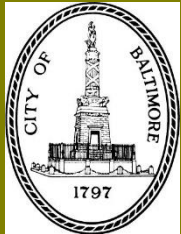


F R O M	NAME & TITLE	Quinton M. Herbert, JD Director & Chief Human Capital Officer	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Human Resources 7 East Redwood Street, 17 th Floor Baltimore, Maryland 21202		
	SUBJECT	Council Bill #20-0613 - Employee Health Care Services Providers - Contraceptive Coverage		

TO: The Honorable Council President Brandon Scott and
Members of the Baltimore City Council
City Hall, 100 N. Holliday Street, Room 409

DATE: October 9, 2020

Bill Summary

Council Bill #20-0613, Employee Health Care Services Providers - Contraceptive Coverage, requires certain carriers wishing to do business with the City of Baltimore to provide health insurance to certify, in advance of any bid submissions, that they will provide contraceptive coverage. The new prequalification certifications include a commitment to provide coverage for “any drug, device, or product approved by the Food and Drug Administration (FDA) as a contraceptive method and used by covered individual for the purpose of contraception” or prevention of sexually transmitted diseases without cost-sharing. The certification would include an assurance to provide contraceptive counseling and follow-up services with no cost-sharing. The bill includes cost-sharing exceptions when a plan has a qualified high-deductible health plan with a health savings account or if there are options for the therapeutically-equivalent without cost-sharing, and no cost-sharing is provided for a specific product upon the determination of the covered individual’s provider.

Additionally, the proposal sets certain standards for carriers providing health services to City employees; establishes processing requirements; and includes other directives for conforming and correcting related provisions. The legislation would take effect on the 30th day after the date it is enacted.

DHR’s Recommendation

The Department of Human Resources (DHR) reviewed the above captioned bill. For the reasons stated below, DHR **opposes** the bill.

Comments and Analysis

DHR recognizes the sponsor’s commitment to affordable health care and reproductive health issues. However, the City offers a strong benefits package that aligns with federal requirements and includes generous coverage of contraception. Currently, the City health plans (self-funded and fully-insured) administered by CareFirst, Aetna and Kaiser, cover ***all*** Food and Drug Administration approved contraceptive methods, sterilization procedures, patient education, and counseling for all women with reproductive capacity with no cost sharing. All the healthcare expenditures are approved by the Board of Estimates.

Moreover, the Affordable Care Act (“ACA”) already requires all Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient

education and counseling for all women with reproductive capacity be covered with no cost sharing. While DHR defers to the Law Department with respect to the legal implications of the proposed legislation, the ACA would undoubtedly supersede any local ordinance.

Additionally, an ordinance requiring prequalification on the basis of certain mandatory coverages leaves little room to develop future solicitations based on relevant market considerations and industry best practices. Assuming no major changes to the ACA, the coverages identified in the legislation can be achieved through the current procurement process employed by the City.

The City of Baltimore pays 100% of the cost for all FDA approved generic contraceptive drugs on the Preventive Drug Formulary. If a generic drug is medically inappropriate, a member is entitled to get the brand with no cost to them. As you might surmise, branded drugs are significantly more expensive. Since the City has self-funded plans, the City promotes the generic drugs. Because the City's coverage already complies with the ACA in that it includes contraception coverage with limited cost-sharing of services that are the subject of this legislation we have expressed questions about the necessity of the bill.

For the reasons set forth above, DHR **opposes** City Council Bill 20-0613. We defer to the Law Department regarding the legal sufficiency.