

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO FAMILY PLANNING.

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

1       SECTION 1. The legislature finds that Hawai'i has long been  
2 a leader in advancing reproductive rights and advocating for  
3 access to affordable and comprehensive sexual and reproductive  
4 health care without discrimination. However, gaps in coverage  
5 and care still exist, and Hawai'i benefits and protections have  
6 not included equitable coverage for family planning and  
7 infertility treatments. According to the Centers for Disease  
8 Control and Prevention (CDC), about ten per cent of women (6.1  
9 million) in the United States ages 15 through 44 have difficulty  
10 getting pregnant or staying pregnant.

11       In the United States, only seventeen states have passed  
12 laws requiring insurers to either cover or offer coverage for  
13 infertility diagnosis and treatment. These states include  
14 Arkansas, California, Connecticut, Delaware, Hawai'i, Illinois,  
15 Louisiana, Maryland, Massachusetts, Montana, New Hampshire, New  
16 Jersey, New York, Ohio, Rhode Island, Texas, and West Virginia.  
17 In Hawai'i, pregnancy related coverage is included in accident



1 and health insurance policies as a one-time only benefit for  
2 outpatient expenses arising from in vitro fertilization  
3 procedures. Unfortunately, the procedure is not covered in the  
4 first or second year of infertility but rather in the fifth year  
5 of infertility, or the patient must provide documentation that  
6 infertility is a result of a specified medical condition.

7 The legislature further finds that access to sexual and  
8 reproductive health care is critical for the health and  
9 well-being of all families in Hawai'i, particularly by helping  
10 people remain healthy and plan their families in a way that is  
11 appropriate for them. Ensuring that Hawai'i's people receive  
12 comprehensive, quality, and cultural-competent sexual and  
13 reproductive health care is a prudent economic policy that will  
14 improve the overall health of the State's communities.

15 Accordingly, the purpose of this Act is to ensure  
16 comprehensive quality coverage for sexual reproductive health  
17 care services, including family planning and infertility  
18 treatments, for all people in Hawai'i.

19 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
20 amended by adding a new section to article 10A to be  
21 appropriately designated and to read as follows:



1       "§431:10A-       Oocyte cryopreservation procedure coverage.

2       (a) All individual and group accident and health or sickness  
3       insurance policies that provide pregnancy-related benefits shall  
4       include, in addition to any other benefits for treating and  
5       diagnosing infertility, benefits for all outpatient expenses  
6       arising from cryopreservation procedures performed on the  
7       insured, including those who are unmarried women, or the  
8       insured's dependent spouse; provided that:

9           (1) Benefits under this section shall be provided to the  
10           same extent as the benefits provided for other  
11           pregnancy-related benefits;

12           (2) The patient is the insured or covered dependent of the  
13           insured;

14           (3) The:

15           (A) Patient and the patient's spouse have a history  
16           of infertility; 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        (4) 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        insurance contract;

10       (5) The oocyte cryopreservation procedures are performed  
11       at medical facilities that conform to the American  
12       College of Obstetricians and Gynecologists guidelines  
13       for oocyte cryopreservation or the American Society  
14       for Reproductive Medicine minimal standards for  
15       programs of oocyte cryopreservation;

16       (6) Coverage is limited to four completed oocyte  
17       retrievals, except if a live birth follows a completed  
18       oocyte retrieval, two more completed oocyte retrievals  
19       are covered; and

20       (7) The maximum lifetime benefit does not exceed \$100,000.

21       (b) For the purposes of this section:



1       "Infertility" means the condition of an individual who is  
2       unable to conceive or produce conception during a period of one  
3       year if the female is age thirty-five or younger or during a  
4       period of six months if the female is over the age of thirty-  
5       five.

6       "Spouse" means a person who is lawfully married to the  
7       patient under the laws of the State.

8       (c) The requirements of this section shall apply to all  
9       new policies delivered or issued for delivery in this State  
10       after December 31, 2022."

11       SECTION 3. Chapter 432, Hawaii Revised Statutes, is  
12       amended by adding a new section to article 1 to be appropriately  
13       designated and to read as follows:

14       "§432:1- Oocyte cryopreservation procedure coverage.

15       (a) All individual and group hospital or medical service plan  
16       contracts that provide pregnancy-related benefits shall include,  
17       in addition to any other benefits for treating and diagnosing  
18       infertility, benefits for all outpatient expenses arising from  
19       cryopreservation procedures performed on the insured, including  
20       those who are unmarried women, or the insured's dependent  
21       spouse; provided that:



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:

7        (A) Patient and the patient's spouse have a history  
8        of infertility; or

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;

14       (iii) Blockage of, or surgical removal of, one or  
15       both fallopian tubes (lateral or bilateral  
16       salpingectomy); or

17       (iv) Abnormal male factors contributing to the  
18       infertility;

19       (4) The patient has been unable to attain a successful  
20       pregnancy through other applicable infertility



1 treatments for which coverage is available under the  
2 insurance contract;

3 (5) The oocyte cryopreservation procedures are performed  
4 at medical facilities that conform to the American  
5 College of Obstetricians and Gynecologists guidelines  
6 for oocyte cryopreservation or the American Society  
7 for Reproductive Medicine minimal standards for  
8 programs of oocyte cryopreservation;

9 (6) Coverage is limited to four completed oocyte  
10 retrievals, except if a live birth follows a completed  
11 oocyte retrieval, two more completed oocyte retrievals  
12 are covered; and

13 (7) The maximum lifetime benefit does not exceed \$100,000.

14 (b) For the purposes of this section:

15 "Infertility" means the condition of an individual who is  
16 unable to conceive or produce conception during a period of one  
17 year if the female is age thirty-five or younger or during a  
18 period of six months if the female is over the age of thirty-  
19 five.

20 "Spouse" means a person who is lawfully married to the  
21 patient under the laws of the State.



1        (c) The requirements of this section shall apply to all  
2        hospital or medical service plan contracts delivered or issued  
3        for delivery in this State after December 31, 2022."

4        SECTION 4. Section 431:10A-116.5, Hawaii Revised Statutes,  
5        is amended by amending subsection (a) to read as follows:

6        "(a) All individual and group accident and health or  
7        sickness insurance policies ~~[which]~~ that provide pregnancy-  
8        related benefits shall include in addition to any other benefits  
9        for treating and diagnosing infertility, ~~[a one-time-only~~  
10       ~~benefit]~~ benefits for all outpatient expenses arising from in  
11       vitro fertilization procedures performed on the insured,  
12       including those who are unmarried women, or the insured's  
13       dependent spouse; provided that:

14        (1) Benefits under this section shall be provided to the  
15        same extent as the benefits provided for other  
16        pregnancy-related benefits;

17        (2) The patient is the insured or covered dependent of the  
18        insured;

19        (3) The patient's oocytes are fertilized with the  
20        patient's spouse's sperm;

21        (4) The:





1 (A) Patient and the patient's spouse have a history  
2 of infertility of at least [~~five~~] two years'  
3 duration; or

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

6 (i) Endometriosis;

7 (ii) Exposure in utero to diethylstilbestrol,  
8 commonly known as DES;

9 (iii) Blockage of, or surgical removal of, one or  
10 both fallopian tubes (lateral or bilateral  
11 salpingectomy); or

12 (iv) Abnormal male factors contributing to the  
13 infertility;

14 (5) The patient has been unable to attain a successful  
15 pregnancy through other applicable infertility  
16 treatments for which coverage is available under the  
17 insurance contract; and

18 (6) The in vitro fertilization procedures are performed at  
19 medical facilities that conform to the American  
20 College of Obstetricians and Gynecologists guidelines  
21 for in vitro fertilization clinics or [~~to~~] the



1 American Society for Reproductive Medicine minimal

2 standards for programs of in vitro fertilization."

3 SECTION 5. Section 432:1-604, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) All individual and group hospital or medical service  
6 plan contracts [~~which~~] that provide pregnancy-related benefits  
7 shall include in addition to any other benefits for treating and  
8 diagnosing infertility, [~~a one-time-only benefit~~] benefits for  
9 all outpatient expenses arising from in vitro fertilization  
10 procedures performed on the subscriber or member, including  
11 those who are unmarried women, or the subscriber's or member's  
12 dependent spouse; provided that:

13 (1) Benefits under this section shall be provided to the  
14 same extent as the benefits provided for other  
15 pregnancy-related benefits;

16 (2) The patient is a subscriber or member or covered  
17 dependent of the subscriber or member;

18 (3) The patient's oocytes are fertilized with the  
19 patient's spouse's sperm;

20 (4) The:



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



1 American Society for Reproductive Medicine minimal  
2 standards for programs of in vitro fertilization."

3 SECTION 6. Section 432D-23, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§432D-23 Required provisions and benefits.

6 Notwithstanding any provision of law to the contrary, each  
7 policy, contract, plan, or agreement issued in the State after  
8 January 1, 1995, by health maintenance organizations pursuant to  
9 this chapter, shall include benefits provided in sections  
10 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
11 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
12 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,  
13 431:10A-133, 431:10A-134, 431:10A-140, [~~and 431:10A-134,~~] and  
14 431:10A- , and chapter 431M."

15 SECTION 7. The coverage and benefits to be provided by a  
16 health maintenance organization under section 5 of this Act  
17 shall begin for all policies, contracts, plans, or agreements  
18 issued or renewed in this State by a health maintenance  
19 organization after December 31, 2022.

20 SECTION 8. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2022.

2

INTRODUCED BY:





# S.B. NO. 2917

**Report Title:**

Health Insurance; Oocyte Cryopreservation; In Vitro Fertilization

**Description:**

Requires oocyte cryopreservation to be covered by health insurance policies. Removes one-time benefit limitation for in vitro fertilization. Reduces the number of years of infertility before becoming eligible for in vitro fertilization from five to two years.

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

