

# SCR 35

Measure Title: REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE INFERTILITY PROCEDURE COVERAGE.

Report Title: Mandatory Infertility Procedure Coverage

Description:

Companion:

Package: None

Current Referral: CPN, WAM

Introducer(s): SHIMABUKURO



NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
www.hawaii.gov/dcca

KEALI'I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Friday, March 21, 2014  
9:30 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 35 – REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE INFERTILITY PROCEDURE COVERAGE.**

TO THE HONORABLE ROSALYN H. BAKER, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department takes no position on this resolution, and submits the following comments.

The purpose of this resolution is to request that the Auditor conduct an impact assessment report of mandating infertility procedure coverage for all individual and group accident and health or sickness insurance policies that provide pregnancy-related benefits.

Senate Bill No. 2909 and House Bill No. 2355, H.D. 1, provide in-vitro fertilization insurance coverage equality for women who are diagnosed with infertility by requiring non-discriminatory coverage. These bills, however, limit lifetime benefits for treating infertility to three in vitro fertilization cycles or live birth. Existing law provides for a one-time benefit.

We thank the Committee for the opportunity to present testimony on this matter.

Testimony of  
John Kirimitsu  
Legal and Government Relations Consultant

Before:  
Senate Committee on Commerce and Consumer Protection  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair

March 21, 2014  
9:30 am  
Conference Room 229

**SCR 35      REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND  
FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO  
PROVIDE INFERTILITY PROCEDURE COVERAGE.**

Chair, Vice-Chair, and committee members; thank you for this opportunity to provide testimony on this resolution requesting a study by the legislative auditor of mandating health insurance coverage for expanded infertility procedures.

**Kaiser Permanente Hawaii supports this resolution.**

We support asking the legislative auditor to study the social and financial impacts of this proposed expansion of in vitro fertilization benefits. We offer for your consideration a few additional clauses that may make the auditor's study more useful.

BE IT FURTHER RESOLVED that the Auditor is requested to include in the impact assessment report a survey of other states in the U.S. which have implemented a mandate for expanded infertility in vitro fertilization procedures to examine what the social and financial impact has been in these states; and

BE IT FURTHER RESOLVED that the Auditor is requested to research if any expansion of infertility in vitro fertilization procedures constitutes benefits that are in excess of the essential health benefits, thus requiring the state to defray such costs; and

BE IT FURTHER RESOLVED that the Auditor is requested to research what is being used as the standard medical definition of “reproductive age” that is best suited for in vitro fertilization procedures, and examine the success rates for the different age groups to determine coverage benefit limitations for this covered benefit. This research should examine whether different standards of infertility treatments are applied to different age groups in need of infertility treatments; and

BE IT FURTHER RESOLVED that the Auditor is requested to examine current medically necessary standards of care used to determine what types of infertility treatment options are available, at a more cost effective savings than in vitro fertilization, which may be best suited for individuals in need of infertility procedures. An examination of the existing technology in in infertility procedures and possible future technology should be examined.

We think this information is important to know when discussing the expansion of infertility services and benefits and whether the state is required to pay for these benefits, if mandated, if deemed in excess of the essential health benefits.

Thank you for your consideration.



## HAWAII CATHOLIC CONFERENCE

6301 Pali Highway  
Kaneohe, HI 96744-5224

Submitted: Online  
Hearing on: Friday, March 21, 2014 @ 9:30 a.m.  
Conference Room: 229

**DATE:** March 18, 2014  
**TO:** Senate Committee on Commerce & Consumer Protection  
Sen. Rosalyn Baker, Chair  
Sen. Brian Taniguchi, Vice Chair  
**From:** Walter Yoshimitsu, Executive Director  
**Re:** Comments on SCR 35 Requesting the Auditor to Assess the Social and Financial Impacts of Requiring Health Insurers to Provide Infertility Procedure Coverage

Honorable Chair and members of the Senate Committee on Consumer Protection & Finance, I am Walter Yoshimitsu, representing the Hawaii Catholic Conference. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii, which under the leadership of Bishop Larry Silva, represents Roman Catholics in Hawaii. **We provide these written comments specifically asking that any assessment done include a strong exemption for religious institutions.**

As problems of infertility and sterility become more evident, people turn to medical science for solutions. Modern science has developed various techniques such as artificial insemination and in vitro fertilization. In addition, there are also ancillary techniques designed to store semen, ova, and embryos. The fact that these techniques have been developed and have a certain success rate does not make them morally acceptable. The ends do not justify the means. In this case, the ends are very noble: helping an infertile couple to become parents. The Roman Catholic Church, however, cannot accept the means.

The "Catechism of the Catholic Church" addresses those cases where the techniques employed to bring about the conception involve exclusively the married couple's semen, ovum, and womb. Such techniques are "less reprehensible, yet remain morally unacceptable." They dissociate procreation from the sexual act. The act which brings the child into existence is no longer an act by which two persons (husband and wife) give themselves to one another, but one that "entrusts the life and identity of the embryo into the power of the doctors and biologists, and establishes the domination of technology over the origin and destiny of the human person. Such a relationship of domination is in itself contrary to the dignity and equality that must be common to parents and children" (#2377).

*In vitro* fertilization puts a great number of embryos at risk, or simply destroys them. These early stage abortions are never morally acceptable. Unfortunately, many people of good will have no notion of what is at stake and simply focus on the baby that results from *in vitro* fertilization, not adverting to the fact that the procedure involves creating many embryos, most of which will never be born because they will be frozen or discarded.

The Church's teaching on the respect that must be accorded to human embryos has been constant and very clear. The Second Vatican Council reaffirms this teaching: "Life once conceived must be protected with the utmost care." Likewise, the more recent "Charter of the Rights of the Family," published by the Holy See reminds us that: "Human life must be absolutely respected and protected from the moment of conception." **We would be strongly against any requirements that would ultimately force the Catholic Church to provide services which are contrary to the tenets of our faith.** Mahalo for the opportunity to provide these written comments.

TO: COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair

SUBJECT: **SCR 35- REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE INFERTILITY PROCEDURE COVERAGE.**

Hearing: Friday, March 21, 2014  
Time: 9:30 a.m.  
Place: Conference Room 229

FROM: Pi'ilani Smith

This testimony is in **strong support of SCR 35**. As a woman diagnosed with infertility and denied IVF coverage, I understand the discrimination, victimization and unjust treatment this antiquated Hawaii Mandated IVF Insurance benefit of 27 years is. The audit will assist the legislature in determining what is myth and what is fact, what is unjust enrichment for the health plans as it relates to the financial impact based on the law and not based on the health plan's bottom line. Any changes to the mandated benefits will be opposed by health plans, even if the change is to bring the IVF benefit coverage law into compliance and end discriminatory practices. Health plan testimony received thus far as it relates to the IVF coverage legislation has been in support of an audit. This audit is long overdue.

1. Health benefit of a medically diagnosed condition of infertility based on marital status.
  - a. **Social Impact:**
    - i. Denial of IVF medical benefit to women diagnosed with infertility who are single, unmarried, widowed, divorced, and partnered.
    - ii. Denial of IVF medical benefit and treatment that infringes on a women's right of religious freedom – not to be married.
    - iii. Creation of two classes of health plan members diagnosed with infertility where all members pay a premium, yet one class of members is discriminated against based on marital status and thus denied coverage, while the other class receives the benefit. And further where the one class of members denied and discriminated against must pay out of pocket for IVF treatment, thus this discriminated class of members pays twice on treatment.
    - iv. Limiting categories of infertility required, thus affording the few categories of infertility treatment verses broad categories including most forms of infertility as recognized under the Center for Disease Control (CDC).
    - v. Violations of the Americans with Disabilities Act.

- vi. Non Compliance with ACA Title 45 of the Code of Federal Regulations Part 156, 445 CFR §156.200(e) of the Federal Register Vol. 78 No. 37 (Feb. 25, 2013)

**b. Financial Impacts:**

- i. Health insurance coverage fraud on the part of the health insurance companies, by collecting on member's premiums for 27 years while denying IVF health benefit coverage to one class of members.
- ii. Wrongful accrual of premiums while denying equal access to treatment.
- iii. Because the IVF coverage benefit is part of the Hawaii's essential health benefit plan, and thus deemed an essential health benefit for the State, there is **no state liability**, cost to the state, for offering the IVF coverage under the Affordable Care Act.