

JAN 15 2025

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that reproductive
2 technology, such as in vitro fertilization, is critically
3 important for individuals and couples who desire to have
4 children. While the State's mandate that insurance plans
5 provide a one-time benefit for costs associated with in vitro
6 fertilization procedures, existing coverage does not extend to
7 same-sex couples, unmarried individuals, transgender persons,
8 and opposite-sex couples for whom male infertility is the
9 relevant factor. Although some insurers independently offer
10 policies that cover female couples or women without male
11 partners, these policies are not guaranteed by law. Finally,
12 opposite-sex couples for whom male infertility is the relevant
13 factor are excluded from coverage through the existing statutory
14 requirement.

15 The legislature further finds that the current inequity in
16 the treatment of individuals seeking medical fertility
17 assistance constitutes discrimination based on sex, sexual



1 orientation, and marital status. In vitro fertilization
2 procedures are expensive, costing \$12,000 to \$15,000 per cycle.
3 Same-sex couples, unmarried individuals, transgender persons,
4 and opposite-sex couples affected by male infertility must
5 unreasonably bear the full cost of the procedures while married
6 opposite-sex couples for whom female infertility is the relevant
7 factor do not bear the same burden.

8 Accordingly, the purpose of this Act is to ensure equal
9 access to in vitro fertilization for all couples, including
10 same-sex couples, transgender persons, and for individuals
11 regardless of marital status. It is further the desire of the
12 legislature that employers offering self-funded plans that fall
13 outside the scope of state regulation voluntarily adopt this
14 inclusive coverage in their policies.

15 SECTION 2. Section 431:10A-103, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "**§431:10A-103 Family coverage defined.** As used in this
18 part, family coverage means a policy that insures, originally or
19 upon subsequent amendment, an adult member of a family who shall
20 be deemed the policyholder and any two or more eligible members
21 of that family, including spouse, dependent children or any



1 children under a specified age which shall not exceed nineteen
2 years, and any other person dependent upon the policyholder.
3 Benefits under a policy shall be gender neutral, meaning any
4 benefit available to married opposite-sex couples shall also be
5 available to same-sex couples, transgender individuals, and
6 individuals regardless of marital status. Any policy that
7 includes benefits for infertility treatments and related
8 procedures shall recognize the medical necessity and unique
9 reproductive needs of same-sex couples and individuals."

10 SECTION 3. Section 431:10A-116.5, Hawaii Revised Statutes,
11 is amended by amending subsections (a) and (b) to read as
12 follows:

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



1 (1) Benefits under this section shall be gender neutral,
2 meaning any benefit available to married opposite-sex
3 couples shall also be available for same-sex couples,
4 a transgender person, and individuals regardless of
5 marital status;

6 [~~(1)~~] (2) Benefits under this section shall be provided to
7 the same extent as the benefits provided for other
8 pregnancy-related benefits;

9 [~~(2)~~] ~~The patient is the insured or covered dependent of the~~
10 ~~insured;~~]

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

15 (4) The:

16 (A) [~~Patient and the patient's spouse have~~] Insured
17 or the insured's dependent spouse has a history
18 of infertility of at least [~~five years' duration;~~
19 ~~or]~~ six months' duration or the necessity of
20 medical intervention to conceive due to
21 physiological or anatomical factors;



- 1 (B) Infertility is associated with one or more of the
2 following medical conditions:
3 (i) Endometriosis;
4 (ii) Exposure in utero to diethylstilbestrol,
5 commonly known as DES;
6 (iii) Blockage of, or surgical removal of, one or
7 both fallopian tubes (lateral or bilateral
8 salpingectomy); or
9 (iv) Abnormal male factors contributing to ~~the~~
10 infertility; or
11 (C) Insured and insured's dependent spouse are of the
12 same sex;
13 (5) The ~~[patient]~~ insured or the insured's dependent
14 spouse has been unable to attain a successful
15 pregnancy through other applicable infertility
16 treatments ~~[for which coverage is available]~~ covered
17 under the 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]~~
21 Gynecologists' guidelines for in vitro fertilization



1 clinics or ~~[to]~~ the American Society for Reproductive
2 ~~[Medicine minimal]~~ Medicine's minimum standards for
3 ~~[programs of in vitro fertilization.]~~ practices
4 offering assisted reproductive technologies.

5 Any individual or group accident and health or sickness
6 insurance policy offered by an employer covering twenty-five
7 employees or more shall include coverage for at least three in
8 vitro fertilization cycles, including all costs associated with
9 fertility preservation and gamete donation, without
10 discrimination on the basis of gender, marital status, or sexual
11 orientation.

12 (b) For the purposes of this section~~[, the term "spouse"]~~:
13 "Spouse" means a person who is lawfully married to the
14 patient under the laws of the State.

15 "Transgender person" has the same meaning as defined in
16 section 431:10A-118.3."

17 SECTION 4. Section 432:1-604, Hawaii Revised Statutes, is
18 amended by amending subsections (a) and (b) to read as follows:

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



1 infertility, a one-time only benefit for all outpatient expenses
2 arising from in vitro fertilization procedures performed on the
3 subscriber or member or the subscriber's or member's dependent
4 spouse[+] or the oocyte donor or surrogate of the subscriber or
5 member or the subscriber's or member's dependent spouse;
6 provided that:

7 (1) Benefits under this section shall be gender neutral,
8 meaning any benefit available to married opposite-sex
9 couples shall also be available for same-sex couples,
10 a transgender person, and individuals regardless of
11 marital status;

12 [~~1~~] (2) Benefits under this section shall be provided to
13 the same extent as the benefits provided for other
14 pregnancy-related benefits;

15 [~~2~~] ~~The patient is a subscriber or member or covered~~
16 ~~dependent of the subscriber or member;~~

17 (3) The [patient's] oocytes [~~are fertilized with the~~
18 ~~patient's spouse's sperm;~~] or sperm of the subscriber
19 or member or of the subscriber's or member's dependent
20 spouse are used in the in vitro fertilization
21 procedures;



1 (4) The:

2 (A) [~~Patient and the patient's spouse have]~~
3 Subscriber or member or the subscriber's or
4 member's dependent spouse has a history of
5 infertility of at least [~~five years' duration,~~
6 or] six months' duration or the necessity of
7 medical intervention to conceive due to
8 physiological or anatomical factors;

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; or

19 (C) Subscriber or member and the subscriber's or
20 member's dependent spouse are of the same sex;



1 (5) The ~~[patient]~~ subscriber or member or the subscriber's
2 or member's dependent spouse has been unable to attain
3 a successful pregnancy through other applicable
4 infertility treatments ~~[for which coverage is~~
5 ~~available]~~ covered under the contract; and

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

13 Any individual or group hospital or medical service plan
14 contract offered by an employer covering twenty-five employees
15 or more shall include coverage for at least three in vitro
16 fertilization cycles, including all costs associated with
17 fertility preservation and gamete donation, without
18 discrimination on the basis of gender, marital status, or sexual
19 orientation.

20 (b) For the purposes of this section~~[, the term "spouse"]~~:



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

3 "Transgender person" has the same meaning as defined in
4 section 431:10A-118.3."

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.

8

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'JAC', is written over a horizontal line.

S.B. NO. 23

Report Title:

Health Insurance; In Vitro Fertilization; Mandatory Insurance Coverage; Infertility; Same-Sex Couples; Unmarried Individuals; Transgender Persons; Male Infertility; Parity

Description:

Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried individuals, transgender persons, and opposite-sex couples for whom male infertility is the relevant factor. Requires the insured or the insured's dependent spouse to have a history of infertility of at least six months' duration, rather than five years. Includes need for medical intervention to conceive due to physiological or anatomical factors.

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

