
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 fifteen through forty-four
10 have difficulty 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 is required to provide
6 documentation that infertility is a result of a specified
7 medical condition.

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

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



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

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

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

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

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

(3) The:

(A) Patient or the patient's spouse has a history of infertility; or

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



- 1 (i) Endometriosis;
- 2 (ii) Exposure in utero to diethylstilbestrol,
- 3 commonly known as DES;
- 4 (iii) Blockage of, or surgical removal of, one or
- 5 both fallopian tubes (lateral or bilateral
- 6 salpingectomy); or
- 7 (iv) Abnormal male factors contributing to the
- 8 infertility;
- 9 (4) The patient has been unable to attain a successful
- 10 pregnancy through other applicable infertility
- 11 treatments for which coverage is available under the
- 12 insurance contract;
- 13 (5) The oocyte cryopreservation procedures are performed
- 14 at medical facilities that conform to the American
- 15 College of Obstetricians and Gynecologists guidelines
- 16 for oocyte cryopreservation or the American Society
- 17 for Reproductive Medicine minimal standards for
- 18 programs of oocyte cryopreservation;
- 19 (6) Coverage is limited to four completed oocyte
- 20 retrievals; provided that, if a live birth follows a



1 completed oocyte retrieval, two more completed oocyte
2 retrievals shall be covered; and

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

4 (b) The requirements of this section shall apply to all
5 new policies delivered or issued for delivery in this State
6 after December 31, 2022.

7 (c) For the purposes of this section:

8 "Infertility" means the condition of an individual who is
9 unable to conceive or produce conception during a period of one
10 year if the female is age thirty-five or younger or during a
11 period of six months if the female is over the age of thirty-
12 five.

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

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

18 "§432:1- Oocyte cryopreservation procedure coverage.

19 (a) All individual and group hospital or medical service plan
20 contracts that provide pregnancy-related benefits shall include,
21 in addition to any other benefits for treating and diagnosing



1 infertility, benefits for all outpatient expenses arising from
2 cryopreservation procedures performed on the member, including
3 those who are unmarried women, or the member's dependent spouse;
4 provided that:

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

8 (2) The patient is the member or covered dependent of the
9 member;

10 (3) The:

11 (A) Patient or the patient's spouse has a history of
12 infertility; or

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

15 (i) Endometriosis;

16 (ii) Exposure in utero to diethylstilbestrol,
17 commonly known as DES;

18 (iii) Blockage of, or surgical removal of, one or
19 both fallopian tubes (lateral or bilateral
20 salpingectomy); or



1 (iv) Abnormal male factors contributing to the
2 infertility;

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

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

13 (6) Coverage is limited to four completed oocyte
14 retrievals; provided that, if a live birth follows a
15 completed oocyte retrieval, two more completed oocyte
16 retrievals shall be covered; and

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

18 (b) 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 December 31, 2022.

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

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

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



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

3 (3) The patient's oocytes [~~are fertilized with the~~
4 ~~patient's spouse's sperm,~~] or sperm of the insured or
5 of the insured's dependent spouse are used in the in
6 vitro fertilization procedures;

7 (4) The:

8 (A) Patient [~~and~~] or the patient's spouse [~~have~~] has
9 a history of infertility of at least [~~five~~] two
10 years' duration; or

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

13 (i) Endometriosis;

14 (ii) Exposure in utero to diethylstilbestrol,
15 commonly known as DES;

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

19 (iv) Abnormal male factors contributing to the
20 infertility;



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

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

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

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



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

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

(3) The patient's oocytes [~~are fertilized with the patient's spouse's sperm,~~] or sperm of the insured or of the insured's dependent spouse are used in the in vitro fertilization procedures;

(4) The:

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

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

(i) Endometriosis;

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

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



(iv) Abnormal male factors contributing to the
infertility;

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

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

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

"§432D-23 Required provisions and benefits.

Notwithstanding any provision of law to the contrary, each
policy, contract, plan, or agreement issued in the State after
January 1, 1995, by health maintenance organizations pursuant to
this chapter, shall include benefits provided in sections
431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,



1 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
2 431:10A-133, 431:10A-134, 431:10A-140, [~~and 431:10A-134,~~] and
3 431:10A- , and chapter 431M."

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

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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



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. (SD1)

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