

JAN 23 2014

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# A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that infertility is a  
2 disease of the reproductive system that impairs and  
3 substantially limits an individual's major life activity of  
4 reproduction. In the United States, infertility affects  
5 approximately seven million women and their partners, and  
6 approximately twelve per cent of women of childbearing age have  
7 used an infertility service. Since 1978, in vitro fertilization  
8 has provided a necessary solution for many diagnosed with  
9 infertility who desire to have a child and be a parent.

10           The legislature further finds that since 1987, Hawaii has  
11 required insurance coverage for the treatment of infertility  
12 through in vitro fertilization. The current law only provides  
13 for a one-time benefit; applies only to the insured or insured's  
14 spouse; requires fertilization with the sperm from the patient's  
15 spouse; requires a history of infertility for at least five  
16 years; requires previous attempts at pregnancy through other  
17 applicable infertility treatments for which coverage is



1 available; and applies only to a limited number of medical  
2 conditions associated with infertility.

3 The purpose of this Act is to provide in vitro  
4 fertilization insurance coverage equality for women who are  
5 diagnosed with infertility by requiring non-discriminatory  
6 coverage and ensuring quality of care in the diagnosis and  
7 treatment of infertility. It is the intent of the legislature  
8 to exempt religious institutions and organizations that believe  
9 the covered procedures violate their religious and moral  
10 teachings and beliefs.

11 SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,  
12 is amended to read as follows:

13 **"§431:10A-116.5 In vitro fertilization procedure coverage.**

14 (a) All individual and group accident and health or sickness  
15 insurance policies which provide pregnancy-related benefits  
16 shall include in addition to any other benefits for treating  
17 infertility, a [~~one-time only~~] lifetime benefit of three in  
18 vitro fertilization cycles or a live birth for all outpatient  
19 expenses arising from in vitro fertilization procedures  
20 performed on the insured or the insured's dependent [~~spouse~~];  
21 provided that:



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- 1 (1) Benefits under this section shall be provided to the  
2 same extent as the benefits provided for other  
3 pregnancy-related benefits;
- 4 (2) The patient is the insured or covered dependent of the  
5 insured;
- 6 ~~[(3) The patient's oocytes are fertilized with the  
7 patient's spouse's sperm;~~
- 8 ~~(4) The:]~~
- 9 (3) (A) ~~[Patient and the patient's spouse have]~~ The  
10 patient has a history of infertility of [at least  
11 five years' duration; or] one year if thirty-five  
12 years or younger or six months if thirty-six  
13 years or older; and
- 14 (B) Infertility is associated with one or more of the  
15 following medical conditions:
- 16 (i) Endometriosis;
- 17 (ii) ~~[Exposure in utero to diethylstilbestrol,~~  
18 ~~commonly known as DES;]~~ Uterine Factor;
- 19 (iii) ~~[Blockage of, or surgical removal of, one or~~  
20 ~~both fallopian tubes (lateral or bilateral~~  
21 ~~salpingectomy); or]~~ Tubal factor;



1 (iv) [~~Abnormal male factors contributing to the~~  
2 ~~infertility;~~] Male factor;

3 (v) Ovulatory dysfunction; or

4 (vi) Diminished ovarian reserve;

5 [~~5~~] (4) The patient has been unable to attain a  
6 successful pregnancy through other applicable  
7 infertility treatments for which coverage [~~is~~] shall  
8 be available under the insurance contract[+], unless  
9 the individual's physician determines that those  
10 treatments are likely to be unsuccessful; and

11 [~~6~~] (5) The in vitro fertilization procedures are  
12 performed at medical facilities that conform to the  
13 American College of Obstetricians and Gynecologists  
14 guidelines for in vitro fertilization clinics or to  
15 the American Society for Reproductive Medicine minimal  
16 standards for programs of in vitro fertilization.

17 (b) For the purposes of this section, the term [~~"spouse"~~  
18 ~~means a person who is lawfully married to the patient under the~~  
19 ~~laws of the State.~~] "infertility" means a disease, defined by  
20 the failure to achieve a successful pregnancy after twelve  
21 months or more of appropriate, timed unprotected intercourse or



1 therapeutic donor insemination for women thirty-five years or  
2 younger or six months for women over thirty-five years.

3 (c) The requirements of this section shall apply to all  
4 new policies delivered or issued for delivery in this State  
5 after June 26, 1987."

6 SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§432:1-604 In vitro fertilization procedure coverage.**

9 (a) All individual and group hospital or medical service plan  
10 contracts which provide pregnancy-related benefits shall include  
11 in addition to any other benefits for treating infertility, a  
12 [one-time-only] lifetime benefit of three in vitro fertilization  
13 cycles or a live birth for all outpatient expenses arising from  
14 in vitro fertilization procedures performed on the subscriber or  
15 member or the subscriber's or member's dependent [~~spouse~~];  
16 provided that:

17 (1) Benefits under this section shall be provided to the  
18 same extent as the benefits provided for other  
19 pregnancy-related benefits;

20 (2) The patient is a subscriber or member or covered  
21 dependent of the subscriber or member;



- 1       ~~[(3) The patient's oocytes are fertilized with the~~  
2       ~~patient's spouse's sperm;~~
- 3       ~~(4) The+]~~
- 4       (3) (A) [~~Patient and the patient's spouse have~~] The  
5       patient has a history of infertility of [at least  
6       ~~five years' duration; or] one year if thirty-five  
7       years or younger or six months if thirty-six  
8       years or older; and~~
- 9       (B) Infertility is associated with one or more of the  
10       following medical conditions:
- 11       (i) Endometriosis;
- 12       (ii) [~~Exposure in utero to diethylstilbestrol,~~  
13       ~~commonly known as DES;~~] Uterine factor;
- 14       (iii) [~~Blockage of, or surgical removal of, one or~~  
15       ~~both fallopian tubes (lateral or bilateral~~  
16       ~~salpingectomy); or] Tubal factor;~~
- 17       (iv) [~~Abnormal male factors contributing to the~~  
18       ~~infertility;~~] Male factor;
- 19       (v) Ovulatory dysfunction; or
- 20       (vi) Diminished ovarian reserve;
- 21       ~~[(5)]~~ (4) The patient has been unable to attain a  
22       successful pregnancy through other applicable



1           infertility treatments for which coverage [~~is~~] shall  
2           be available under the contract[+], unless the  
3           individual's physician determines that those  
4           treatments are likely to be unsuccessful; and

5       [~~(6)~~] (5) The in vitro fertilization procedures are  
6       performed at medical facilities that conform to the  
7       American College of Obstetricians and Gynecologists  
8       guidelines for in vitro fertilization clinics or to  
9       the American Society for Reproductive Medicine minimal  
10      standards for programs of in vitro fertilization.

11           (b) For the purposes of this section, the term [~~"spouse"~~  
12 ~~means a person who is lawfully married to the patient under the~~  
13 ~~laws of the State.~~] "infertility" means a disease, defined by  
14 the failure to achieve a successful pregnancy after twelve  
15 months or more of appropriate, timed unprotected intercourse or  
16 therapeutic donor insemination for women thirty-five years or  
17 younger or six months for women over thirty-five years.

18           (c) The requirements of this section shall apply to all  
19 hospital or medical service plan contracts delivered or issued  
20 for delivery in this State after June 26, 1987."

21           SECTION 4. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2014.

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INTRODUCED BY: 





# S.B. NO. 2909

**Report Title:**

In Vitro Fertilization Procedure Coverage; Infertility  
Disability

**Description:**

Provides insurance coverage equality for women who are diagnosed with infertility by making available to them expanded treatment options, ensuring adequate and affordable health care services.

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