

SENATE BILL REPORT

2SHB 1151

As of March 14, 2023

Title: An act relating to mandating health plans to provide coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services.

Brief Description: Mandating coverage for fertility services.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Stonier, Macri, Reed, Peterson, Berry, Ramel, Fitzgibbon, Cortes, Callan, Simmons, Reeves, Lekanoff, Bergquist, Fosse and Ormsby).

Brief History: Passed House: 3/7/23, 65-30.

Committee Activity: Health & Long Term Care: 3/16/23.

Brief Summary of Bill

- Requires large group health plans, including health plans offered to public employees, to cover the diagnosis of infertility, treatment for infertility, and standard fertility preservation services.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: In 2021, the Department of Health (DOH) completed a mandated benefit sunrise review of a proposal to mandated coverage for fertility services. The proposal required health plans, including plans offered to public employees, to provide coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services, as well as four completed oocyte retrievals with unlimited embryo transfers. DOH found that health plans generally did not include coverage for fertility treatments, out-of-pocket costs for these services are generally expensive, and the mandated benefit would likely result in increase costs to the state, health carriers, and enrollees, but may decrease out-of-pocket costs for patients, and allow for better quality care and informed decision-

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making.

The 2022 Supplemental Operating Budget included a proviso requiring the Insurance Commissioner (Commissioner), in consultation with the Health Care Authority, to complete an analysis of the cost to implement a fertility treatment benefit as described in the 2021 mandated benefit sunrise review. The Commissioner must contract with consultants to obtain utilization and cost data from health carriers in Washington to provide an estimate of the fiscal impact of providing the benefit. The analysis must include a utilization and cost analysis for the following services: infertility diagnosis, fertility medications, intrauterine insemination, in vitro fertilization, and egg freezing.

Passed in 2010, the federal Patient Protection and Affordable Care Act (ACA) enacted a variety of provisions related to private health insurance coverage, including establishing essential health benefits. The ACA requires most individual and small group market health plans to cover ten categories of essential health benefits. To determine the specific services covered within each category, federal rules allow states to choose a benchmark plan and to supplement that plan to ensure it covers all ten categories. State law designates the largest small group plan in the state as the benchmark plan. In 2019, the Department of Health and Human Services issued a notice of benefits and payment parameters that gives states an opportunity to update their essential health benefit benchmark plans for 2020 and beyond.

Summary of Bill: Large group health plans, including health plans offered to public employees and their covered dependents, issued or renewed on or after January 1, 2025, must include coverage for standard fertility preservation services. Plans issued or renewed on or after January 1, 2026, must include coverage for the diagnosis of and treatment for infertility. Beginning January 1, 2025, for persons who underwent standard fertility preservation services and January 1, 2026, for all individuals, the coverage must include two complete oocyte retrievals with unlimited embryo transfers in accordance with the American Society for Reproductive Medicine's guidelines, using single embryos when medically appropriate.

The health plans may not include any:

- exclusions or limitations on coverage of fertility medications different than those imposed on other prescription medications;
- exclusions or limitations on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third party; or
- deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitations on coverage for these services different from those imposed upon benefits for other services.

For purpose of these requirements:

- "diagnosis of and treatment for infertility" means the recommended procedures and medications from the direction of a licensed physician consistent with established, published, or approved medical practices or professional guidelines from the

American College of Obstetricians and Gynecologists or the American Society for Reproductive Medicine;

- "standard fertility preservation services" means procedures consistent with the established medical practices or professional guidelines published by the American Society of Reproductive Medicine or the American Society of Clinical Oncology for a person who has a medical condition or is expected to undergo medication therapy, surgery, radiation, chemotherapy, or other medical treatment recognized by medical professionals to cause a risk of impairment to fertility; and
- "infertility" means a disease, condition, or status characterized by:
 1. the failure to establish a pregnancy or to carry a pregnancy to live birth after regular, unprotected sexual intercourse;
 2. a person's inability to reproduce either as a single individual or with the person's partner without medical intervention;
 3. a licensed physician's or osteopathic physician's findings based on a patient's medical, sexual, and reproductive history, age, physical findings, or diagnostic testing; or
 4. disability as an impairment of function.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 10, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.