

§1 - C.17:48-6rr
§2 –
C.17:48A-7oo
§3 –
C.17:48E-35.42
§4 –
C.17B:27-46.1rr
§5 - C.26:2J-4.43
§6 –
C.52:14-17.29bb
§7 –
C.52:14-17.46.6m
§8 - Note

P.L. 2019, CHAPTER 306, *approved January 13, 2020*
Senate, No. 2133 (*First Reprint*)

1 AN ACT concerning health benefits coverage for fertility
2 preservation services under certain health insurance plans and
3 supplementing various parts of statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. A hospital service corporation contract which provides
9 hospital or medical expense benefits for groups with ¹more than¹ 50
10 ¹**[or more]**¹ persons and is delivered, issued, executed or renewed
11 in this State, or approved for issuance or renewal in this State by the
12 Commissioner of Banking and Insurance, on or after the effective
13 date of this act, shall provide coverage for standard fertility
14 preservation services when a medically necessary treatment may
15 directly or indirectly cause iatrogenic infertility.

16 For the purposes of this section:

17 “Iatrogenic infertility” means an impairment of fertility caused
18 by surgery, radiation, chemotherapy, or other medical treatment
19 affecting reproductive organs or processes.

20 “May directly or indirectly cause” means a medical treatment
21 with a likely side effect of iatrogenic infertility as established by the
22 American Society for Reproductive Medicine, the American
23 Society of Clinical Oncology, or ¹**[other reputable professional**
24 **organization]** as defined by the New Jersey Department of Health¹.

25 “Standard fertility preservation services” means procedures
26 consistent with established medical practices and professional
27 guidelines published by the American Society for Reproductive
28 Medicine, the American Society of Clinical Oncology, or ¹**[other**

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted December 3, 2018.

1 reputable professional organization that save or protect the oocytes,
2 sperm, or reproductive tissue of a patient, including, but not limited
3 to: embryo cryopreservation, oocyte and sperm cryopreservation,
4 gonadal shielding, and ovarian transposition] as defined by the New
5 Jersey Department of Health¹. ¹“Standard fertility preservation
6 services” shall not include the storage of sperm or oocytes.¹

7 The benefits shall be provided to the same extent as for any other
8 medical condition under the contract. The same copayments,
9 deductibles, and benefit limits shall apply to the provision of
10 standard fertility preservation services pursuant to this section as
11 those applied to other medical or surgical benefits under the
12 contract.

13 b. A hospital service corporation providing coverage under this
14 section shall not determine the provision of standard fertility
15 preservation services based on a covered person’s expected length
16 of life, present or predicted disability, degree of medical
17 dependency, perceived quality of life, or other health conditions, or
18 based on personal characteristics, including age, sex, sexual
19 orientation, marital status, or gender identity.

20 c. This section shall apply to those hospital service corporation
21 contracts in which the hospital service corporation has reserved the
22 right to change the premium.

23
24 2. a. A medical service corporation contract which provides
25 hospital or medical expense benefits for groups with ¹more than¹ 50
26 ¹[or more]¹ persons and is delivered, issued, executed or renewed
27 in this State, or approved for issuance or renewal in this State by the
28 Commissioner of Banking and Insurance, on or after the effective
29 date of this act, shall provide coverage for standard fertility
30 preservation services when a medically necessary treatment may
31 directly or indirectly cause iatrogenic infertility.

32 For the purposes of this section:

33 “Iatrogenic infertility” means an impairment of fertility caused
34 by surgery, radiation, chemotherapy, or other medical treatment
35 affecting reproductive organs or processes.

36 “May directly or indirectly cause” means a medical treatment
37 with a likely side effect of iatrogenic infertility as established by the
38 American Society for Reproductive Medicine, the American
39 Society of Clinical Oncology, or ¹[other reputable professional
40 organization] as defined by the New Jersey Department of Health¹.

41 “Standard fertility preservation services” means procedures
42 consistent with established medical practices and professional
43 guidelines published by the American Society for Reproductive
44 Medicine, the American Society of Clinical Oncology, or ¹[other
45 reputable professional organization that save or protect the oocytes,
46 sperm, or reproductive tissue of a patient, including, but not limited
47 to: embryo cryopreservation, oocyte and sperm cryopreservation,
48 gonadal shielding, and ovarian transposition] as defined by the New

1 Jersey Department of Health¹. ¹“Standard fertility preservation
2 services” shall not include the storage of sperm or oocytes.¹

3 The benefits shall be provided to the same extent as for any other
4 medical condition under the contract. The same copayments,
5 deductibles, and benefit limits shall apply to the provision of
6 standard fertility preservation services pursuant to this section as
7 those applied to other medical or surgical benefits under the
8 contract.

9 b. A medical service corporation providing coverage under this
10 section shall not determine the provision of standard fertility
11 preservation services based on a covered person’s expected length
12 of life, present or predicted disability, degree of medical
13 dependency, perceived quality of life, or other health conditions, or
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15 orientation, marital status, or gender identity.

16 c. This section shall apply to those medical service corporation
17 contracts in which the medical service corporation has reserved the
18 right to change the premium.

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20 3. a. A health service corporation contract which provides
21 hospital or medical expense benefits for groups with ¹more than¹ 50
22 ¹**【or more】**¹ persons and is delivered, issued, executed or renewed
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24 Commissioner of Banking and Insurance, on or after the effective
25 date of this act shall provide coverage for standard fertility
26 preservation services when a medically necessary treatment may
27 directly or indirectly cause iatrogenic infertility.

28 For the purposes of this section:

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30 by surgery, radiation, chemotherapy, or other medical treatment
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33 with a likely side effect of iatrogenic infertility as established by the
34 American Society for Reproductive Medicine, the American
35 Society of Clinical Oncology, or ¹**【other reputable professional**
36 **organization】** as defined by the New Jersey Department of Health¹.

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38 consistent with established medical practices and professional
39 guidelines published by the American Society for Reproductive
40 Medicine, the American Society of Clinical Oncology, or ¹**【other**
41 **reputable professional organization that save or protect the oocytes,**
42 **sperm, or reproductive tissue of a patient, including, but not limited**
43 **to: embryo cryopreservation, oocyte and sperm cryopreservation,**
44 **gonadal shielding, and ovarian transposition】** as defined by the New
45 Jersey Department of Health¹. ¹“Standard fertility preservation
46 services” shall not include the storage of sperm or oocytes.¹

1 The benefits shall be provided to the same extent as for any other
2 medical condition under the contract. The same copayments,
3 deductibles, and benefit limits shall apply to the provision of
4 standard fertility preservation services pursuant to this section as
5 those applied to other medical or surgical benefits under the
6 contract.

7 b. A health service corporation providing coverage under this
8 section shall not determine the provision of standard fertility
9 preservation services based on a covered person's expected length
10 of life, present or predicted disability, degree of medical
11 dependency, perceived quality of life, or other health conditions, or
12 based on personal characteristics, including age, sex, sexual
13 orientation, marital status, or gender identity.

14 c. This section shall apply to those health service corporation
15 contracts in which the health service corporation has reserved the
16 right to change the premium.

17

18 4. a. A group health insurance policy which provides hospital
19 or medical expense benefits for groups with ¹more than 50 ¹or
20 more¹ persons and is delivered, issued, executed or renewed in this
21 State, or approved for issuance or renewal in this State by the
22 Commissioner of Banking and Insurance, on or after the effective
23 date of this act, shall provide coverage for standard fertility
24 preservation services when a medically necessary treatment may
25 directly or indirectly cause iatrogenic infertility.

26 For the purposes of this section:

27 "Iatrogenic infertility" means an impairment of fertility caused
28 by surgery, radiation, chemotherapy, or other medical treatment
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30 "May directly or indirectly cause" means a medical treatment
31 with a likely side effect of iatrogenic infertility as established by the
32 American Society for Reproductive Medicine, the American
33 Society of Clinical Oncology, or ¹other reputable professional
34 organization ¹as defined by the New Jersey Department of Health¹.

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36 consistent with established medical practices and professional
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38 Medicine, the American Society of Clinical Oncology, or ¹other
39 reputable professional organization that save or protect the oocytes,
40 sperm, or reproductive tissue of a patient, including, but not limited
41 to: embryo cryopreservation, oocyte and sperm cryopreservation,
42 gonadal shielding, and ovarian transposition ¹as defined by the New
43 Jersey Department of Health¹. ¹"Standard fertility preservation
44 services" shall not include the storage of sperm or oocytes.¹

45 The benefits shall be provided to the same extent as for any other
46 medical condition under the policy. The same copayments,
47 deductibles, and benefit limits shall apply to the provision of

1 standard fertility preservation services pursuant to this section as
2 those applied to other medical or surgical benefits under the policy.

3 b. An insurer providing coverage under this section shall not
4 determine the provision of standard fertility preservation services
5 based on an insured's expected length of life, present or predicted
6 disability, degree of medical dependency, perceived quality of life,
7 or other health conditions, or based on personal characteristics,
8 including age, sex, sexual orientation, marital status, or gender
9 identity.

10 c. This section shall apply to those group health insurance
11 policies in which the insurer has reserved the right to change the
12 premium.

13

14 5. a. A health maintenance organization contract that
15 provides hospital or medical expense benefits for groups with ¹more
16 than¹ 50 ¹or more¹ persons and is delivered, issued, executed or
17 renewed in this State, or approved for issuance or renewal in this
18 State by the Commissioner of Banking and Insurance, on or after
19 the effective date of this act, shall provide coverage for standard
20 fertility preservation services when a medically necessary treatment
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29 Society of Clinical Oncology, or ¹other reputable professional
30 organization] as defined by the New Jersey Department of Health¹.

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38 gonadal shielding, and ovarian transposition] as defined by the New
39 Jersey Department of Health¹. ¹"Standard fertility preservation
40 services" shall not include the storage of sperm or oocytes.¹

41 The benefits shall be provided to the same extent as for any other
42 medical condition under the contract. The same copayments,
43 deductibles, and benefit limits shall apply to the provision of
44 standard fertility preservation services pursuant to this section as
45 those applied to other medical or surgical benefits under the
46 contract.

47 b. A health maintenance organization providing coverage under
48 this section shall not determine the provision of standard fertility

1 preservation services based on an enrollee's expected length of life,
2 present or predicted disability, degree of medical dependency,
3 perceived quality of life, or other health conditions, or based on
4 personal characteristics, including age, sex, sexual orientation,
5 marital status, or gender identity.

6 c. This section shall apply to those health maintenance
7 organization contracts in which the health maintenance organization
8 has reserved the right to change the premium.

9
10 6. a. The State Health Benefits Commission shall ensure that
11 every contract purchased by the commission on or after the
12 effective date of this act that provides hospital or medical expense
13 benefits shall provide coverage for standard fertility preservation
14 services when a medically necessary treatment may directly or
15 indirectly cause iatrogenic infertility.

16 For the purposes of this section:

17 "Iatrogenic infertility" means an impairment of fertility caused
18 by surgery, radiation, chemotherapy, or other medical treatment
19 affecting reproductive organs or processes.

20 "May directly or indirectly cause" means a medical treatment
21 with a likely side effect of iatrogenic infertility as established by the
22 American Society for Reproductive Medicine, the American
23 Society of Clinical Oncology, or ¹["other reputable professional
24 organization"] as defined by the New Jersey Department of Health¹.

25 "Standard fertility preservation services" means procedures
26 consistent with established medical practices and professional
27 guidelines published by the American Society for Reproductive
28 Medicine, the American Society of Clinical Oncology, or ¹["other
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33 Jersey Department of Health¹. ¹"Standard fertility preservation
34 services" shall not include the storage of sperm or oocytes.¹

35 The benefits shall be provided to the same extent as for any other
36 medical condition under the contract. The same copayments,
37 deductibles, and benefit limits shall apply to the provision of
38 standard fertility preservation services pursuant to this section as
39 those applied to other medical or surgical benefits under the
40 contract.

41 b. The State Health Benefits Commission shall not purchase a
42 contract that determines the provision of standard fertility
43 preservation services based on a covered person's expected length
44 of life, present or predicted disability, degree of medical
45 dependency, perceived quality of life, or other health conditions, or
46 based on personal characteristics, including age, sex, sexual
47 orientation, marital status, or gender identity.

1 7. a. The School Employees' Health Benefits Commission
2 shall ensure that every contract purchased by the commission on or
3 after the effective date of this act that provides hospital or medical
4 expense benefits shall provide coverage for standard fertility
5 preservation services when a medically necessary treatment may
6 directly or indirectly cause iatrogenic infertility.

7 For the purposes of this section:

8 “Iatrogenic infertility” means an impairment of fertility caused
9 by surgery, radiation, chemotherapy, or other medical treatment
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12 with a likely side effect of iatrogenic infertility as established by the
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14 Society of Clinical Oncology, or ¹【other reputable professional
15 organization】 as defined by the New Jersey Department of Health¹.

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23 gonadal shielding, and ovarian transposition】 as defined by the New
24 Jersey Department of Health¹. ¹“Standard fertility preservation
25 services” shall not include the storage of sperm or oocytes.¹

26 The benefits shall be provided to the same extent as for any other
27 medical condition under the contract. The same copayments,
28 deductibles, and benefit limits shall apply to the provision of
29 standard fertility preservation services pursuant to this section as
30 those applied to other medical or surgical benefits under the
31 contract.

32 b. The School Employees' Health Benefits Program shall not
33 purchase a contract that determines the provision of standard
34 fertility preservation services based on a covered person's expected
35 length of life, present or predicted disability, degree of medical
36 dependency, perceived quality of life, or other health conditions, or
37 based on personal characteristics, including age, sex, sexual
38 orientation, marital status, or gender identity.

39

40 8. This act shall take effect on the 90th day after enactment.

41

42

43

44

45

Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

SENATE, No. 2133

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senators Beach and Greenstein

SYNOPSIS

Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/30/2018)

1 AN ACT concerning health benefits coverage for fertility
2 preservation services under certain health insurance plans and
3 supplementing various parts of statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. A hospital service corporation contract which provides
9 hospital or medical expense benefits for groups with 50 or more
10 persons and is delivered, issued, executed or renewed in this State,
11 or approved for issuance or renewal in this State by the
12 Commissioner of Banking and Insurance, on or after the effective
13 date of this act, shall provide coverage for standard fertility
14 preservation services when a medically necessary treatment may
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31 to: embryo cryopreservation, oocyte and sperm cryopreservation,
32 gonadal shielding, and ovarian transposition.

33 The benefits shall be provided to the same extent as for any other
34 medical condition under the contract. The same copayments,
35 deductibles, and benefit limits shall apply to the provision of
36 standard fertility preservation services pursuant to this section as
37 those applied to other medical or surgical benefits under the
38 contract.

39 b. A hospital service corporation providing coverage under this
40 section shall not determine the provision of standard fertility
41 preservation services based on a covered person’s expected length
42 of life, present or predicted disability, degree of medical
43 dependency, perceived quality of life, or other health conditions, or
44 based on personal characteristics, including age, sex, sexual
45 orientation, marital status, or gender identity.

46 c. This section shall apply to those hospital service corporation
47 contracts in which the hospital service corporation has reserved the
48 right to change the premium.

1 2. a. A medical service corporation contract which provides
2 hospital or medical expense benefits for groups with 50 or more
3 persons and is delivered, issued, executed or renewed in this State,
4 or approved for issuance or renewal in this State by the
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37 4. a. A group health insurance policy which provides hospital
38 or medical expense benefits for groups with 50 or more persons and
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41 Banking and Insurance, on or after the effective date of this act,
42 shall provide coverage for standard fertility preservation services
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9 Medicine, the American Society of Clinical Oncology, or other
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12 to: embryo cryopreservation, oocyte and sperm cryopreservation,
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15 medical condition under the policy. The same copayments,
16 deductibles, and benefit limits shall apply to the provision of
17 standard fertility preservation services pursuant to this section as
18 those applied to other medical or surgical benefits under the policy.

19 b. An insurer providing coverage under this section shall not
20 determine the provision of standard fertility preservation services
21 based on an insured’s expected length of life, present or predicted
22 disability, degree of medical dependency, perceived quality of life,
23 or other health conditions, or based on personal characteristics,
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27 policies in which the insurer has reserved the right to change the
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30 5. a. A health maintenance organization contract that
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8 under the contract. The same copayments, deductibles, and benefit
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10 services pursuant to this section as those applied to other medical or
11 surgical benefits under the contract.

12 b. A health maintenance organization providing coverage under
13 this section shall not determine the provision of standard fertility
14 preservation services based on an enrollee's expected length of life,
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17 personal characteristics, including age, sex, sexual orientation,
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20 organization contracts in which the health maintenance organization
21 has reserved the right to change the premium.

22

23 6. a. The State Health Benefits Commission shall ensure that
24 every contract purchased by the commission on or after the
25 effective date of this act that provides hospital or medical expense
26 benefits shall provide coverage for standard fertility preservation
27 services when a medically necessary treatment may directly or
28 indirectly cause iatrogenic infertility.

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4 b. The State Health Benefits Commission shall not purchase a
5 contract that determines the provision of standard fertility
6 preservation services based on a covered person's expected length
7 of life, present or predicted disability, degree of medical
8 dependency, perceived quality of life, or other health conditions, or
9 based on personal characteristics, including age, sex, sexual
10 orientation, marital status, or gender identity.

11
12 7. a. The School Employees' Health Benefits Commission
13 shall ensure that every contract purchased by the commission on or
14 after the effective date of this act that provides hospital or medical
15 expense benefits shall provide coverage for standard fertility
16 preservation services when a medically necessary treatment may
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35 The benefits shall be provided to the same extent as for any other
36 medical condition under the contract. The same copayments,
37 deductibles, and benefit limits shall apply to the provision of
38 standard fertility preservation services pursuant to this section as
39 those applied to other medical or surgical benefits under the
40 contract.

41 b. The School Employees' Health Benefits Program shall not
42 purchase a contract that determines the provision of standard
43 fertility preservation services based on a covered person's expected
44 length of life, present or predicted disability, degree of medical
45 dependency, perceived quality of life, or other health conditions, or
46 based on personal characteristics, including age, sex, sexual
47 orientation, marital status, or gender identity.

1 8. This act shall take effect on the 90th day after enactment.

2

3

4

STATEMENT

5

6 This bill requires certain health insurers to provide health benefits
7 coverage for standard fertility preservation services when a medically
8 necessary treatment may directly or indirectly cause iatrogenic
9 infertility. This bill applies to hospital, medical and health service
10 corporations, commercial group insurers and health maintenance
11 organizations that provide benefits to groups of 50 or more persons.
12 The bill also applies to health benefits plans issued pursuant to the
13 State Health Benefits Program and the School Employees' Health
14 Benefits Program.

15 The bill provides that the provision of standard fertility
16 preservation services must not be determined based on a covered
17 person's expected length of life, present or predicted disability,
18 degree of medical dependency, perceived quality of life, or other
19 health conditions, or based on personal characteristics, including
20 age, sex, sexual orientation, marital status, or gender identity.

21 Under the bill, standard fertility preservation services means
22 procedures consistent with established medical practices and
23 professional guidelines published by the American Society for
24 Reproductive Medicine, the American Society of Clinical
25 Oncology, or other reputable professional organization that save or
26 protect the oocytes, sperm, or reproductive tissue of a patient,
27 including, but not limited to: embryo cryopreservation, oocyte and
28 sperm cryopreservation, gonadal shielding, and ovarian
29 transposition. Iatrogenic infertility means an impairment of fertility
30 caused by surgery, radiation, chemotherapy, or other medical
31 treatment affecting reproductive organs or processes.

ASSEMBLY WOMEN AND CHILDREN COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2133

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 2019

The Assembly Women and Children Committee reports favorably Senate Bill No. 2133 (1R).

This bill requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. This bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The bill requires that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

The bill defines standard fertility preservation services as procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health, but does not include storage of sperm or oocytes. Iatrogenic infertility is defined as an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

As reported by the committee, Senate Bill No. 2133 (1R) is identical to the Assembly committee substitute for Assembly Bill No. 3150 that was also reported by the committee on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2133

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 2133 (1R).

This bill requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. This bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The bill requires that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

The bill defines standard fertility preservation services as procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health, but does not include storage of sperm or oocytes. Iatrogenic infertility is defined as an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

As reported by the committee, Senate Bill No. 2133 (1R) is identical to the Assembly Committee Substitute for Assembly Bill No. 3150 that was also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that State expenditures would rise by \$317,000 in the first year following implementation of the health benefits coverage mandate for fertility preservation services. Because usage of these services can be

expected to increase gradually once patients and healthcare providers become aware of their coverage by insurance, the OLS then inflates this amount by 10 percent annually in subsequent years.

The OLS anticipates further that this bill will increase the annual health benefits expenditures of local governments by an indeterminate amount. For local employers that are part of the State Health Benefits Program (SHBP), the OLS estimates that expenditures will grow by \$166,000 in the first year following implementation of mandated health benefits coverage for fertility preservation services. For school districts that are part of the School Employees' Health Benefits Program (SEHBP) the OLS estimates that first-year expenditures will increase by \$215,000. The OLS then inflates these estimates by 10 percent annually. The OLS has no information on local government and school district employers that purchase health care coverage for their employees from private insurance companies, and, by extension, the magnitude of the added expenditures they will incur following the enactment of this bill.

In addition, the bill may increase annual revenue collections of the State, local governments, and school districts to the extent that health insurance premiums are a factor in determining cost-sharing contributions employees pay to their employers. If so, then employee contributions will be higher as a function of growth in premiums. The OLS does not have sufficient information on the terms of collective bargaining agreements in effect in the State to assess the magnitude of any increase in annual employee premium-sharing revenue the bill may cause to State, local governments, and school districts.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2133

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2018

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2133.

This bill requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. This bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The bill provides that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

Under the bill, standard fertility preservation services means procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health. Iatrogenic infertility means an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1. Provide that the bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons;
2. Define "may directly or indirectly cause" to mean a medical treatment with a likely side effect of iatrogenic infertility as established by the American Society for Reproductive Medicine,

the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health;

3. Define “standard fertility preservation services” to mean procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health; and

4. Provide that standard fertility preservation services do not include the storage of sperm or oocytes.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2133

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2133 (1R).

Senate Bill No. 2133(1R) requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. This bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The bill requires that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

The bill defines standard fertility preservation services as procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health, but does not include storage of sperm or oocytes. Iatrogenic infertility is defined as an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

FISCAL IMPACT:

According to informal discussions with the Division of Pensions and Benefits, Department of Treasury, this bill would increase costs to the SHBP-State, SHBP- Local, and the SEHBP by \$700,000 in total.

Using information from a 2013 actuarial analysis performed by OptumInsight (Optum) for the State of Connecticut regarding Health Insurance Coverage for Fertility Preservation, the Office of Legislative Services (OLS) estimates that this bill would increase rates by 29 cents per active member per month, in the first year, if the State requires the State Health Benefits Program (SHBP) and the School Employees'

Health Benefits Program (SEHBP) to provide health benefits coverage for fertility preservation services. According to Optum, the annual growth in the cost to provide coverage for fertility preservation are dependent on two variables, a change in utilization and a change in unit costs. Per member per month costs for fertility preservation in the Optum analysis were estimated to increase by 12.3 percent annually over a five-year period.

Since 2017, six states have passed laws requiring health benefits coverage for fertility preservation procedures for cancer patients and other patients who are at risk of infertility due to iatrogenic infertility, an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes. The six states are Connecticut, Rhode Island, Maryland, Delaware, Illinois, and New York.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2133 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 31, 2019

SUMMARY

- Synopsis:** Mandates health benefits coverage for fertility preservation services under certain health insurance plans.
- Type of Impact:** Expenditure increase to the State General Fund and local government funds.
- Agencies Affected:** Division of Pensions and Benefits, Department of Treasury.

Office of Legislative Services Estimate*

Fiscal Impact**	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$317,456	\$356,503	\$400,353
Local Government Cost	\$166,253	\$186,702	\$209,666
Local Education Cost	\$215,412	\$241,908	\$271,663
Total Cost	\$699,121	\$785,113	\$881,682

*SHBP/SEHBP only.

** Based on a five-year growth rate of 12.3 percent in costs reported by Optum and then projected over three years.

- According to informal discussions with the Division of Pensions and Benefits, Department of Treasury, this bill would increase costs to the SHBP-State, SHBP- Local, and the SEHBP by \$700,000 in total.
- Using information from a 2013 actuarial analysis performed by OptumInsight (Optum) for the State of Connecticut regarding Health Insurance Coverage for Fertility Preservation, the Office of Legislative Services (OLS) estimates that this bill would increase rates by 29 cents per active member per month, in the first year, if the State requires the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) to provide health benefits coverage for fertility preservation services.
- According to Optum, the annual growth in the cost to provide coverage for fertility preservation are dependent on two variables, a change in utilization and a change in unit

costs. Per member per month costs for fertility preservation in the Optum analysis were estimated to increase by 12.3 percent annually over a five-year period.

- Since 2017, six states have passed laws requiring health benefits coverage for fertility preservation procedures for cancer patients and other patients who are at risk of infertility due to iatrogenic infertility, an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes. The six states are Connecticut, Rhode Island, Maryland, Delaware, Illinois, and New York.

BILL DESCRIPTION

This bill requires the SHBP and the SEHBP and certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. Iatrogenic infertility means an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

Under the bill, the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity. Under the bill, standard fertility preservation services means procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or other reputable professional organization that save or protect the oocytes, sperm, or reproductive tissue of a patient, including, but not limited to: embryo cryopreservation, oocyte and sperm cryopreservation, gonadal shielding, and ovarian transposition, but does not include the storage of sperm or oocytes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

No formal fiscal note received.

OFFICE OF LEGISLATIVE SERVICES

According to informal discussions with the Division of Pensions and Benefits, Department of Treasury, this bill would increase costs to the SHBP-State, SHBP- Local, and the SEHBP by \$700,000 in total. Using information from a 2013 actuarial analysis performed by OptumInsight (Optum) for the State of Connecticut regarding Health Insurance Coverage for Fertility Preservation, the OLS estimates that this bill would increase rates by 29 cents per active member per month, in the first year, if the State requires the SHBP and the SEHBP to provide health benefits coverage for fertility preservation services. The per member per month rate annualized equates to \$3.48 per active member in the first year. Under the bill, the SHBP-State program would experience an increase of \$317,456 in the first year and the SHBP-Local and the SEHBP would experience increases of \$166,253 and \$215,412, respectively.

According to Optum, if coverage for fertility preservation treatments is required by law, then the annual growth in those costs is dependent on two variables, a change in utilization and a change in unit costs. Optum's projections assumed two versions for their five year projections. The first assumed a flat 10 percent increase in automatic utilization of services each year from those eligible. The second, when applicable, assumed an additional 5 percent increase in utilization from uptake, patients who are counseled about fertility preservation and then choose the treatment prior to beginning cancer treatments. With regard to changes in unit costs, Optum indicates that the incremental number of individuals expected to use cryopreservation services is not expected to increase greatly the demand for services relative to the supply. Therefore, no change in unit costs is assumed in future years. In the actuarial report, per member per month costs increased by 12.3 percent over a five-year period.

Since 2017, six states have passed laws requiring health benefits coverage for fertility preservation procedures for cancer patients and other patients who are at risk of infertility due to iatrogenic infertility, an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes. These states, in sequential order are: Connecticut (5/25/2017), Rhode Island (7/31/2017), Maryland (5/16/2018), Delaware (6/30/2018), Illinois (8/27/2018), and New York (FY 2020 budget trailer bill). The estimated increase in per member per month costs for Maryland was 23 cents, or \$2.76 per member per first year. The estimate for New Jersey is based on the most recent per member per month costs and adjusted for two years of growth.

Section: State Government
Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3150

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Holley, Assemblywoman Murphy, Assemblymen Mukherji, Conaway, Assemblywoman Chaparro, Assemblyman Houghtaling, Assemblywoman Vainieri Huttle, Assemblyman Benson, Assemblywomen Reynolds-Jackson, Carter, Timberlake, Speight and McKnight

SYNOPSIS

Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/19/2019)

1 AN ACT concerning health benefits coverage for fertility
2 preservation services under certain health insurance plans and
3 supplementing various parts of statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. A hospital service corporation contract which provides
9 hospital or medical expense benefits for groups with 50 or more
10 persons and is delivered, issued, executed or renewed in this State,
11 or approved for issuance or renewal in this State by the
12 Commissioner of Banking and Insurance, on or after the effective
13 date of this act, shall provide coverage for standard fertility
14 preservation services when a medically necessary treatment may
15 directly or indirectly cause iatrogenic infertility.

16 For the purposes of this section:

17 “Iatrogenic infertility” means an impairment of fertility caused
18 by surgery, radiation, chemotherapy, or other medical treatment
19 affecting reproductive organs or processes.

20 “May directly or indirectly cause” means a medical treatment
21 with a likely side effect of iatrogenic infertility as established by the
22 American Society for Reproductive Medicine, the American
23 Society of Clinical Oncology, or other reputable professional
24 organization.

25 “Standard fertility preservation services” means procedures
26 consistent with established medical practices and professional
27 guidelines published by the American Society for Reproductive
28 Medicine, the American Society of Clinical Oncology, or other
29 reputable professional organization that save or protect the oocytes,
30 sperm, or reproductive tissue of a patient, including, but not limited
31 to: embryo cryopreservation, oocyte and sperm cryopreservation,
32 gonadal shielding, and ovarian transposition.

33 The benefits shall be provided to the same extent as for any other
34 medical condition under the contract. The same copayments,
35 deductibles, and benefit limits shall apply to the provision of
36 standard fertility preservation services pursuant to this section as
37 those applied to other medical or surgical benefits under the
38 contract.

39 b. A hospital service corporation providing coverage under this
40 section shall not determine the provision of standard fertility
41 preservation services based on a covered person’s expected length
42 of life, present or predicted disability, degree of medical
43 dependency, perceived quality of life, or other health conditions, or
44 based on personal characteristics, including age, sex, sexual
45 orientation, marital status, or gender identity.

46 c. This section shall apply to those hospital service corporation
47 contracts in which the hospital service corporation has reserved the
48 right to change the premium.

1 2. a. A medical service corporation contract which provides
2 hospital or medical expense benefits for groups with 50 or more
3 persons and is delivered, issued, executed or renewed in this State,
4 or approved for issuance or renewal in this State by the
5 Commissioner of Banking and Insurance, on or after the effective
6 date of this act, shall provide coverage for standard fertility
7 preservation services when a medically necessary treatment may
8 directly or indirectly cause iatrogenic infertility.

9 For the purposes of this section:

10 “Iatrogenic infertility” means an impairment of fertility caused
11 by surgery, radiation, chemotherapy, or other medical treatment
12 affecting reproductive organs or processes.

13 “May directly or indirectly cause” means a medical treatment
14 with a likely side effect of iatrogenic infertility as established by the
15 American Society for Reproductive Medicine, the American
16 Society of Clinical Oncology, or other reputable professional
17 organization.

18 “Standard fertility preservation services” means procedures
19 consistent with established medical practices and professional
20 guidelines published by the American Society for Reproductive
21 Medicine, the American Society of Clinical Oncology, or other
22 reputable professional organization that save or protect the oocytes,
23 sperm, or reproductive tissue of a patient, including, but not limited
24 to: embryo cryopreservation, oocyte and sperm cryopreservation,
25 gonadal shielding, and ovarian transposition.

26 The benefits shall be provided to the same extent as for any other
27 medical condition under the contract. The same copayments,
28 deductibles, and benefit limits shall apply to the provision of
29 standard fertility preservation services pursuant to this section as
30 those applied to other medical or surgical benefits under the
31 contract.

32 b. A medical service corporation providing coverage under this
33 section shall not determine the provision of standard fertility
34 preservation services based on a covered person’s expected length
35 of life, present or predicted disability, degree of medical
36 dependency, perceived quality of life, or other health conditions, or
37 based on personal characteristics, including age, sex, sexual
38 orientation, marital status, or gender identity.

39 c. This section shall apply to those medical service corporation
40 contracts in which the medical service corporation has reserved the
41 right to change the premium.

42
43 3. a. A health service corporation contract which provides
44 hospital or medical expense benefits for groups with 50 or more
45 persons and is delivered, issued, executed or renewed in this State,
46 or approved for issuance or renewal in this State by the
47 Commissioner of Banking and Insurance, on or after the effective
48 date of this act shall provide coverage for standard fertility

1 preservation services when a medically necessary treatment may
2 directly or indirectly cause iatrogenic infertility.

3 For the purposes of this section:

4 “Iatrogenic infertility” means an impairment of fertility caused
5 by surgery, radiation, chemotherapy, or other medical treatment
6 affecting reproductive organs or processes.

7 “May directly or indirectly cause” means a medical treatment
8 with a likely side effect of iatrogenic infertility as established by the
9 American Society for Reproductive Medicine, the American
10 Society of Clinical Oncology, or other reputable professional
11 organization.

12 “Standard fertility preservation services” means procedures
13 consistent with established medical practices and professional
14 guidelines published by the American Society for Reproductive
15 Medicine, the American Society of Clinical Oncology, or other
16 reputable professional organization that save or protect the oocytes,
17 sperm, or reproductive tissue of a patient, including, but not limited
18 to: embryo cryopreservation, oocyte and sperm cryopreservation,
19 gonadal shielding, and ovarian transposition.

20 The benefits shall be provided to the same extent as for any other
21 medical condition under the contract. The same copayments,
22 deductibles, and benefit limits shall apply to the provision of
23 standard fertility preservation services pursuant to this section as
24 those applied to other medical or surgical benefits under the
25 contract.

26 b. A health service corporation providing coverage under this
27 section shall not determine the provision of standard fertility
28 preservation services based on a covered person’s expected length
29 of life, present or predicted disability, degree of medical
30 dependency, perceived quality of life, or other health conditions, or
31 based on personal characteristics, including age, sex, sexual
32 orientation, marital status, or gender identity.

33 c. This section shall apply to those health service corporation
34 contracts in which the health service corporation has reserved the
35 right to change the premium.

36

37 4. a. A group health insurance policy which provides hospital
38 or medical expense benefits for groups with 50 or more persons and
39 is delivered, issued, executed or renewed in this State, or approved
40 for issuance or renewal in this State by the Commissioner of
41 Banking and Insurance, on or after the effective date of this act,
42 shall provide coverage for standard fertility preservation services
43 when a medically necessary treatment may directly or indirectly
44 cause iatrogenic infertility.

45 For the purposes of this section:

46 “Iatrogenic infertility” means an impairment of fertility caused
47 by surgery, radiation, chemotherapy, or other medical treatment
48 affecting reproductive organs or processes.

1 “May directly or indirectly cause” means a medical treatment
2 with a likely side effect of iatrogenic infertility as established by the
3 American Society for Reproductive Medicine, the American
4 Society of Clinical Oncology, or other reputable professional
5 organization.

6 “Standard fertility preservation services” means procedures
7 consistent with established medical practices and professional
8 guidelines published by the American Society for Reproductive
9 Medicine, the American Society of Clinical Oncology, or other
10 reputable professional organization that save or protect the oocytes,
11 sperm, or reproductive tissue of a patient, including, but not limited
12 to: embryo cryopreservation, oocyte and sperm cryopreservation,
13 gonadal shielding, and ovarian transposition.

14 The benefits shall be provided to the same extent as for any other
15 medical condition under the policy. The same copayments,
16 deductibles, and benefit limits shall apply to the provision of
17 standard fertility preservation services pursuant to this section as
18 those applied to other medical or surgical benefits under the policy.

19 b. An insurer providing coverage under this section shall not
20 determine the provision of standard fertility preservation services
21 based on an insured’s expected length of life, present or predicted
22 disability, degree of medical dependency, perceived quality of life,
23 or other health conditions, or based on personal characteristics,
24 including age, sex, sexual orientation, marital status, or gender
25 identity.

26 c. This section shall apply to those group health insurance
27 policies in which the insurer has reserved the right to change the
28 premium.

29
30 5. a. A health maintenance organization contract that provides
31 hospital or medical expense benefits for groups with 50 or more
32 persons and is delivered, issued, executed or renewed in this State,
33 or approved for issuance or renewal in this State by the
34 Commissioner of Banking and Insurance, on or after the effective
35 date of this act, shall provide coverage for standard fertility
36 preservation services when a medically necessary treatment may
37 directly or indirectly cause iatrogenic infertility.

38 For the purposes of this section:

39 “Iatrogenic infertility” means an impairment of fertility caused
40 by surgery, radiation, chemotherapy, or other medical treatment
41 affecting reproductive organs or processes.

42 “May directly or indirectly cause” means a medical treatment
43 with a likely side effect of iatrogenic infertility as established by the
44 American Society for Reproductive Medicine, the American
45 Society of Clinical Oncology, or other reputable professional
46 organization.

47 “Standard fertility preservation services” means procedures
48 consistent with established medical practices and professional

1 guidelines published by the American Society for Reproductive
2 Medicine, the American Society of Clinical Oncology, or other
3 reputable professional organization that save or protect the oocytes,
4 sperm, or reproductive tissue of a patient, including, but not limited
5 to: embryo cryopreservation, oocyte and sperm cryopreservation,
6 gonadal shielding, and ovarian transposition. The benefits shall
7 be provided to the same extent as for any other medical condition
8 under the contract. The same copayments, deductibles, and benefit
9 limits shall apply to the provision of standard fertility preservation
10 services pursuant to this section as those applied to other medical or
11 surgical benefits under the contract.

12 b. A health maintenance organization providing coverage under
13 this section shall not determine the provision of standard fertility
14 preservation services based on an enrollee's expected length of life,
15 present or predicted disability, degree of medical dependency,
16 perceived quality of life, or other health conditions, or based on
17 personal characteristics, including age, sex, sexual orientation,
18 marital status, or gender identity.

19 c. This section shall apply to those health maintenance
20 organization contracts in which the health maintenance organization
21 has reserved the right to change the premium.

22

23 6. a. The State Health Benefits Commission shall ensure that
24 every contract purchased by the commission on or after the
25 effective date of this act that provides hospital or medical expense
26 benefits shall provide coverage for standard fertility preservation
27 services when a medically necessary treatment may directly or
28 indirectly cause iatrogenic infertility.

29 For the purposes of this section:

30 "Iatrogenic infertility" means an impairment of fertility caused
31 by surgery, radiation, chemotherapy, or other medical treatment
32 affecting reproductive organs or processes.

33 "May directly or indirectly cause" means a medical treatment
34 with a likely side effect of iatrogenic infertility as established by the
35 American Society for Reproductive Medicine, the American
36 Society of Clinical Oncology, or other reputable professional
37 organization.

38 "Standard fertility preservation services" means procedures
39 consistent with established medical practices and professional
40 guidelines published by the American Society for Reproductive
41 Medicine, the American Society of Clinical Oncology, or other
42 reputable professional organization that save or protect the oocytes,
43 sperm, or reproductive tissue of a patient, including, but not limited
44 to: embryo cryopreservation, oocyte and sperm cryopreservation,
45 gonadal shielding, and ovarian transposition.

46 The benefits shall be provided to the same extent as for any other
47 medical condition under the contract. The same copayments,
48 deductibles, and benefit limits shall apply to the provision of

1 standard fertility preservation services pursuant to this section as
2 those applied to other medical or surgical benefits under the
3 contract.

4 b. The State Health Benefits Commission shall not purchase a
5 contract that determines the provision of standard fertility
6 preservation services based on a covered person's expected length
7 of life, present or predicted disability, degree of medical
8 dependency, perceived quality of life, or other health conditions, or
9 based on personal characteristics, including age, sex, sexual
10 orientation, marital status, or gender identity.

11
12 7. a. The School Employees' Health Benefits Commission
13 shall ensure that every contract purchased by the commission on or
14 after the effective date of this act that provides hospital or medical
15 expense benefits shall provide coverage for standard fertility
16 preservation services when a medically necessary treatment may
17 directly or indirectly cause iatrogenic infertility.

18 For the purposes of this section:

19 "Iatrogenic infertility" means an impairment of fertility caused
20 by surgery, radiation, chemotherapy, or other medical treatment
21 affecting reproductive organs or processes.

22 "May directly or indirectly cause" means a medical treatment
23 with a likely side effect of iatrogenic infertility as established by the
24 American Society for Reproductive Medicine, the American
25 Society of Clinical Oncology, or other reputable professional
26 organization.

27 "Standard fertility preservation services" means procedures
28 consistent with established medical practices and professional
29 guidelines published by the American Society for Reproductive
30 Medicine, the American Society of Clinical Oncology, or other
31 reputable professional organization that save or protect the oocytes,
32 sperm, or reproductive tissue of a patient, including, but not limited
33 to: embryo cryopreservation, oocyte and sperm cryopreservation,
34 gonadal shielding, and ovarian transposition.

35 The benefits shall be provided to the same extent as for any other
36 medical condition under the contract. The same copayments,
37 deductibles, and benefit limits shall apply to the provision of
38 standard fertility preservation services pursuant to this section as
39 those applied to other medical or surgical benefits under the
40 contract.

41 b. The School Employees' Health Benefits Program shall not
42 purchase a contract that determines the provision of standard
43 fertility preservation services based on a covered person's expected
44 length of life, present or predicted disability, degree of medical
45 dependency, perceived quality of life, or other health conditions, or
46 based on personal characteristics, including age, sex, sexual
47 orientation, marital status, or gender identity.

1 8. This act shall take effect on the 90th day after enactment.

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STATEMENT

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6 This bill requires certain health insurers to provide health benefits
7 coverage for standard fertility preservation services when a medically
8 necessary treatment may directly or indirectly cause iatrogenic
9 infertility. This bill applies to hospital, medical and health service
10 corporations, commercial group insurers and health maintenance
11 organizations that provide benefits to groups of 50 or more persons.
12 The bill also applies to health benefits plans issued pursuant to the
13 State Health Benefits Program and the School Employees' Health
14 Benefits Program.

15 The bill provides that the provision of standard fertility
16 preservation services must not be determined based on a covered
17 person's expected length of life, present or predicted disability,
18 degree of medical dependency, perceived quality of life, or other
19 health conditions, or based on personal characteristics, including
20 age, sex, sexual orientation, marital status, or gender identity.

21 Under the bill, standard fertility preservation services means
22 procedures consistent with established medical practices and
23 professional guidelines published by the American Society for
24 Reproductive Medicine, the American Society of Clinical
25 Oncology, or other reputable professional organization that save or
26 protect the oocytes, sperm, or reproductive tissue of a patient,
27 including, but not limited to: embryo cryopreservation, oocyte and
28 sperm cryopreservation, gonadal shielding, and ovarian
29 transposition. Iatrogenic infertility means an impairment of fertility
30 caused by surgery, radiation, chemotherapy, or other medical
31 treatment affecting reproductive organs or processes.

ASSEMBLY WOMEN AND CHILDREN COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3150

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 2019

The Assembly Women and Children Committee reports favorably an Assembly committee substitute for Assembly Bill No. 3150.

The substitute bill requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. The substitute bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The substitute bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The substitute bill requires that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

The substitute bill defines standard fertility preservation services as procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health, but does not include storage of sperm or oocytes. Iatrogenic infertility is defined as an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

As reported by the committee, the Assembly committee substitute for Assembly Bill No. 3150 is identical to Senate Bill No. 2133 (1R), which was also reported by the committee on this date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3150

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3150 ACS.

This bill requires certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. The bill applies to hospital, medical and health service corporations, commercial group insurers and health maintenance organizations that provide benefits to groups of more than 50 persons. The bill also applies to health benefits plans issued pursuant to the State Health Benefits Program and the School Employees' Health Benefits Program.

The bill requires that the provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, or other health conditions, or based on personal characteristics, including age, sex, sexual orientation, marital status, or gender identity.

The bill defines standard fertility preservation services as procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or as defined by the New Jersey Department of Health, but does not include storage of sperm or oocytes. Iatrogenic infertility is defined as an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

As reported, Assembly Bill No. 3150 ACS is identical to Senate Bill No. 2133 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that State expenditures would rise by \$317,000 in the first year following implementation of the health benefits coverage mandate for fertility preservation services. Because usage of these services can be expected to increase gradually once patients and healthcare providers become aware of their coverage by insurance, the OLS then inflates this amount by 10 percent annually in subsequent years.

The OLS anticipates further that this bill will increase the annual health benefits expenditures of local governments by an indeterminate amount. For local employers that are part of the State Health Benefits Program (SHBP), the OLS estimates that expenditures will grow by \$166,000 in the first year following implementation of mandated health benefits coverage for fertility preservation services. For school districts that are part of the School Employees' Health Benefits Program (SEHBP) the OLS estimates that first-year expenditures will increase by \$215,000. The OLS then inflates these estimates by 10 percent annually. The OLS has no information on local government and school district employers that purchase health care coverage for their employees from private insurance companies, and, by extension, the magnitude of the added expenditures they will incur following the enactment of this bill.

In addition, the bill may increase annual revenue collections of the State, local governments, and school districts to the extent that health insurance premiums are a factor in determining cost-sharing contributions employees pay to their employers. If so, then employee contributions will be higher as a function of growth in premiums. The OLS does not have sufficient information on the terms of collective bargaining agreements in effect in the State to assess the magnitude of any increase in annual employee premium-sharing revenue the bill may cause to State, local governments, and school districts.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3150
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 17, 2019

SUMMARY

Synopsis: Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

Types of Impact: Annual expenditure and potential annual revenue increases to the State General Fund, local government entities, and school districts.

Agencies Affected: Department of the Treasury; local government entities; local boards of education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase	\$317,000	\$349,000	\$384,000
Local Expenditure Increase	Indeterminate	Indeterminate	Indeterminate
Potential State Revenue Increase	Indeterminate	Indeterminate	Indeterminate
Potential Local Revenue Increase	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that State expenditures would rise by \$317,000 in the first year in which health insurance plans must cover fertility preservation services. Because service utilization is likely to increase as patients and healthcare providers become aware of the services' insurance coverage, the OLS inflates this amount by 10 percent annually in subsequent years.
- The OLS anticipates that this bill would increase annual health benefits expenditures of local governments by an indeterminate amount. For local governments that are part of the State Health Benefits Program (SHBP), the OLS projects that expenditures would grow by \$166,000 in the first year following enactment of the bill. For school districts that participate in the School Employees' Health Benefits Program (SEHBP), in turn, the OLS estimates first-year expenditure growth of \$215,000. The OLS inflates these estimates by 10 percent annually in subsequent years. Without information on local governments and school districts that purchase employee health benefits coverage from private insurance carriers, the OLS cannot quantify the added expenditures these public employers would incur as a result of this bill.

- The bill may increase annual revenue collections of the State, local governments, and school districts to the extent that health insurance premiums are a factor in determining cost-sharing contributions employees pay to their employers. If so, then employee contributions would be higher as a function of growth in premiums. The OLS, however, has insufficient information on the terms of collective bargaining agreements in effect in the State to quantify any increase in annual employee premium-sharing revenue that the State, local governments, and school districts may collect.

BILL DESCRIPTION

This bill requires the SHBP, the SEHBP, and certain health insurers to provide health benefits coverage for standard fertility preservation services when a medically necessary treatment may cause iatrogenic infertility. The provision of standard fertility preservation services must not be determined based on a covered person's expected length of life, present or predicted disability, degree of medical dependency, perceived quality of life, other health conditions, or personal characteristics.

Iatrogenic infertility means an impairment of fertility caused by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

Standard fertility preservation services means procedures consistent with established medical practices and professional guidelines that save or protect the oocytes, sperm, or reproductive tissue of a patient, excluding the cost of storing sperm or oocytes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive has not submitted a formal, written fiscal note for this bill. However, upon request, the Department of the Treasury informally indicated that the cost of the bill to the SHBP and the SEHBP combined would approximate \$700,000 per year.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that State expenditures would rise by \$317,000 in the first year in which health insurance plans must cover fertility preservation services. Additional indeterminate costs would be incurred annually by local governments and school districts. If health insurance premiums were to go up as a result of the bill, there would also be an indeterminate annual revenue increase to the State, local governments, and school districts whenever health insurance premiums are a variable in determining employee premium-sharing contributions.

The OLS projection is based on the informal Department of the Treasury estimate that this bill would add \$700,000 to SHBP and SEHBP expenditures in the first year following enactment. The OLS then allocates the increase among three components: \$317,000 to the SHBP-State segment, \$166,000 to the SHBP-Local segment, and \$215,000 to the SEHBP.

Using information from a 2013 actuarial analysis performed by OptumInsight (Optum) for the State of Connecticut regarding Health Insurance Coverage for Fertility Preservation, the OLS estimates that this bill would increase rates by \$3.48 per active SHBP and SEHBP member in the first year.

In general, premium rate growth is a function of changes in service utilization and unit costs, among other factors. Optum presented two service utilization growth scenarios in its five-year projections: annual growth of 10 and 15 percent. With regard to changes in unit costs, Optum did not expect that the incremental number of individuals expected to use cryopreservation services would increase greatly the demand for services relative to the supply. Therefore, no change in unit costs was assumed in future years. All told, in the actuarial report, per-member costs grew by 10 percent annually over a five-year period. The table below shows the effects of the growth rate on the SHBP segments and the SEHBP in years two and three following enactment of the bill.

Estimated SHBP and SEHBP Expenditure Increases

Expenditure Increase	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
SHBP-State Component	\$317,000	\$349,000	\$384,000
SHBP-Local Component	\$166,000	\$184,000	\$201,000
SEHBP	<u>\$215,000</u>	<u>\$237,000</u>	<u>\$261,000</u>
TOTAL	\$698,000	\$770,000	\$846,000

In October 2019, the New Jersey Mandated Health Benefits Advisory Commission issued a study on Senate Bill 2133 (1R), which is the companion bill of this legislation in the Senate. The commission estimated that the bill would cost \$400,000 to \$900,000 in all affected segments of the New Jersey health insurance market, not just the SHBP and the SEHBP, in the first year after enactment. Although the OLS uses the Department of the Treasury estimate because its scope is more closely aligned with the subject of this fiscal estimate, the OLS includes a reference to the commission’s estimate as another reputable point of reference.

Lastly, the bill may increase annual revenue collections of the State, local governments, and school districts to the extent that health insurance premiums are a factor in determining cost-sharing contributions employees pay to their public employers. If so, then employee contributions would be higher as a function of growth in premiums. Conversely, the bill would have no effect on annual public employer revenues if the formula for determining employee contributions does not consider health insurance premiums, such as formulas that are exclusively based on an employee’s salary. The OLS, however, has insufficient information on the terms of collective bargaining agreements in effect in the State to quantify any increase in annual employee premium-sharing revenue that the State, local governments, and school districts may collect.

Section: State Government
Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislative Package to Fight New Jersey's Maternal and Infant Health Crisis

01/13/2020

TRENTON - Governor Phil Murphy today signed a legislative package into law to combat New Jersey's maternal and infant health crisis and provide health benefits coverage for fertility preservation services. The series of bills aims to improve health outcomes for New Jersey's mothers and babies and address the racial inequities in maternal and infant health care. The legislation will support the efforts of the Administration's Nurture NJ campaign, which is led by First Lady Tammy Murphy.

"In New Jersey, we are committed to improving the health and safety of every mother and child," **said Governor Murphy**. "By signing today's bills, we are taking another step forward in our effort to eliminate the racial disparities in maternal and infant care. I am proud to sign these bills into law and commend my colleagues in the Legislature for their commitment to improve health outcomes for New Jersey's mothers, babies, and families."

"Our mission is to make New Jersey the safest place in the nation to give birth," **said First Lady Tammy Murphy**. "To achieve this, it is absolutely essential that mothers across all races, ethnicities, social and economic backgrounds are listened to and supported by federal, state and community resources. Today's legislation provides better care and support for our mothers and babies, and moves us closer to improving health outcomes for all of New Jersey's families."

The Governor signed the following four bills into law:

- **A5509 (Mosquera, Timberlake, Mukherji/Ruiz, Pou)** – Requires health benefits and Medicaid coverage for breastfeeding support.
- **S3159 (Weinberg, Greenstein/Vainieri Huttle, Reynolds-Jackson, Mukherji)** - Requires Medicaid coverage for pasteurized donated human breast milk under certain circumstances.
- **S484 (Vitale, Gill/ McKeon, Speight, Vainieri Huttle)** - Revises Newborn Screening program in the Department of Health.
- **S2133 (Cruz-Perez, Ruiz/Lampitt, Timberlake, Mosquera, Sumter, Tucker, Reynolds-Jackson)** - Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

A5509

"As parents of young children, each of us knows first-hand the challenges of raising a child and just how important it is to be able to receive the support you need. Under the ACA, Medicaid currently provides coverage for breastfeeding equipment and services. This new mandate would not only guarantee continued coverage for Medicaid recipients even if the ACA is dismantled at the federal level, but would also require all New Jersey insurers to provide coverage for comprehensive lactation support. We are ensuring the health and well-being of mothers and their babies, while giving New Jersey parents one less expense to worry about as they care for their children," **said Assemblymembers Mosquera, Timberlake, and Mukherji**.

S3159

"The American Academy of Pediatrics recommends breast milk as the exclusive source of nutrition for a child in their first six months of life," **said Assemblywoman Valerie Vainieri Huttle**. "In extending health coverage for donated breast milk, we can ensure it is available and affordable for all mothers seeking to breastfeed and boost positive health outcomes for their babies."

"Low-income families under Medicaid will now have the same access to breast milk as those under all other health coverage policies," **said Assemblywoman Verlina Reynolds-Jackson**. "With breastfeeding shown to have a protective effect against respiratory illnesses, ear infections, allergy development and other diseases, it is important to remove barriers and guarantee quality health care to all mothers and babies in need."

"As my wife and I recently experienced, milk production is not always as seamless post-delivery as you'd hope or expect, nor does it always last as long as desired," **Assemblyman Raj Mukherji**. "The coverage extended under this new law will be particularly important for parents with prematurely born babies or those babies who may

need human breast milk for certain conditions for which formula is insufficient. As outcomes have shown, fortified breast milk can better provide the necessary nutrients for those in the Neonatal Intensive Care Unit to greatly increase healthy growth and development. Income should not determine which New Jersey families can ensure the health of their babies.”

S484

“The importance of this type of advisory committee cannot be emphasized enough,” **said Assemblyman McKeon**. “Its members would have both the experience and authority necessary to make recommendations to the Department of Health on screening technologies, treatment options, follow-up procedures and more. Their advice would help promote the well-being of newborns throughout the state.”

“We must prioritize our children’s health by utilizing the expertise of scientists, doctors and other educated professionals when it comes to congenital disorders,” **said Assemblywoman Speight**. “Maintaining updated methods of screening for a wide array of biochemical disorders can help reduce the amount of morbidity, mortality and disability that would otherwise be caused by undetected health problems.”

“Early diagnosis of a potential congenital disorder and access to early medical interventions can save parents and their children a lifetime of pain,” **said Assemblywoman Vainieri Huttle**. “It’s important for our state to do everything we can to make sure medical practitioners and parents are educated with standardized, up-to-date information on these disorders and how they can be both identified and treated.”

S2133

“Being diagnosed with a serious health condition and deciding to undergo major medical treatment is stressful enough without having to worry about potential infertility as a result of the treatment,” **said Assemblywoman Lampitt**. “Having the option to utilize fertility services helps to provide patients with peace of mind and makes the decision to seek medical treatment a little easier.”

“When someone requires a life-saving treatment, they shouldn’t have to choose between daunting medical bills or never having a family,” **said Assemblywoman Timberlake**. “Guaranteeing insurance coverage is one way we can help alleviate patients’ financial concerns and allow them to make their decision based on what they want rather than what they can afford.”

“As a mother, there is nothing in the world I value more than my children. Raising a child is such a rewarding experience,” **said Assemblywoman Mosquera**. “This law will ensure that no one who dreams of being a parent will be denied that opportunity if there is any way for them to do so, regardless of their current health problems.”

“Advancements in medical technology are providing patients with incredible alternatives they never would have had in the past,” **said Assemblywoman Sumter**. “If someone wants to start a family of their own someday but may soon face infertility, it’s important we help them achieve their dream by guaranteeing coverage of these beneficial fertility preservation services.”

“Everyone deserves the chance to form a family of their own,” **said Assemblywoman Tucker**. “In the past, the kinds of treatment cancer patients receive would have severely limited their ability to do so – but that is no longer the case thanks to modern fertility preservation services. We must ensure their ability to use those services whenever necessary and desired.”

“At a time when patients are coping with serious illnesses that can be both challenging and discouraging, knowing they can still have a family someday gives them hope,” **said Assemblywoman Reynolds-Jackson**. “That kind of hope during such a difficult time is more powerful than many people can comprehend. This law will help patients focus on the possibilities of life.”