

FY2024 NDAA: Reproductive Health Care Provisions

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Background

The Department of Defense (DOD) administers a health entitlement (under [Chapter 55 of Title 10, U.S. Code](#)) through the [Military Health System](#) (MHS). The MHS offers health benefits and services through its TRICARE program to approximately [9.6 million beneficiaries](#) composed of servicemembers, military retirees, and dependents. Congress often specifies certain TRICARE coverage parameters (e.g., how health care services may be delivered, and cost-sharing requirements) through the National Defense Authorization Act (NDAA).

During ongoing deliberations on an FY2024 NDAA, Congress has expressed interest in TRICARE coverage policies for reproductive health care services (see CRS Insight IN12210, *FY2024 NDAA: Status of Legislative Activity*). TRICARE currently covers

- [reproductive health screening and preventive services](#),
- [contraceptive services](#) (i.e., [birth control](#)), and
- [infertility services](#) (e.g., [diagnostic services](#) for [assisted reproductive technologies](#) or ART).

Table 1 lists proposed and enacted reproductive health care-related provisions included in the House-passed (H.R. 2670) Senate-passed (S. 2226), and enacted (P.L. 118-31) versions of the FY2024 NDAA.

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Table I. FY2024 NDAA Selected Legislative Proposals

House-passed H.R. 2670	Senate-passed S. 2226	Enacted Legislation (P.L. 118-31)
<p>Section 707 would have temporarily prohibited DOD from requiring and collecting certain TRICARE cost shares for prescription contraceptives; contraceptive services, education, or counseling, and “any method of contraception approved, granted, or cleared by the Food and Drug Administration” offered under TRICARE Prime and TRICARE Select for certain members of the uniformed services their dependent family members. The temporary prohibition would have been in effect for a one-year period starting 30 days after enactment.</p>	<p>No similar provision.</p>	<p>Not adopted.</p>
<p>Section 711 would have required the Secretary of Defense to establish a one-year pilot program that provides reimbursement for gamete cryopreservation services for certain active duty servicemembers. The pilot program would have provided reimbursement for no more than 200 active duty servicemembers who are awaiting or have received orders to certain hazardous duty locations, would be geographically separated from their spouse or partner, and have been approved to participate in the program.</p>	<p>Section 726 would have required the Secretary of Defense to conduct a study on family planning in the military, including trends of servicemembers who leave the Armed Forces for family planning reasons, the availability of gamete cryopreservation services and its effect on retention, and methods and cost for DOD to offer gamete cryopreservation services. The provision would have also required the Secretary of Defense to brief the House and Senate armed services committees on the results of the study not later than April 1, 2024.</p>	<p>Not adopted.</p>
<p>Section 716 would have repealed the October 20, 2022, DOD memorandum on “Ensuring Access to Reproductive Health Care” and prohibit DOD from using funds to implement the memorandum or potential successor memorandum. The provision would have also amended 10 U.S.C. § 1093 to prohibit the Secretary of Defense from paying for or reimbursing fees or expenses for DOD health care providers to obtain a health care license in a state for the purpose of providing abortion services.</p>	<p>No similar provision.</p>	<p>Not adopted.</p>
<p>No similar provision.</p>	<p>Section 703 would have amended 10 U.S.C. §§ 1074d, 1077, and 1086 to require TRICARE coverage of certain assisted reproductive technologies, including intrauterine insemination, for active duty servicemembers and their dependent family members.</p>	<p>Not adopted.</p>

Source: CRS analysis of legislation on Congress.gov.

Discussion

The MHS offers care to approximately 4.7 million female beneficiaries, including 1.6 million women of reproductive age (15–45). Generally, active duty servicemembers incur no out-of-pocket cost for TRICARE-covered reproductive health services. Other beneficiaries may be subject to cost-sharing requirements based on their TRICARE health plan, [beneficiary category](#), and type of medical service received. Since 2021, Congress has considered [legislation](#) that would change how TRICARE covers certain reproductive health services. Some [organizations](#) have supported the elimination of existing TRICARE cost-sharing requirements for certain reproductive health services, while [others have advocated](#) for expanded TRICARE coverage of ART. [Other organizations](#) have expressed concerns about broader federal “costs and side effects” to promoting reproductive health and “widespread contraceptive use.”

For the FY2024 NDAA, Congress considered, but did not adopt, provisions that would have modified the availability or cost-sharing requirements for reproductive health services.

Contraceptive Services

DOD offers contraceptive services as part of its [family planning](#) benefit in accordance with the FY2016 NDAA (P.L. 114-92 §718) and [U.S. Centers for Disease Control and Prevention recommendations for contraceptive use](#).

House Section 707 would have established a one-year prohibition on cost shares for TRICARE-covered contraceptive services for certain beneficiaries. The provision would have required the Secretary of Defense to temporarily prohibit DOD from requiring or collecting certain TRICARE cost shares for contraceptive services, education, or counseling; and “any method of contraception approved, granted, or cleared by the Food and Drug Administration” offered under [TRICARE Prime](#) and [TRICARE Select](#) for all beneficiaries except members of the Coast Guard and their dependents. The provision would have also temporarily prohibited DOD from requiring or collecting cost shares for prescription contraceptives for all beneficiaries except servicemembers and dependents of the Coast Guard, National Oceanic and Atmospheric Administration Commissioned Officer Corps, Commissioned Corps of the U.S. Public Health Service.

Infertility Services

DOD offers certain [infertility services](#) as part of its [family planning](#) benefit. Federal regulation ([32 C.F.R. §199.4\(g\)\(34\)](#)) prohibits DOD from paying for other types of infertility services (i.e., ART), except for seriously ill or injured active duty servicemembers and their spouses diagnosed with infertility. Senate Section 703 would have amended [10 U.S.C. §§1074d, 1077, and 1086](#) to require TRICARE coverage of certain ART (e.g., [intrauterine insemination](#)) for all active duty servicemembers and their dependents.

Senate Section 726 would have required the Secretary of Defense to conduct a study on family planning in the military, including an analysis of servicemembers who leave the military for family planning reasons, the availability of [gamete cryopreservation](#) services and its effect on retention, and methods and cost for DOD to offer these services. House Section 711 would have required the Secretary of Defense to establish a one-year pilot program to provide reimbursement to no more than 200 active duty servicemembers for gamete cryopreservation services.

While these provisions were not enacted, the [conferees directed](#) the Secretary of Defense to conduct a study on the “feasibility and advisability of providing reimbursement to servicemembers for expenses incurred in the testing, cryopreservation, shipping, and storage of gametes in a private storage facility

deemed appropriate by the Secretary.” The Secretary is also required to brief the Armed Services committees on the study no later than April 1, 2024.

Abortion-related Services

Statute (10 U.S.C. §1093) prohibits DOD from directly providing or paying for abortions, “except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.” DOD may provide [medically necessary care and services](#) when related to a *covered abortion*. On October 20, 2022, the Secretary of Defense [issued a memorandum](#) directing actions to ensure that servicemembers and their families “can access reproductive health care and [DOD] health care providers can operate effectively.” The memo directed the department to establish [travel and transportation allowances](#) for servicemembers and their dependents to obtain non-covered reproductive health care that is unavailable in the “local area of a Service member’s permanent duty station,” and establish a reimbursement program to assist a DOD health care provider with obtaining a professional license in another state “in order to support the performance of their official duties.”

House Section 716 would have repealed the October 20, 2022, DOD memorandum and prohibit DOD from using funds to implement the memorandum or a potential successor memorandum. The provision would have also amended 10 U.S.C. §1093 to prohibit the Secretary of Defense from paying for or reimbursing fees or expenses for DOD health care providers to obtain a health care license in a state for the purpose of providing abortion services.

For more on TRICARE coverage of reproductive health services, see

- CRS Report R46785, *Federal Support for Reproductive Health Services: Frequently Asked Questions*;
- CRS In Focus IF11504, *Infertility in the Military*;
- CRS In Focus IF11109, *Defense Health Primer: Selected Contraceptive Services*; and
- CRS Insight IN11960, *FY2023 NDAA: Military Abortion Policies*.

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