a "church or qualified church-controlled organization" under federal law. The applicable federal definition (26 U.S.C. section 3121(w)(3)(A) and (B)) which is cited by the 2002 Massachusetts law, states that a "qualified church-controlled organization" must be a church-controlled tax-exempt organization and cannot offer "goods, services or facilities for sale." A religious hospital or university would most likely not be considered a church-controlled organization and hence not be covered by the exemption.

State Jurisdiction

State insurance laws apply only to the "fully insured" market, which is regulated by the state Division of Insurance. If an organization elects to self-fund its employee benefits plan – i.e., pay health claims from its own resources rather than buy health insurance – that organization is not subject to Massachusetts state insurance laws and would not be required to provide any particular outpatient services.

Some large employers, including municipalities, corporations, hospitals and universities, have their own private agreements with insurers and are considered to be "self-insured." Pursuant to the federal Employee Retirement Insurance Security Act (ERISA), self-insured plans are regulated only by federal law, and would not be subject to Massachusetts health insurance laws. However, both fully insured and self-insured health plans will have to comply with the federally mandated benefits under the Affordable Care Act.

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