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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 Hawaii 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 Hawaii 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, about ten per cent of women, or six  
9 million one hundred thousand women, in the United States ages  
10 fifteen through forty-four have difficulty getting pregnant or  
11 staying pregnant.

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



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

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

17 Accordingly, the purpose of this Act is to ensure  
18 comprehensive quality coverage for sexual reproductive health  
19 care services, including family planning and infertility  
20 treatments, for all Hawaii residents.



SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part VI of 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 part VI of article 1 to be  
17          appropriately 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;



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

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

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

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

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

10 (4) The:

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

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

- 16 (i) Endometriosis;
- 17 (ii) Exposure in utero to diethylstilbestrol,  
18 commonly known as DES;
- 19 (iii) Blockage of, or surgical removal of, one or  
20 both fallopian tubes (lateral or bilateral  
21 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 ~~[to]~~ 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,



1 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126,  
2 431:10A-132, 431:10A-133, 431:10A-134, 431:10A-140, and  
3 [~~431:10A-134,~~] 431:10A-, and chapter 431M."

4 SECTION 7. The coverage and benefits to be provided by a  
5 health maintenance organization under section 6 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, 2050.



**Report Title:**

Health Insurance; Oocyte Cryopreservation; In Vitro  
Fertilization

**Description:**

Requires oocyte cryopreservation to be covered by health insurance policies. Removes 1-time benefit limitation for in vitro fertilization. Reduces from 5 to 2 the number of years of infertility before becoming eligible for in vitro fertilization. Effective 7/1/2050. (SD2)

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

