

JAN 20 2023

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's 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, in the United States, about one in four
9 heterosexual women ages fifteen through forty-nine with no prior
10 births have difficulty getting pregnant or staying pregnant.

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



1 is included in accident and health insurance policies as a one-
2 time only benefit for outpatient expenses arising from in vitro
3 fertilization procedures. Unfortunately, the procedure is not
4 covered in the first or second year of infertility but rather in
5 the fifth year of infertility, or the patient is required to
6 provide documentation that infertility is a result of a
7 specified 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 Hawaii, particularly by helping
11 people remain healthy and engage in family planning. Ensuring
12 that Hawaii's residents receive comprehensive, quality, and
13 culturally competent sexual and reproductive health care is a
14 prudent economic policy that will improve the overall health of
15 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 Hawaii residents.



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

4 "§431:10A- Oocyte cryopreservation procedure coverage.

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

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

15 (2) The:

16 (A) Insured or the insured's dependent spouse has a
17 history of infertility; or

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

20 (i) Endometriosis;



- 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
- 7 infertility;
- 8 (3) The insured or the insured's dependent spouse has been
- 9 unable to attain a successful pregnancy through other
- 10 applicable infertility treatments covered under the
- 11 insurance contract;
- 12 (4) The oocyte cryopreservation procedures are performed
- 13 at medical facilities that conform to the American
- 14 College of Obstetricians and Gynecologists' guidelines
- 15 for oocyte cryopreservation or the American Society
- 16 for Reproductive Medicine's minimum standards for
- 17 oocyte cryopreservation programs;
- 18 (5) Coverage shall be limited to four completed oocyte
- 19 retrievals; provided that, if a live birth follows a
- 20 completed oocyte retrieval, two more completed oocyte
- 21 retrievals shall be covered; and



1 (6) The maximum lifetime benefit shall not exceed
2 \$100,000.

3 (b) The requirements of this section shall apply to all
4 new policies delivered or issued for delivery in the State after
5 December 31, 2023.

6 (c) For the purposes of this section:

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

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

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

17 "§432:1- Oocyte cryopreservation procedure coverage.

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



1 oocyte cryopreservation procedures performed on the subscriber
2 or member, including those who are unmarried, or the
3 subscriber's or member's 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:

8 (A) Subscriber or member or the subscriber's or
9 member's dependent spouse has a history of
10 infertility; 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
20 infertility;



- 1 (3) The subscriber or member or the subscriber's or
2 member's dependent spouse has been unable to attain a
3 successful pregnancy through other applicable
4 infertility treatments covered under the insurance
5 contract;
- 6 (4) The oocyte cryopreservation procedures are performed
7 at medical facilities that conform to the American
8 College of Obstetricians and Gynecologists' guidelines
9 for oocyte cryopreservation or the American Society
10 for Reproductive Medicine's minimum standards for
11 oocyte cryopreservation programs;
- 12 (5) Coverage shall be limited to four completed oocyte
13 retrievals; provided that, if a live birth follows a
14 completed oocyte retrieval, two more completed oocyte
15 retrievals shall be covered; and
- 16 (6) The maximum lifetime benefit shall not exceed
17 \$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 the State after December 31, 2023.
- 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 individual is age thirty-five or younger or during a
4 period of six months if the individual is over the age of
5 thirty-five.

6 "Spouse" means a person who is lawfully married to the
7 subscriber or member 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
13 benefits for treating and diagnosing infertility, [~~a one-time~~
14 ~~only benefit~~] benefits for all outpatient expenses arising from
15 in vitro fertilization procedures performed on the insured,
16 including those who are unmarried, or the insured's dependent
17 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)-~~ (2) 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)-~~ (3) The:
- 8 (A) ~~[Patient and the patient's spouse have]~~ Insured
9 or the insured's dependent spouse has a history
10 of infertility of at least ~~[five]~~ two years'
11 duration; or
- 12 (B) Infertility is associated with one or more of the
13 following medical conditions:
- 14 (i) Endometriosis;
- 15 (ii) Exposure in utero to diethylstilbestrol,
16 commonly known as DES;
- 17 (iii) Blockage of, or surgical removal of, one or
18 both fallopian tubes (lateral or bilateral
19 salpingectomy); or
- 20 (iv) Abnormal male factors contributing to ~~[the]~~
21 infertility;



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

6 ~~[-(6)]~~ (5) The in vitro fertilization procedures are
 7 performed at medical facilities that conform to the
 8 American 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 SECTION 5. Section 432:1-604, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

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



1 those who are unmarried, or the subscriber's or member's
2 dependent spouse; provided that:

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

6 ~~[(2) The patient is a subscriber or member or covered
7 dependent of the subscriber or member;~~

8 ~~-(3)]~~ (2) The ~~[patient's]~~ oocytes ~~[are fertilized with the
9 patient's spouse's sperm;]~~ or sperm of the subscriber
10 or member or the subscriber's or member's dependent
11 spouse are used in the in vitro fertilization
12 procedures;

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

14 (A) ~~[Patient and the patient's spouse have]~~
15 Subscriber or member or the subscriber's or
16 member's dependent spouse has a history of
17 infertility of at least [five] two years'
18 duration; or

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

21 (i) Endometriosis;



- 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;

8 ~~[-5-]~~ (4) The ~~[patient]~~ subscriber or member or the
 9 subscriber's or member's dependent spouse has been
 10 unable to attain a successful pregnancy through other
 11 applicable infertility treatments ~~[for which coverage~~
 12 ~~is available]~~ covered under the contract; and

13 ~~[-6-]~~ (5) The in vitro fertilization procedures are
 14 performed at medical facilities that conform to the
 15 American College of Obstetricians and ~~[Gynecologists]~~
 16 Gynecologists' guidelines for in vitro fertilization
 17 clinics or ~~[to]~~ the American Society for Reproductive
 18 ~~[Medicine-minimal]~~ Medicine's minimum standards for
 19 ~~[programs of]~~ in vitro fertilization~~[-]~~ programs."

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

1 "§432D-23 Required provisions and benefits.
2 Notwithstanding any provision of law to the contrary, each
3 policy, contract, plan, or agreement issued in the State after
4 January 1, 1995, by health maintenance organizations pursuant to
5 this chapter, shall include benefits provided in sections
6 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
7 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
8 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
9 431:10A-133, 431:10A-134, 431:10A-140, and [~~431:10A-134~~,]
10 431:10A- , and chapter 431M."

11 SECTION 7. The coverage and benefits to be provided by a
12 health maintenance organization under section 6 of this Act
13 shall begin for all policies, contracts, plans, or agreements
14 issued or renewed in the State by a health maintenance
15 organization after December 31, 2023.

16 SECTION 8. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect upon its approval.

19

INTRODUCED BY:



S.B. NO. 758

Report Title:

Health Insurance; Oocyte Cryopreservation; In Vitro Fertilization

Description:

Beginning with policies issued on or after 1/1/2024, requires health insurance policies to cover oocyte cryopreservation in certain circumstances. Removes the one-time benefit limitation for in vitro fertilization, and requires the insured or the insured's dependent spouse to have a history of infertility of at least two years' duration rather than five years'.

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

