REPORT OF THE
SPECIAL ADVISORY COMMISSION ON MANDATED
HEALTH INSURANCE BENEFITS

HOUSE BILL 1233
MANDATED COVERAGE FOR PRESCRIPTION CONTRACEPTIVE DRUGS

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

HOUSE DOCUMENT NO. 24

COMMONWEALTH OF VIRGINIA
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COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

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EIGHTY-SIXTH DISTRICT

COMMITTEE ASSIGNMENTS
CORPORATIONS, INSURANCE AND BANKING (CHAIRMAN)
PRIVILEGES AND ELECTIONS
APPROPRIATIONS
RULES

November 27, 1996

To: The Honorable George Allen
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to §§ 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits to assess the social and financial impact and the medical efficacy of House Bill 1233 regarding a proposed mandate of coverage for prescription contraceptive drugs.

Respectfully submitted,

George H. Heilig, Jr.
Acting Chairman
Special Advisory Commission on
Mandated Health Insurance Benefits

TABLE OF CONTENTS

INTRODUCTION

The House Committee on Corporations, Insurance and Banking referred House Bill 1233 to the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) during the 1996 Session of the General Assembly. House Bill 1233 is patroned by Delegate Julia Connally.

The Advisory Commission held a public hearing on August 20, 1996 in Richmond to receive comments. Six speakers addressed the proposal. In addition to the patron, a representative from the Virginia Affiliate of the National Abortion and Reproductive Rights Action League (VA NARAL) and a representative from Planned Parenthood Advocates of Virginia (Planned Parenthood) spoke in favor of the bill. Written testimony in favor of the bill was received from representatives from VA NARAL, Planned Parenthood, the American Jewish Congress, the Virginia Federation of Business and Professional Women's Club, Inc., Zero Population Growth (ZPG), and fifteen concerned citizens. Representatives from the Health Insurance Association of America (HIAA), Trigon Blue Cross Blue Shield (Trigon), and the Virginia Association of Health Maintenance Organizations (VAHMO) spoke in opposition to the bill. Written testimony in opposition to the bill was received from HIAA, Trigon, The Virginia Chamber of Commerce, HealthKeepers, CIGNA HealthCare of VA, Colonial Life and Accident Insurance Company, VAHMO, and the Virginia Manufacturers Association (VMA).

The Advisory Commission concluded its review of House Bill 1233 on September 19, 1996.

SUMMARY OF PROPOSED LEGISLATION

House Bill 1233 adds § 38.2-3407.5:1 to the Code of Virginia in the chapter on accident and sickness insurance. The bill requires any insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical or major medical coverage on an expense incurred basis; any corporation providing individual or group accident and sickness subscription contracts; and any health maintenance organization (HMO) providing a health care plan for health care services, whose policy, contract or plan, includes coverage for prescription drugs on an outpatient basis, to provide in each policy, contract, plan, or certificate, and evidence of coverage that such benefits will not be denied for any drug approved by the United States Food and Drug Administration (FDA) for use as a contraceptive. Each policy, contract, plan, certificate, or evidence of coverage shall include coverage for a variety of FDA-approved prescription contraceptives.

In the event the patient's physician determines that none of the methods designated by the policy, contract, plan, certificate, or evidence of coverage are

medically appropriate for the patient, the plan shall also provide coverage for another medically approved prescription contraceptive method prescribed by the patient's physician. As currently drafted, it is not clear whether the bill was intended to include coverage for contraceptive devices.

PRESCRIPTION CONTRACEPTIVE DRUGS

The FDA has approved four types of prescription contraceptive drugs: oral contraceptives (the Pill), hormonal implants, hormonal injections, and the intra-uterine device (IUD). These methods are reversible and women can discontinue use at any time.

Information obtained from the Virginia Department of Health (VDH) states that the Pill must be prescribed by a doctor following a medical examination and is taken daily to prevent the ovaries from releasing eggs. When taken properly, the Pill is 98% effective in preventing unwanted pregnancies.

The second FDA-approved contraceptive drug is the hormonal implant that consists of six soft, flexible capsules containing the female hormone progestin. The VDH explains that the six capsules are inserted in a fan-like pattern just under the skin of the inside of the arm above the woman's elbow. The hormonal implant must be inserted by a doctor or nurse practitioner and is 100% effective in preventing unwanted pregnancies for five years.

The third FDA-approved contraceptive drug is DEPO-PROVERA, a hormonal injection administered every three months. According to the VDH, DEPO-PROVERA prevents an egg's release and is about 99% effective in preventing unwanted pregnancies. An injection is administered in the arm or buttocks every 12 weeks and is prescribed by a doctor or nurse practitioner. All women choosing this form of contraception must have a pelvic examination before receiving the injection.

The fourth FDA-approved contraceptive drug is the IUD. The IUD is a small piece of plastic with nylon threads attached. The FDA reports that there are currently two types of IUDs available: the *CuT* 380A, commonly known as Paragard, and the Progesterone-T, commonly known as the Progestasert System. With the *CuT* 380A, the stem of the "T" is wrapped with copper wire and the two arms have sleeves of copper. The copper is gradually released over a ten year period. The second type of IUD is the Progesterone-T, which releases the hormone progesterone. In both cases, the IUD is inserted into the uterus, and through a process not fully understood, it slows the upward movement of the sperm to prevent the meeting of the egg and the sperm in the fallopian tube. It is 98% effective in preventing unwanted pregnancies when used properly, and must be inserted by a doctor or nurse practitioner after a pelvic examination.

As currently drafted, it is not clear whether House Bill 1233 was intended to include contraceptive devices. The diaphragm is the only FDA-approved contraceptive device requiring a prescription and fitting by a health care provider. The diaphragm is a shallow rubber cup that must be used with a spermicide jelly or cream to form a barrier between the uterus and sperm. It is about 98% effective if used correctly and consistently.

CURRENT INDUSTRY PRACTICES

The State Corporation Commission's Bureau of Insurance (Bureau) surveyed 50 of the top writers of accident and sickness insurers in Virginia regarding three of the bills reviewed by the Advisory Commission this year. The top 50 writers of accident and sickness insurance represent approximately 85% of the accident and sickness insurance market in Virginia based on premium volume. Thirty-four companies responded by April 19, 1996; however, only 26 companies were able to provide the information requested. Of the 26 respondents that completed the survey, seven insurers indicated that while they market health insurance policies in Virginia, they do not provide coverage for contraceptive services in either their group or individual policies. Nineteen companies responded that they cover these services under either a group contract or individual policy.

Of the insurers noting that they do provide coverage, nine insurers indicated that they provide this type of coverage in all of their standard group policies. Thirteen companies reported that they provide coverage for contraceptive services in their group policies on an optional basis. Three insurers indicated that while they do provide some contraceptive coverage in their standard group policies, only birth control pills and diaphragms are covered. Only four companies responded that contraceptive services are covered under their standard individual policies, while three noted that these services are available under their individual policies on an optional basis.

Of the nineteen companies indicating that they cover prescription contraceptive drugs, 11 (22%) were conventional indemnity plans. Insurers responding that they cover prescription contraceptive drugs under conventional indemnity plans represent 12.08% of the accident and sickness insurance market in Virginia based on premium volume. Of the nineteen insurers indicating that they cover prescription contraceptive drugs, 8 (16%) were health maintenance organizations (HMOs). HMOs responding that they cover prescription contraceptive drugs represent 11.92% of the accident and sickness insurance market in Virginia based on premium volume.

FINANCIAL IMPACT

Respondents to the Bureau survey provided cost figures for adding precription contraceptive coverage of between $0.06 and $3.90 per month per standard group certificate holder and between $0.82 and $1.50 per month per standard individual policy. Insurers providing coverage on an optional basis provided cost figures between $0.50 and $3.09 per month per group certificate holder and $0.50 and $1.30 per month per individual policy.

SIMILAR LEGISLATION IN OTHER STATES

According to information published by the National Association of Insurance Commissioners and the National Insurance Law Service, only one state, Hawaii, requires a mandated offer of coverage for contraceptives. No state mandates that coverage be included in policies.

Hawaii requires that any employer group policy that provides for payment of or reimbursement for pregnancy-related services must provide an option for contraceptive services for the subscriber or any dependent of the subscriber. Coverage includes any FDA-approved prescriptive contraceptive drug or device and is subject to co-payments, waiting requirements, and other usual charges. (See Appendix B-1)

REVIEW CRITERIA

SOCIAL IMPACT

a. *The extent to which the treatment or service is generally utilized by a significant portion of the population.*

Statistics from the Weldon Cooper Center for Public Service estimate that there were 1,535,470 women ages 15 - 44 in Virginia in 1990. In written comments, proponents indicated that contraception is the most widely used and needed drug among women ages 15 - 44. One proponent reported that 60% of the estimated 58 million women of reproductive age in the United States used some form of contraception in 1988. Information provided by ZPG indicated that there were 76,000 unintended pregnancies in Virginia in 1994.

b. *The extent to which insurance coverage for the treatment or service is already available.*

Of the 34 respondents that completed the Bureau's insurer survey, 19 indicated that they provide the coverage required by House Bill 1233 to their Virginia policyholders through either a group contract or individual policy.

VAHMO cited a recent survey of its members that found all of the HMOs make prescription contraceptives coverage available through prescription drug riders.

Proponents cited an AGI publication that reports that nationwide, only 15% of indemnity plans (for contracts covering more than 100 employees), and 18% of preferred provider organizations cover all reversible contraception. Thirty-three percent of point-of-service networks and 39% of the HMOs in the U.S. cover all reversible contraception.

c. *If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.*

Insurers contend that coverage is generally available through prescription drug riders for those who wish to purchase it. In written comments, one insurer noted that contraceptive drugs are not medically necessary to preserve or restore health, nor are they used to detect, prevent or treat an illness. The same insurer contended that contraceptive drugs are elective drugs chosen for the convenience of the individual.

Proponents argued that a lack of coverage for contraceptive services increases the number of unintended and unwanted pregnancies. Proponents stated that a lack of access to and coverage of contraceptive drugs and services jeopardizes a woman's overall health and well-being due to unplanned pregnancies, miscarriages, abortions, stillbirths, and infant mortality. Proponents further argued that some women cannot afford contraceptives because they must pay for food, shelter, and other household expenses.

d. *If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.*

Insurers contend that coverage for contraceptive services is generally available through prescription drug riders for those who wish to purchase it. Opponents further noted that contraceptive drugs are relatively low in cost, and that the role of health insurance is to protect against the financial catastrophe accidents and sicknesses can bring.

Proponents of the bill contend that the lack of coverage forces some women to choose between paying their household bills or purchasing an effective method of birth control. In written comments, proponents noted that the five-year costs associated with the five reversible methods of birth control range from $540 to $3,666. Information obtained from Robert Hatcher's Contraceptive

Technology - Sixteenth Revised Edition indicates that the annual cost of the five reversible contraceptives can range from $150 to $700 depending upon the method selected. The Institute of Medicine's publication entitled, The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Family (1995), indicates that in 1988, 41% of all women who received family planning services reported paying out of their own pocket for contraceptive services.

e. *The level of public demand for the treatment or service.*

The number of consumers asking for this coverage in Virginia was not presented during this review. However, representatives from Planned Parenthood and VA NARAL cited a May 1996 Lake Research poll that concluded that 64% of Americans favored requiring insurance companies to cover contraception. Proponents indicated that contraception is the most widely used and needed drug among women ages 15 - 44. Statistics from the Weldon Cooper Center for Public Service estimate that there were 1,535,470 women ages 15 - 44 in Virginia in 1990.

f. *The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.*

The level of public demand and the level of demand from providers for individual and group insurance coverage are unknown. Insurers contend that cover for contraceptive drugs is widely available to both group and individual policyholders in Virginia. One HMO indicated that 98% of the plan's members select the pharmacy benefit that provides coverage for contraceptive services.

g. *The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.*

The level of interest of collective bargaining and organizations in negotiating privately for inclusion of this coverage in group contracts is unknown.

h. *Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.*

No information or relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of this mandated benefit was presented during this review.

FINANCIAL IMPACT

a. *The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.*

No information was provided by either proponents or opponents that would suggest that enactment of House Bill 1233 would either increase or decrease the cost of contraceptive drugs or services over the next five years. Proponents of House Bill 1233 indicated that coverage for contraceptive drugs for the prevention of unwanted and unexpected pregnancies would decrease the costs incurred by insurers for births and abortions. VMA indicated that House Bill 1233 and other mandates increase utilization, thereby driving up the cost of health insurance coverage.

b. *The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.*

In written comments, Planned Parenthood stated that there would be an appropriate increase in the use of contraceptives if House Bill 1233 were enacted. The same proponent noted that the increased usage of contraceptives would ultimately reduce the number of unplanned pregnancies and lower the risk of other health problems. The same proponent provided information that expressed concern that there is currently an inappropriate over-utilization of surgical sterilization because this method is covered by insurers.

Insurers expressed concern that a mandate would cause an over-utilization of contraceptives. One opponent noted that individuals who do not currently use or need contraceptives may begin usage because the benefit is provided.

c. *The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.*

Proponents provided information indicating that the five-year cost associated with the five reversible methods of birth control ranges from $540 to $3,666, while the cost of a normal delivery is an average $9,000. The cost of using no birth control over the same period of time is $14,663. Proponents cited an *American Journal of Public Health (AJPH)* article that concluded that regardless of the cost or contraceptive method, contraception saves money and preventing unintended pregnancies is very cost-effective. One proponent cited studies that indicated that for every dollar invested in family planning, approximately four to fourteen dollars are saved in long-term medical costs because of the resultant decrease in unintended pregnancies and abortions.

d. *The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.*

The number and type of providers of the mandated service are not expected to increase over the next five years as a result of this bill.

e. *The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.*

An increase in the administrative expenses of insurance companies and the premiums and administrative expenses for policyholders is anticipated because of the expenses associated with such things as policy redesign, form filing, claims processing systems and marketing, and other administrative requirements. In written comments, Trigon indicated that the proposed mandate would increase claims costs because those individuals currently paying out-of-pocket will immediately be covered. Trigon also noted that there is no reliable way of knowing if this cost will be offset by persons who will begin to use prescription contraceptives because they are a covered benefit and, therefore, avoid becoming pregnant.

Proponents cited information from HIAA that estimates the additional cost of mandated coverage for contraception to be approximately $16 per enrollee annually.

Respondents to the Bureau survey provided cost figures for adding precription contraceptive coverage of between $0.06 and $3.90 per month per standard group certificate holder and between $0.82 and $1.50 per month per standard individual policy. Insurers providing coverage on an optional basis provided cost figures between $0.50 and $3.09 per month per group certificate holder and $0.50 and $1.30 per month per individual policy.

f. *The impact of coverage on the total cost of health care.*

One proponent reported that providing contraceptive coverage may initially increase costs for insurance companies; however, in time, insurers will save money. Proponents cited an *AJPH* study that concluded that the prevention of unintended pregnancies is very cost-effective, especially for third-party payers who usually pay most of the bills for unplanned pregnancies.

In written comments, one opponent explained that they did not favor enactment of House Bill 1233 because mandates increase health care coverage costs. The same opponent contended that the marketplace determines which benefits consumers and purchasers want. Opponents stated that additional mandated benefits will limit employers' ability to design an affordable benefit package for their employees.

MEDICAL EFFICACY

a. *The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.*

The medical efficacy of prescription contraceptive drugs is not questioned by opponents. A representative from VA NARAL stated that most contraceptives have a failure rate of less than 10%. In written comments, one proponent contended that contraceptives are beneficial to the overall health care and status of women because they can provide protection from certain illnesses, can lower birthrates, and can decrease the mortality rate among those women who should not become pregnant.

b. *If the legislation seeks to mandate coverage of an additional class of practitioners:*

1) *The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.*

Not applicable.

2) *The methods of the appropriate professional organization that assure clinical proficiency.*

Not applicable.

EFFECTS OF BALANCING THE SOCIAL, FINANCIAL AND MEDICAL EFFICACY CONSIDERATIONS

a. *The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.*

Proponents argue that the benefit is consistent with the role of health insurance and addresses a medical and social need. Proponents contend that medically contraceptive care is a form of preventive care, which is generally covered by health insurance. Proponents further contend that for those women with medical conditions who should not become pregnant, contraceptives can save lives. Proponents noted that socially, contraceptives help decrease the number of unintended pregnancies, and, consequentially, the numbers of women seeking abortions.

Opponents argue that the proposed mandate is not consistent with the role of health care. In written comments, VMA noted that contraceptive drugs are not medically necessary to preserve or restore health, but are elective drugs chosen for the convenience of the patient. Insurers further assert that the role of health insurance is to protect against the financial catastrophe accidents and sicknesses can bring.

b. *The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.*

Proponents cited an *AJPH* article that concluded that regardless of the cost or method, contraception saves money. Proponents indicated that the need for coverage outweighs the costs of mandating the benefit for all policyholders because preventing unintended pregnancies is very cost-effective over time. The *AJPH* article concluded that virtually every accident and sickness policy covers costs associated with pregnancies, while currently coverage for contraception varies dramatically. Proponents stated that coverage of prescription contraception is a quantifiable cost-saving for insurers, employers, employees and citizens.

In written comments, one opponent emphasized that the role of health insurance is to protect against financial catastrophe. The opponent went on to stress that it would not be beneficial or appropriate to enact a mandate to cover such a relatively low-cost and elective service. Another opponent to the bill contended that enacting the mandate would decrease the availability of affordable health insurance products in the marketplace.

c. *The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.*

It is expected that the cost of a mandated offer of coverage would be higher than a mandate of coverage because of adverse selection by women who are of child-bearing years and who are sexually active. In the case of group coverage, the decision whether to select the optional coverage or not would lie with the master contract holder and not the individual insureds. Therefore, it is possible that many women would not benefit from such a mandate. Proponents contend that a mandated option does not address the problem of availability for those women covered under a group contract.

RECOMMENDATION

The Advisory Commission voted unanimously on September 19, 1996 to recommend that House Bill 1233 not be enacted (No - 8, Yes - 0).

CONCLUSION

Information provided to the Advisory Commission during its review indicated that contraception is the most widely used drug for women 15 - 44 years of age. Both proponents and opponents of the bill recognized the medical efficacy of prescription contraceptive services. Proponents of the bill stated that coverage of contraceptive drugs was necessary to decrease the number of unexpected and unwanted pregnancies and to lower the risk of other health problems. Proponents also contended that a lack of coverage for contraceptive services forced some women to choose between paying household bills or purchasing effective contraceptives. Opponents indicated that coverage for contraceptive drugs and services were relatively inexpensive and that coverage for the benefit was widely available to those who wanted it.

The Advisory Commission concluded that coverage is generally available for those individuals who want it, and, therefore, House Bill 1233 should not be recommended for enactment.

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HOUSE BILL NO. 1233

Offered January 22, 1996

A BILL to amend of the Code of Virginia by adding a section numbered 38.2-3407.5:1, relating to accident and sickness insurance; denial of benefits for prescription contraceptives prohibited.

Patrons—Connally, Christian, Cunningham, Jones, J.C., Melvin, Plum and Van Yahres; Senators: Couric, Houck and Howell

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.5:1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.5:1. Denial of benefits for prescription contraceptives prohibited.

A. Each (i) insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis; (ii) corporation providing individual or group accident and sickness subscription contracts; and (iii) health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs on an outpatient basis, shall provide in each such policy, contract, plan, certificate, and evidence of coverage that such benefits will not be denied for any drug approved by the United States Food and Drug Administration for use as a contraceptive. Each such policy, contract, plan, certificate, and evidence of coverage shall include coverage for a variety of federal Food and Drug Administration approved prescription contraceptives, as designated by such policy, contract, plan, certificate, or evidence of coverage. In the event the patient's physician determines that none of the methods designated by the policy, contract, plan, certificate, or evidence of coverage is medically appropriate for the patient, the plan shall also provide coverage for another medically approved prescription contraceptive method prescribed by the patient's physician.

B. Subsection A shall not be construed to do any of the following:

1. Require coverage for experimental contraceptive drugs not approved by the United States Food and Drug Administration.

2 Require coverage for prescription drugs in any contract, policy or plan that does not otherwise provide such coverage.

C. The provisions of this section shall not apply to short-term travel, or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration.

D. The provisions of this section are applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1996.

Official Use By Clerks

Passed By The House of Delegates		**Passed By The Senate**	
without amendment	☐	without amendment	☐
with amendment	☐	with amendment	☐
substitute	☐	substitute	☐
substitute w/amdt	☐	substitute w/amdt	☐

Date: _____ Date: _____

Clerk of the House of Delegates | Clerk of the Senate

HAWAII

431:10A-116.6 Contraception coverage (group)

(a) Notwithstanding any provision of law to the contrary, each employer group health policy, contract, plan, or agreement issued or renewed in this State on or after January 1, 1994, that provides for payment of or reimbursement for pregnancy-related services, shall provide as an employer option, contraceptive services for the subscriber or any dependent of the subscriber who is covered by the policy.

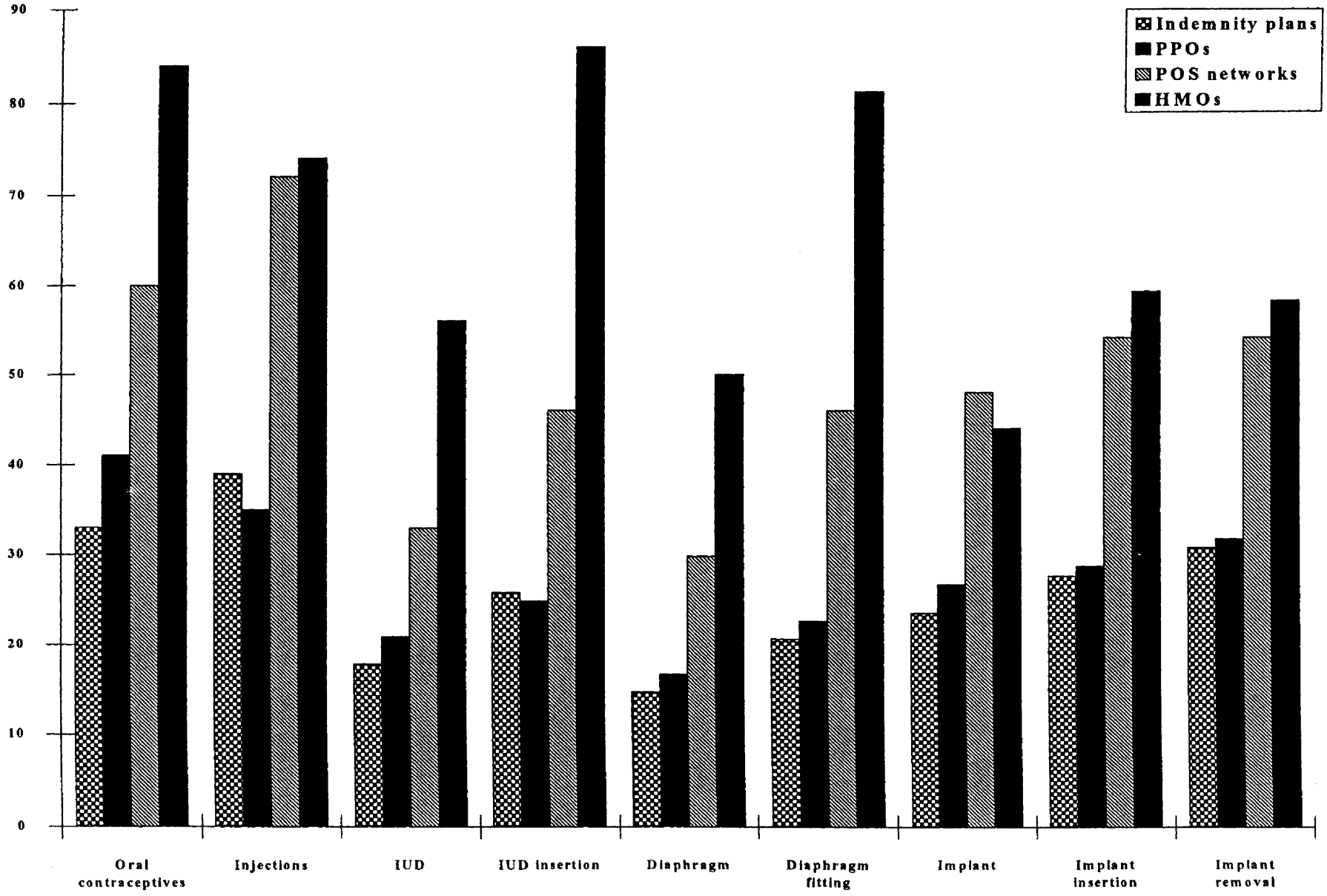
(b) Any policies, contracts, plans, or agreements under subsection (a) above, that provide prescription drug coverage, shall not exclude any Food and Drug Administration-approved prescriptive contraceptive drug or device, or impose any unusual copayment, charge, or waiting requirement for such drug or device.

(c) For the purpose of this section, "contraceptive services" means physician-delivered, physician-supervised, physician assistant- delivered, certified nurse midwife-delivered, or nurse-delivered medical services intended to promote the effective use of prescription contraceptive supplies or devices to prevent unwanted pregnancy.

(d) Nothing in this section shall be construed to extend the practice or privileges of any health care provider beyond that provided in the laws governing the provider's practice and privileges.

DATE NEW 1993

Reversible contraceptive coverage by method and type



Source: The Alan Guttmacher Institute, "Survey of Private Sector Insurance Coverage of Reproductive Health Services," New York, 1993