

Key Findings

Analysis of California Senate Bill 523 Health Care Coverage: Contraceptives

Summary to the 2021–2022 California State Legislature, April 18, 2021



SUMMARY

The version of California Senate Bill (SB) 523 analyzed by CHBRP (amended March 16, 2021) would require health plans and policies regulated by DMHC or CDI, including DMHC-regulated plans enrolling Medi-Cal beneficiaries, to expand coverage for contraception to include all U.S. Food and Drug Administration (FDA)-approved contraceptives for men and women, male sterilization procedures, and certain clinical services. The bill also removes the requirement for a prescription to obtain coverage of FDA-approved over-the-counter (OTC) contraceptives. SB 523 requires coverage without cost sharing or out-of-pocket (OOP) expenses for these additional benefits and explicitly prohibits health plans and policies from imposing medical management techniques to access coverage.

In 2022, of the 21.9 million Californians enrolled in state-regulated health insurance, 13.9 million of them would have insurance potentially impacted by SB 523.

Benefit Coverage: CHBRP estimates at baseline 0% of enrollees have coverage of nonprescription OTC contraceptives, and 100% have coverage with some cost sharing, depending on the plan or policy, for vasectomies and related clinical services. At baseline, CHBRP estimates 18,755 commercial enrollees use nonprescription OTC female barrier contraceptives; 106,492 enrollees use emergency contraceptives (EC); 2,080,696 enrollees use nonprescription OTC male barrier contraceptives; and 14,204 enrollees obtain vasectomies and related clinical services per year. SB 523 may exceed the definition of EHBs in California.

Medical Effectiveness: There is *insufficient evidence* to determine how insurance coverage for contraceptives affected by SB 523 and also how utilization management policies impact contraceptive utilization. There is *clear and convincing evidence* that using any of the contraceptives impacted by SB 523 is more effective than not using any contraception in preventing unintended pregnancies,

and that condoms are effective in preventing the transmission of sexually transmitted infections (STIs)/HIV.

Cost and Health Impacts¹: In 2022, CHBRP estimates SB 523 would result in an increase of approximately 4% in utilization of nonprescription OTC contraceptives and of 1.77% for vasectomies and related clinical services. This would result in a \$182,077,000 (-0.14%) decrease in annual expenditures. This figure includes a reduction in costs associated with unintended pregnancies and STIs due to increased utilization of contraception, as well as applicable reductions in benefit-related expenses for enrollees.

SB 523 would result in a reduction in adverse health outcomes associated with unintended pregnancy. CHBRP is unable to estimate a quantitative impact on STI rates. However, it stands to reason that some new utilizers of condoms may be at lower risk of acquiring or transmitting an STI and be at lower risk for infection-related adverse health outcomes.

CONTEXT

The Affordable Care Act (ACA) requires that nongrandfathered group and individual health insurance plans and policies cover women's preventive care benefits, including the full range of 18 FDA-approved contraceptive methods for women. These benefits, which include OTC contraceptive methods, must be covered without cost sharing if prescribed by a health care provider. California codified this mandate into state law in 2014.²

Contraceptives can be provided in a variety of settings: in a health care provider setting, pharmacy setting, and a retail OTC setting. Each of these settings offers a number of FDA-approved contraceptives. Contraceptives provided through a health care provider are generally contraceptives that need to be inserted or fitted, or include surgical methods of sterilization. Contraceptives provided in a pharmacy setting are those requiring a prescription either from a health care provider or pharmacist. OTC contraceptives are available in a

and other aspects of health make stability of impacts less certain as time goes by.

² Refer to CHBRP's full report for full citations and references.

¹ Similar cost and health impacts could be expected for the following year, though possible changes in medical science

retail setting and do not require a health care provider or pharmacist to access.

BILL SUMMARY

SB 523 requires health plans and policies regulated by the Department of Managed Health Care (DMHC) or the California Department of Insurance (CDI) to expand coverage for contraception to include all FDA-approved contraceptives for men and women, male sterilization procedures, and certain clinical services. The bill also removes the requirement for a prescription to obtain coverage of FDA-approved OTC contraceptives. SB 523 requires coverage without cost sharing or OOP expenses for these additional benefits and explicitly prohibits health plans and policies from imposing medical management techniques to access coverage. Specifically, SB 523 does the following:

- Prohibits a health plan or policy from requiring a prescription in order to obtain coverage for FDA-approved OTC contraceptive drugs, devices, and products.
- Requires health plans and policies to provide point-of-sale coverage, without cost sharing or medical management restrictions, for all FDA-approved OTC contraceptive drugs, devices, and products obtained at in-network pharmacies.
- Requires health plans and policies to reimburse enrollees for OOP expenses for OTC birth control methods purchased at any out-of-network pharmacy in California, without medical management restrictions.
- Requires coverage of clinical services related to the provision or use of contraceptives, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, and counseling.
- Allows health plans and policies to limit how often an enrollee may obtain all covered contraceptives and the quantity that they may receive.
- Prohibits health plans and policies from imposing prior authorization, step therapy, or other utilization control techniques on coverage for contraceptive drugs, devices, and products, except as otherwise authorized (see previous bullet).
- Clarifies the definition of medical inadvisability to allow for considerations such as severity of side effects, reversibility of the contraceptive, and ability to adhere to the method. Requires health plans/policies to defer to the judgment of the attending provider in the determination of

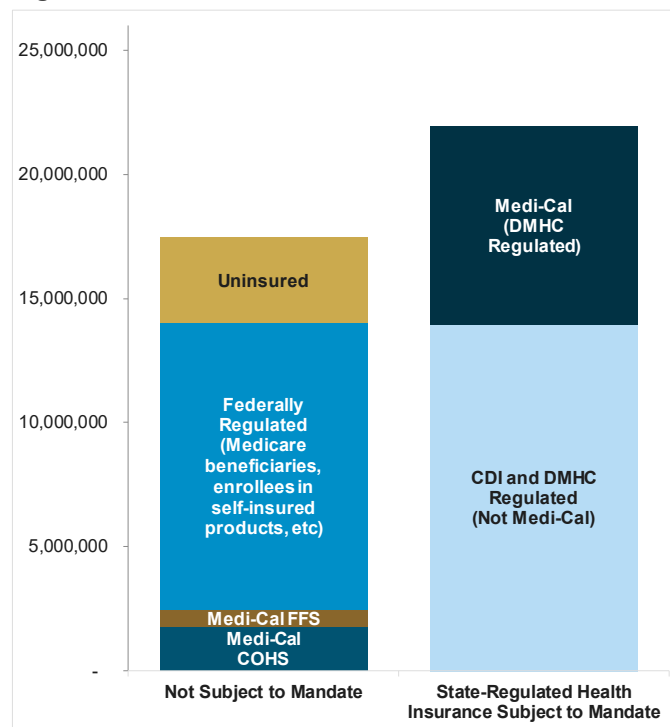
medical inadvisability of a contraceptive and provide coverage for an alternative prescribed contraceptive, when applicable, without cost sharing.

- Requires religious employers who invoke the religious exemption for contraceptive coverage to inform prospective enrollees/insureds prior to enrollment of all contraceptive coverage that is not available through the plan/policy due to religious reasons.

SB 523 impacts coverage, costs, and related terms and conditions for six contraceptive types, including condoms (male and female), contraceptive sponges, spermicide, levonorgestrel (emergency contraception), and vasectomy.

Figure A notes how many Californians have health insurance regulated by DMHC or CDI that would be subject to SB 523. For Medi-Cal beneficiaries, including those enrolled in DMHC-regulated plans, all contraception that is impacted by the bill is fully covered without cost sharing either under the Medi-Cal program or the California Family Planning, Access, Care, and Treatment (Family PACT) Program, or CHBRP assumes would be covered under the pharmacy benefit and therefore “carved out” of care provided by Medi-Cal managed care plans.

Figure A. Health Insurance in CA and SB 523



Source: California Health Benefits Review Program, 2021.

IMPACTS

Benefit Coverage, Utilization, and Cost

Benefit Coverage

CHBRP estimates at baseline 0% of enrollees in plans and policies regulated by DMHC or CDI have coverage of nonprescribed OTC contraceptives, and 100% have coverage for vasectomies and related clinical services. Among commercial/CalPERS enrollees, vasectomies and related clinical services have an average of \$341 in cost sharing; this is an average across all enrollees, including enrollees in preferred provider organization (PPO) and HMO plans.

Utilization

CHBRP estimates that postmandate, there would be a cost shift and increase in utilization of nonprescription OTC contraceptives and vasectomies and related clinical services due to the elimination of cost sharing for vasectomies and OOP costs for nonprescription OTC contraceptives proposed under SB 523. CHBRP estimated utilization would increase by 4.8% for nonprescription OTC contraceptives and 2.1% for vasectomies due to these reductions in costs.

CHBRP anticipates SB 523 would have no impact on Medi-Cal coverage or expenditures. CHBRP estimates that, among commercial enrollees:

- At baseline, 18,755 individuals use nonprescription OTC female barrier contraceptives (e.g., sponge, female condom, spermicide). Postmandate, 19,513 individuals would use female nonprescription OTC contraceptives, an increase of 4.05%.
- At baseline, 106,492 individuals use emergency contraceptives. Postmandate, 110,794 individuals would use emergency contraceptives, an increase of 4.04%.
- At baseline, a total of 2,080,696 enrollees use nonprescription OTC male barrier contraceptives (i.e., male condoms). Postmandate, 2,164,864 individuals would use male condoms, an increase of 4.05%.
- At baseline, a total of 14,204 individuals obtain vasectomies and related clinical services. Postmandate, an additional 252 enrollees would obtain vasectomies and related clinical services for a total of 14,455 enrollees, an increase of 1.77%.

Expenditures

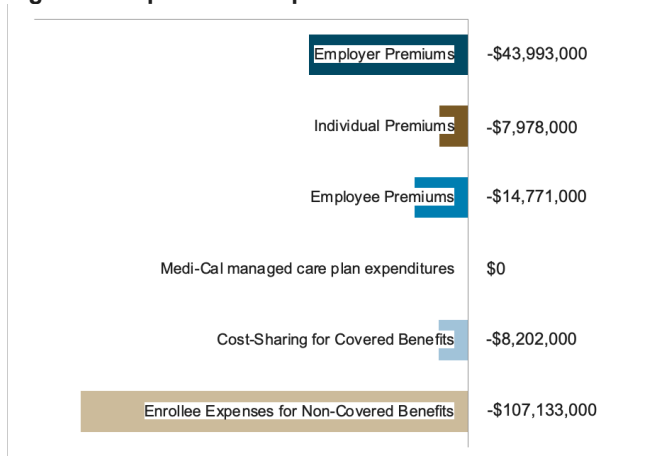
CHBRP assumes that increased use of nonprescription OTC contraceptives and vasectomies would result in a reduced number of unintended pregnancies. Due to insufficient evidence available to estimate the effectiveness of insurance coverage of nonprescription OTC contraceptives, CHBRP is unable to estimate changes in STIs as a result of SB 523.

According to the CHBRP Cost and Coverage Model, there would be an estimated 12,293 averted unintended pregnancies in the first year postmandate, a reduction of 11.56% from baseline. These pregnancy outcomes at baseline result in an average of \$13,951 per averted unintended pregnancy, accounting for labor and delivery charges, medical costs associated with stillbirths or miscarriages, and costs for abortion services.

At baseline, CHBRP estimates that there are 4,173 commercial enrollees undergoing tubal ligation procedures. CHBRP assumes that for every 100 vasectomies, there would be 93.5 fewer tubal ligations, assuming the sexual partner has health insurance regulated by the California Department of Managed Health Care (DMHC) or the California Department of Insurance (CDI). Given the postmandate induced coverage of vasectomies, CHBRP estimates a 5.64% reduction in tubal ligations, resulting in an estimated cost offset of \$19,014 per unit for female sterilization procedures and related clinical services.

Due to cost offsets from a reduction in unintended pregnancies and female sterilization procedures postmandate, CHBRP estimates that SB 523 would decrease total premiums by about \$66,743,000 across DMHC- and CDI-regulated plans and policies. The greatest change in premiums would be for large-group plans in the DMHC-regulated market (a decrease of \$0.44 per member per month).

SB 523 would decrease total net annual expenditures by \$182,077,000 (0.14%) for enrollees with plans regulated by the DMHC and policies regulated by the CDI. This is due to a \$66,743,000 decrease in total health insurance premiums paid by employers and enrollees for newly covered benefits and a decrease of \$8,202,000 in enrollee expenses for covered benefits and \$107,133,000 in enrollee expenses for noncovered benefits.

Figure B. Expenditure Impacts of SB 523

Source: California Health Benefits Review Program, 2021.

Medi-Cal

CHBRP assumes that all OTC contraceptives would be available under the pharmacy benefit. As of a to-be-determined date, all items covered under the pharmacy benefit for Medi-Cal managed care plans are paid for on a fee-for-service basis and are “carved out” of care provided by Medi-Cal managed care plans. Vasectomies are already covered without cost sharing under Medi-Cal. Therefore, SB 523 would result in no impact to the coverage provided to Medi-Cal managed care plan beneficiaries or related premiums.

CalPERS SB 523’s changes to the Health and Safety code, would result in an estimated decrease of \$0.44 in per member per month premiums for CalPERS enrollees in DMHC-regulated plans.

Number of Uninsured in California

Because the change in average premiums does not exceed 1% for any market segment, CHBRP would expect no measurable change in the number of uninsured persons due to the enactment of SB 523.

Medical Effectiveness

CHBRP investigated findings from evidence on (1) effectiveness of contraceptive methods at preventing unplanned pregnancies and transmission of STIs, (2) the impact of point-of-sale coverage and reimbursement on utilization of nonprescription OTC contraceptives, (3) the impact of utilization management on contraceptive utilization, and (4) potential side effects of nonprescription OTC contraceptive utilization.

³ *Clear and convincing evidence* indicates that there are multiple studies of a treatment and that the large majority of

Over the course of a year, sexually active women not using contraceptives have an 85% chance of becoming pregnant, with a 46% unintended pregnancy rate among women discontinuing previous contraceptive use. CHBRP found *clear and convincing evidence*³ that using any of the contraceptives impacted by SB 523 is more effective than not using any contraception in preventing unintended pregnancies.

CHBRP also found there is:

- *Clear and convincing evidence* that condoms are effective at preventing transmission of STIs/HIV based on a systematic review of 14 studies. There is also *clear and convincing evidence* based on a systematic review of five randomized controlled trials (RCTs) that spermicide is not effective in preventing transmission of STIs/HIV.
- *Insufficient evidence* to determine how insurance coverage for contraceptives affected by SB 523 (i.e., nonprescription OTC contraceptives and vasectomy) impacts contraceptive utilization.
- *Insufficient evidence* on the impact of utilization management policies on contraceptive utilization.

Public Health

In the first year postmandate, there would be a reduction in the number of unintended pregnancies overall (12,293 averted), as well as a reduction in negative health outcomes associated with unintended pregnancy.

CHBRP projects that SB 523 would increase utilization of male condoms by approximately 84,169 enrollees but is unable to estimate a quantitative impact on STI rates due to increased access to male condoms; however, it stands to reason that some of the 84,169 enrollees (and their partners) may be at lower risk of acquiring or transmitting an STI and be at lower risk for infection-related adverse health outcomes. In addition, there are broad benefits of contraceptive use and the estimated additional 89,481 enrollees using nonprescription OTC contraceptives or vasectomy would benefit from these noncontraceptive health and family planning benefits.

In the first year postmandate, to the extent that SB 523 reduces disparities that are due to coverage differences or ameliorates barriers due to OOP costs (but not due to preferences about specific contraceptive coverage) CHBRP estimates a reduction in disparities related to race/ethnicity, age, and social determinants of health

studies are of high quality and consistently find that the treatment is either effective or not effective.

(SDoH) in contraceptive use and unintended pregnancy; however, the magnitude is unknown.

Long-Term Impacts

CHBRP estimates annual utilization of induced nonprescription OTC contraceptives and vasectomies after the initial 12 months from the enactment of SB 523 would likely stay similar to utilization estimates during the first 12 months postmandate. Utilization changes may occur if new nonprescription OTC medications or procedures change the landscape for enrollees, or social marketing programs influence enrollee behavior; however, CHBRP is unable to predict these types of changes. Similarly, health care utilization due to improved reproductive health services may change in the long term.

Assuming that SB 523 increases utilization of contraceptives beyond the first year postmandate, there may be a decrease in the rate of unintended

pregnancies, abortions, and STI transmissions in the long-term. As such, there may also be a decrease in the adverse health outcomes associated with conditions. In addition, the potential decrease in the rate of unintended pregnancies may allow females to delay childbearing and pursue additional education, spend additional time in their careers, and have increased earning power.

Essential Health Benefits and the Affordable Care Act

Coverage for contraceptives is currently required as part of EHBs in California. However, existing law only requires coverage of female contraception. Thus, coverage of male contraception, as mandated by SB 523, would require coverage for a new benefit that may exceed EHBs in California.