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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.

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

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

11 (a) All individual and group accident and health or sickness  
12 insurance policies which provide pregnancy-related benefits  
13 shall include in addition to any other benefits for treating  
14 infertility, a one-time only benefit for all outpatient expenses  
15 arising from in vitro fertilization procedures performed on the  
16 insured or the insured's dependent [~~spouse~~]; 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 the insured or covered dependent of the  
21 insured;



- 1           (3) The patient's oocytes are fertilized [~~with the~~  
2           ~~patient's spouse's sperm~~];
- 3           (4) The:
  - 4           (A) Patient [~~and the patient's spouse have~~] has a  
5           history of infertility of at least [~~five years~~  
6           ~~duration~~]; twelve months; or
  - 7           (B) Infertility is associated with one or more of the  
8           following medical conditions:
    - 9           (i) Endometriosis;
    - 10           (ii) Exposure in utero to diethylstilbestrol,  
11           commonly known as DES;
    - 12           (iii) Blockage of, or surgical removal of, one or  
13           both fallopian tubes (lateral or bilateral  
14           salpingectomy); or
    - 15           (iv) Abnormal male factors contributing to the  
16           infertility;
- 17           (5) The patient has been unable to attain a successful  
18           pregnancy through other applicable infertility  
19           treatments for which coverage is available under the  
20           insurance contract; and



1 (6) The in vitro fertilization procedures are performed at  
2 medical facilities that conform to the American  
3 College of Obstetricians and Gynecologists guidelines  
4 for in vitro fertilization clinics or to the American  
5 Society for Reproductive Medicine minimal standards  
6 for programs of in vitro fertilization.

7 (b) For the purposes of this section, the term ["~~spouse~~"  
8 ~~means a person who is lawfully married to the patient under the~~  
9 ~~laws of the State.~~] "infertility" means a disease, defined by  
10 the failure to achieve a successful pregnancy after at least  
11 twelve months of appropriate, timed unprotected intercourse or  
12 therapeutic donor insemination; provided that infertility shall  
13 not include voluntary sterilization or natural menopause.

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

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

19 **"§432:1-604 In vitro fertilization procedure coverage.**

20 (a) All individual and group hospital or medical service plan  
21 contracts which provide pregnancy-related benefits shall include



1 in addition to any other benefits for treating infertility, a  
2 one-time only benefit for all outpatient expenses arising from  
3 in vitro fertilization procedures performed on the subscriber or  
4 member or the subscriber's or member's dependent [~~spouse~~];  
5 provided that:

6 (1) Benefits under this section shall be provided to the  
7 same extent as the benefits provided for other  
8 pregnancy-related benefits;

9 (2) The patient is a subscriber or member or covered  
10 dependent of the subscriber or member;

11 (3) The patient's oocytes are fertilized ~~{with the~~  
12 ~~patient's spouse's sperm}~~;

13 (4) The:

14 (A) Patient ~~[and the patient's spouse have]~~ has a  
15 history of infertility of at least ~~[five years'~~  
16 ~~duration,]~~ twelve months; or

17 (B) Infertility is associated with one or more of the  
18 following medical conditions:

19 (i) Endometriosis;

20 (ii) Exposure in utero to diethylstilbestrol,  
21 commonly known as DES;



1 (iii) Blockage of, or surgical removal of, one or  
2 both fallopian tubes (lateral or bilateral  
3 salpingectomy); or

4 (iv) Abnormal male factors contributing to the  
5 infertility;

6 (5) The patient has been unable to attain a successful  
7 pregnancy through other applicable infertility  
8 treatments for which coverage is available under the  
9 contract; and

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

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



1 therapeutic donor insemination; provided that the infertility  
2 shall not include voluntary sterilization or natural menopause.

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

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2112.



**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.  
(SB768 SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

