

JAN 20 2017

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 reproductive
2 technologies, such as in vitro fertilization, are extremely
3 important to many who desire to have children. The legislature
4 also finds that the State's mandate that insurance plans provide
5 a one-time benefit for costs associated with in vitro
6 fertilization procedures, though admirable, excludes same-sex
7 couples, unmarried women, and male-female couples for whom male
8 infertility is the relevant factor. While some insurers
9 independently offer policies that cover female couples or women
10 without male partners, these policies are not guaranteed by law
11 and not all cover single women. No policies currently cover
12 male couples; policies typically exclude procedures involving
13 donor oocytes and surrogates that male couples require.
14 Finally, male-female couples for whom male infertility is the
15 relevant factor are excluded from the current statutory
16 requirement that the covered treatment involve sperm from the
17 male spouse.



1 The legislature finds that the current unequal treatment of
2 individuals seeking medical fertility assistance constitutes
3 discrimination on the basis of sex, sexual orientation, and
4 marital status. In vitro fertilization procedures are expensive,
5 costing \$10,000 to \$15,000 per cycle, which is approximately
6 half of the average annual disposable income in the United
7 States. Same-sex couples, unmarried women, and male-female
8 couples affected by male infertility must unreasonably bear the
9 full cost of the procedures while male-female married couples
10 for whom female infertility is the relevant factor do not bear
11 the same burden.

12 The purpose of this Act is to ensure equal access to in
13 vitro fertilization for all couples, including same-sex couples,
14 and for women regardless of their marital status.

15 SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,
16 is amended by amending subsection (a) to read as follows:

17 "(a) All individual and group accident and health or
18 sickness insurance policies which provide pregnancy-related
19 benefits shall include in addition to any other benefits for
20 treating infertility, a one-time only benefit for all outpatient
21 expenses arising from in vitro fertilization procedures



1 performed on the insured or the insured's dependent spouse[+] or
2 the oocyte donor or surrogate of the insured or of the insured's
3 dependent spouse; provided that:

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

7 ~~[-(2) The patient is the insured or covered dependent of the~~
8 ~~insured;~~

9 ~~-(3)]~~ (2) The ~~[patient's]~~ oocytes ~~[are fertilized with the~~
10 ~~patient's spouse's sperm;]~~ or sperm of the insured or
11 of the insured's spouse are used in the in vitro
12 fertilization procedures;

13 ~~[-(4)]~~ (3) The:

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

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

20 (i) Endometriosis;



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- 1 (ii) Exposure in utero to diethylstilbestrol,
- 2 commonly known as DES;
- 3 (iii) Blockage of, or surgical removal of, one or
- 4 both fallopian tubes (lateral or bilateral
- 5 salpingectomy); or
- 6 (iv) Abnormal male factors contributing to the
- 7 infertility; or
- 8 (C) Insured and insured's spouse are of the same sex;
- 9 ~~[-5-]~~ (4) The [patient] insured or the insured's spouse has
- 10 been unable to attain a successful pregnancy through
- 11 other applicable infertility treatments for which
- 12 coverage is available under the insurance contract;
- 13 and
- 14 ~~[-6-]~~ (5) The in vitro fertilization procedures are
- 15 performed at medical facilities that conform to the
- 16 American College of Obstetricians and Gynecologists
- 17 guidelines for in vitro fertilization clinics or to
- 18 the American Society for Reproductive Medicine minimal
- 19 standards for programs of in vitro fertilization."

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

1 "(a) All individual and group hospital or medical service
2 plan contracts which provide pregnancy-related benefits shall
3 include in addition to any other benefits for treating
4 infertility, a one-time only benefit for all outpatient expenses
5 arising from in vitro fertilization procedures performed on the
6 subscriber or member or the subscriber's or member's dependent
7 spouse[+] or the oocyte donor or surrogate of the subscriber or
8 member or of the subscriber or member's dependent spouse;
9 provided that:

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

13 ~~-(2) The patient is a subscriber or member or covered~~
14 ~~dependent of the subscriber or member;~~

15 ~~-(3)]~~ (2) The [patient's] oocytes [~~are fertilized with the~~
16 ~~patient's spouse's sperm;~~ or sperm of the subscriber
17 or member or of the subscriber or member's spouse are
18 used in the in vitro fertilization procedures;

19 ~~[-(4)]~~ (3) The:

20 (A) [~~Patient and the patient's spouse have]~~
21 Subscriber or member or the subscriber or



1 member's spouse has a history of infertility of
2 at least [~~five years' duration; or~~] twelve
3 months;

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; or

14 (C) Subscriber or member and the subscriber or
15 member's spouse are of the same sex;

16 [~~(5)~~] (4) The [patient] subscriber or member or the
17 subscriber or member's spouse has been unable to
18 attain a successful pregnancy through other applicable
19 infertility treatments for which coverage is available
20 under the contract; and



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Report Title:

In Vitro Fertilization; Required Insurance Coverage

Description:

Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.

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

