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P.L. 2023, CHAPTER 258, *approved January 12, 2024*
Assembly, No. 5235 (*Second Reprint*)

1 AN ACT concerning health insurance coverage requirements for
2 infertility treatment and amending ¹【and supplementing】¹
3 various parts of the statutory law.
4

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

7
8 1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to
9 read as follows:

10 1. a. A hospital service corporation contract which provides
11 hospital or medical expense benefits for groups with more than 50
12 persons, which includes pregnancy-related benefits, shall not be
13 delivered, issued, executed or renewed in this State, or approved for
14 issuance or renewal in this State by the Commissioner of Banking
15 and Insurance on or after the effective date of this act unless the
16 contract provides coverage for persons covered under the contract
17 for medically necessary expenses , as determined by a physician,
18 incurred in the diagnosis and treatment of infertility as provided
19 pursuant to this section. The hospital service corporation contract
20 shall provide coverage for any services related to infertility ¹【that is
21 recommended】 in accordance with American Society for
22 Reproductive Medicine guidelines and as determined¹ by a
23 physician, which includes, but is not limited to【, the following
24 services related to infertility】: diagnosis and diagnostic tests;
25 medications; surgery; intrauterine insemination; in vitro
26 fertilization², including in vitro fertilization using donor eggs and in
27 vitro fertilization where the embryo is transferred to a gestational
28 carrier or surrogate²; genetic testing; ²【embryo transfer;】² artificial
29 insemination; 【gamete intra fallopian transfer; zygote intra
30 fallopian transfer;】 intracytoplasmic sperm injection; 【and】 four
31 completed egg retrievals 【per lifetime of the covered person】;
32 ²【and】² unlimited embryo transfers, in accordance with guidelines
33 from the American Society for Reproductive Medicine, using single
34 embryo transfer when recommended and deemed medically
35 appropriate by a physician²; and medical costs of egg or sperm
36 donors, including office visits, medications, laboratory and
37 radiological procedures and retrieval, shall be covered until the
38 donor is released from treatment by the reproductive

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:

¹Assembly AFI committee amendments adopted December 11, 2023.

²Assembly AAP committee amendments adopted January 4, 2024.

1 endocrinologist². The hospital service corporation may provide that
2 coverage for in vitro fertilization~~], gamete intra fallopian transfer~~
3 ~~and zygote intra fallopian transfer]~~ shall be limited to a covered
4 person who~~]: a.]~~ has used all reasonable, less expensive and
5 medically appropriate treatments , as determined by a licensed
6 physician, and is still unable to become pregnant or carry a
7 pregnancy ~~]; b. has not reached the limit of four completed egg~~
8 ~~retrievals; and c. is 45 years of age or younger]~~ to a live birth.
9 Coverage for infertility services provided to partners of persons
10 who have successfully reversed a voluntary sterilization shall not be
11 excluded. ²A contract shall not impose any restriction concerning
12 the coverage of infertility services based on age.²

13 ~~For purposes of]~~ ¹~~[b.]~~ As used in ¹~~[this]~~ this section~~],:]~~:

14 "Infertility" means a disease ~~[or]~~, condition ~~[that results in the~~
15 abnormal function of the reproductive system, as determined
16 pursuant to American Society for Reproductive Medicine practice
17 guidelines by a physician who is Board Certified or Board Eligible
18 in Reproductive Endocrinology and Infertility or in Obstetrics and
19 Gynecology or that the patient has met one of the following
20 conditions:

21 (1) A male is unable to impregnate a female;

22 (2) A female with a male partner and under 35 years of age is
23 unable to conceive after 12 months of unprotected sexual
24 intercourse;

25 (3) A female with a male partner and 35 years of age and over is
26 unable to conceive after six months of unprotected sexual
27 intercourse;

28 (4) A female without a male partner and under 35 years of age
29 who is unable to conceive after 12 failed attempts of intrauterine
30 insemination under medical supervision;

31 (5) A female without a male partner and over 35 years of age
32 who is unable to conceive after six failed attempts of intrauterine
33 insemination under medical supervision;

34 (6) Partners are unable to conceive as a result of involuntary
35 medical sterility;

36 (7) A person is unable to carry a pregnancy to live birth; or

37 (8) A previous determination of infertility pursuant to this
38 section ~~], or status characterized by~~ ¹any of the following¹:

39 (1) the ¹~~[failure to establish a pregnancy or carry a pregnancy to~~
40 ~~term]~~ inability to achieve a successful pregnancy based on a
41 patient's medical, sexual, and reproductive history, age, physical
42 findings, diagnostic testing, or any combination of those factors¹;

43 (2) ¹~~[a person's inability to reproduce as a single individual or~~
44 ~~with a partner of the individual without medical intervention]~~ the
45 need for medical intervention, including, but not limited to, the use

1 of donor gametes or donor embryos in order to achieve a successful
2 pregnancy either as an individual or with a partner¹; or

3 (3) ¹ [a physician's recommendation, diagnosis, treatment plan,
4 or prescription based on a patient's medical, sexual, and
5 reproductive history, age, physical findings or diagnostic testing] in
6 patients having regular, unprotected intercourse and without any
7 known etiology for either partner suggestive of impaired
8 reproductive ability, evaluation should be initiated at 12 months
9 when the female partner is under 35 years of age and at 6 months
10 when the female partner is 35 years of age or older.

11 Nothing in this definition shall be used to deny or delay
12 treatment to any individual, regardless of relationship status or
13 sexual orientation¹.

14 "Treatment of infertility" means the recommended treatment
15 plan or prescribed procedures, services, and medications as directed
16 by a licensed physician for infertility as defined in this section.

17 The benefits shall be provided to the same extent as for other
18 **[pregnancy-related procedures]** medical conditions under the
19 contract, except that the services provided for in this section shall
20 be performed at facilities that conform to standards established by
21 the American Society for Reproductive Medicine or the American
22 College of Obstetricians and Gynecologists. The same copayments,
23 deductibles and benefit limits shall apply to the diagnosis and
24 treatment of infertility pursuant to this section as those applied to
25 other medical or surgical benefits under the contract. **[Infertility**
26 **resulting from voluntary sterilization procedures shall be excluded**
27 **under the contract for the coverage required by this section]**
28 Infertility resulting from a voluntary unreversed sterilization
29 procedure may be excluded if the voluntary unreversed sterilization
30 is the sole cause of infertility, provided, however, that coverage for
31 infertility services shall not be excluded if the voluntary
32 sterilization is successfully reversed. ²[A contract shall not impose
33 any exclusions, limitations, or restrictions on coverage of any
34 fertility services provided by or to a third party.]²

35 b. A religious employer may request, and a hospital service
36 corporation shall grant, an exclusion under the contract for the
37 coverage required by this section for in vitro fertilization, embryo
38 transfer, artificial insemination, zygote intra fallopian transfer and
39 intracytoplasmic sperm injection, if the required coverage is
40 contrary to the religious employer's bona fide religious tenets. The
41 hospital service corporation that issues a contract containing such
42 an exclusion shall provide written notice thereof to each prospective
43 subscriber or subscriber, which shall appear in not less than 10
44 point type, in the contract, application and sales brochure. For the
45 purposes of this subsection, "religious employer" means an
46 employer that is a church, convention or association of churches or
47 any group or entity that is operated, supervised or controlled by or

1 in connection with a church or a convention or association of
2 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
3 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

4 c. This section shall apply to those hospital service corporation
5 contracts in which the hospital service corporation has reserved the
6 right to change the premium.

7 d. The provisions of this section shall not apply to a hospital
8 service corporation contract which, pursuant to a contract between
9 the hospital service corporation and the Department of Human
10 Services, provides benefits to persons who are eligible for medical
11 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
12 FamilyCare Program established pursuant to P.L.2005, c.156
13 (C.30:4J-8 et al.), or any other program administered by the
14 Division of Medical Assistance and Health Services in the
15 Department of Human Services.

16 ²e. Nothing in this section shall preclude the hospital service
17 corporation from performing utilization review, including periodic
18 review of the medical necessity of a particular service, provided all
19 utilization review decisions are consistent with American Society
20 for Reproductive Medicine guidelines.²

21 (cf: P.L.2017, c.48, s.1)

22

23 2. Section 2 of P.L.2001, c.236 (C.17:48A-7w) is amended to
24 read as follows:

25 2. a. A medical service corporation contract which provides
26 hospital or medical expense benefits for groups with more than 50
27 persons, which includes pregnancy-related benefits, shall not be
28 delivered, issued, executed or renewed in this State, or approved for
29 issuance or renewal in this State by the Commissioner of Banking and
30 Insurance on or after the effective date of this act unless the contract
31 provides coverage for persons covered under the contract for
32 medically necessary expenses, as determined by a physician, incurred
33 in the diagnosis and treatment of infertility as provided pursuant to this
34 section. The medical service corporation contract shall provide
35 coverage for any services related to infertility ¹**【that is recommended】**
36 in accordance with American Society for Reproductive Medicine
37 guidelines and as determined¹ by a physician, which includes, but is
38 not limited to**【**, the following services related to infertility**】**: diagnosis
39 and diagnostic tests; medications; surgery; intrauterine insemination;
40 in vitro fertilization², including in vitro fertilization using donor eggs
41 and in vitro fertilization where the embryo is transferred to a
42 gestational carrier or surrogate²; genetic testing; ²**【embryo transfer;】**²
43 **【artificial insemination; 【gamete intra fallopian transfer; zygote intra**
44 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
45 completed egg retrievals **【per lifetime of the covered person】**; ²**【and】**²
46 unlimited embryo transfers, in accordance with guidelines from the
47 American Society for Reproductive Medicine, using single embryo

1 transfer when recommended and deemed medically appropriate by a
 2 physician²; and medical costs of egg or sperm donors, including office
 3 visits, medications, laboratory and radiological procedures and
 4 retrieval, shall be covered until the donor is released from treatment by
 5 the reproductive endocrinologist². The medical service corporation
 6 may provide that coverage for in vitro fertilization[, gamete intra
 7 fallopian transfer and zygote intra fallopian transfer] shall be limited
 8 to a covered person who[: a.] has used all reasonable, less expensive
 9 and medically appropriate treatments , as determined by a licensed
 10 physician, and is still unable to become pregnant or carry a pregnancy
 11 to a live birth[; b. has not reached the limit of four completed egg
 12 retrievals; and c. is 45 years of age or younger]. Coverage for
 13 infertility services provided to partners of persons who have
 14 successfully reversed a voluntary sterilization shall not be excluded.

15 ²A contract shall not impose any restriction concerning the coverage of
 16 infertility services based on age.²

17 [For purposes of] ¹[b.]¹ As used in ¹[this]¹this section[.]:

18 "Infertility" means a disease [or], condition, or status
 19 characterized by ¹any of the following¹: [that results in the abnormal
 20 function of the reproductive system, as determined pursuant to
 21 American Society for Reproductive Medicine practice guidelines by a
 22 physician who is Board Certified or Board Eligible in Reproductive
 23 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 24 the patient has met one of the following conditions:

25 (1) A male is unable to impregnate a female;

26 (2) A female with a male partner and under 35 years of age is
 27 unable to conceive after 12 months of unprotected sexual intercourse;

28 (3) A female with a male partner and 35 years of age and over is
 29 unable to conceive after six months of unprotected sexual intercourse;

30 (4) A female without a male partner and under 35 years of age who
 31 is unable to conceive after 12 failed attempts of intrauterine
 32 insemination under medical supervision;

33 (5) A female without a male partner and over 35 years of age who
 34 is unable to conceive after six failed attempts of intrauterine
 35 insemination under medical supervision;

36 (6) Partners are unable to conceive as a result of involuntary
 37 medical sterility;

38 (7) A person is unable to carry a pregnancy to live birth; or

39 (8) A previous determination of infertility pursuant to this section]

40 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
 41 term] inability to achieve a successful pregnancy based on a patient's
 42 medical, sexual, and reproductive history, age, physical findings,
 43 diagnostic testing, or any combination of those factors¹;

44 (2) ¹[a person's inability to reproduce as a single individual or
 45 with a partner of the individual without medical intervention] the need
 46 for medical intervention, including, but not limited to, the use of donor

1 gametes or donor embryos in order to achieve a successful pregnancy
2 either as an individual or with a partner¹; or

3 (3) ¹[a physician's recommendation, diagnosis, treatment plan, or
4 prescription based on a patient's medical, sexual, and reproductive
5 history, age, physical findings or diagnostic testing] in patients having
6 regular, unprotected intercourse and without any known etiology for
7 either partner suggestive of impaired reproductive ability, evaluation
8 should be initiated at 12 months when the female partner is under 35
9 years of age and at 6 months when the female partner is 35 years of
10 age or older.

11 Nothing in this definition shall be used to deny or delay treatment
12 to any individual, regardless of relationship status or sexual
13 orientation¹.

14 "Treatment of infertility" means the recommended treatment plan
15 or prescribed procedures, services, and medications as directed by a
16 licensed physician for infertility as defined in this section.

17 The benefits shall be provided to the same extent as for other
18 **[pregnancy-related procedures]** medical conditions under the contract,
19 except that the services provided for in this section shall be performed
20 at facilities that conform to standards established by the American
21 Society for Reproductive Medicine or the American College of
22 Obstetricians and Gynecologists. The same copayments, deductibles
23 and benefit limits shall apply to the diagnosis and treatment of
24 infertility pursuant to this section as those applied to other medical or
25 surgical benefits under the contract. **[Infertility resulting from**
26 **voluntary sterilization procedures shall be excluded under the contract**
27 **for the coverage required by this section]** Infertility resulting from a
28 voluntary unreversed sterilization procedure may be excluded if the
29 voluntary unreversed sterilization is the sole cause of infertility,
30 provided, however, that coverage for infertility services shall not be
31 excluded if the voluntary sterilization is successfully reversed. ²[A
32 contract shall not impose any exclusions, limitations, or restrictions on
33 coverage of any fertility services provided by or to a third party.]²

34 b. A religious employer may request, and a hospital service
35 corporation shall grant, an exclusion under the contract for the
36 coverage required by this section for in vitro fertilization, embryo
37 transfer, artificial insemination, zygote intra fallopian transfer and
38 intracytoplasmic sperm injection, if the required coverage is contrary
39 to the religious employer's bona fide religious tenets. The hospital
40 service corporation that issues a contract containing such an exclusion
41 shall provide written notice thereof to each prospective subscriber or
42 subscriber, which shall appear in not less than 10 point type, in the
43 contract, application and sales brochure. For the purposes of this
44 subsection, "religious employer" means an employer that is a church,
45 convention or association of churches or any group or entity that is
46 operated, supervised or controlled by or in connection with a church or
47 a convention or association of churches as defined in 26 U.S.C.

1 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
2 26 U.S.C. s.501(c)(3).

3 c. This section shall apply to those medical service corporation
4 contracts in which the medical service corporation has reserved the
5 right to change the premium.

6 d. The provisions of this section shall not apply to a medical
7 service corporation contract which, pursuant to a contract between the
8 medical service corporation and the Department of Human Services,
9 provides benefits to persons who are eligible for medical assistance
10 under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare
11 Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or
12 any other program administered by the Division of Medical Assistance
13 and Health Services in the Department of Human Services.

14 ²e. Nothing in this section shall preclude the medical service
15 corporation from performing utilization review, including periodic
16 review of the medical necessity of a particular service, provided all
17 utilization review decisions are consistent with American Society for
18 Reproductive Medicine guidelines.²

19 (cf: P.L.2017, c.48, s.2)

20

21 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended to
22 read as follows:

23 3. a. A health service corporation contract which provides
24 hospital or medical expense benefits for groups with more than 50
25 persons, which includes pregnancy-related benefits, shall not be
26 delivered, issued, executed or renewed in this State, or approved for
27 issuance or renewal in this State by the Commissioner of Banking and
28 Insurance on or after the effective date of this act unless the contract
29 provides coverage for persons covered under the contract for
30 medically necessary expenses, as determined by a physician, incurred
31 in the diagnosis and treatment of infertility as provided pursuant to this
32 section. The health service corporation contract shall provide
33 coverage for any services related to infertility ¹**【that is recommended】**
34 in accordance with American Society for Reproductive Medicine
35 guidelines and as determined¹ by a physician, which includes, but is
36 not limited to**【**, the following services related to infertility**】**: diagnosis
37 and diagnostic tests; medications; surgery; intrauterine insemination;
38 in vitro fertilization², including in vitro fertilization using donor eggs
39 and in vitro fertilization where the embryo is transferred to a
40 gestational carrier or surrogate²; genetic testing; ²**【embryo transfer;】**²
41 artificial insemination; **【**gamete intra fallopian transfer; zygote intra
42 fallopian transfer;**】** intracytoplasmic sperm injection; **【and】** four
43 completed egg retrievals **【per lifetime of the covered person】**; ²**【and】**²
44 unlimited embryo transfers, in accordance with guidelines from the
45 American Society for Reproductive Medicine, using single embryo
46 transfer when recommended and deemed medically appropriate by a
47 physician²; and medical costs of egg or sperm donors, including office

1 visits, medications, laboratory and radiological procedures and
 2 retrieval, shall be covered until the donor is released from treatment by
 3 the reproductive endocrinologist². The health service corporation may
 4 provide that coverage for in vitro fertilization[, gamete intra fallopian
 5 transfer and zygote intra fallopian transfer] shall be limited to a
 6 covered person who[: a.] has used all reasonable, less expensive and
 7 medically appropriate treatments , as determined ¹[bya] by a¹ licensed
 8 physician, and is still unable to become pregnant or carry a pregnancy
 9 to a live birth[: b. has not reached the limit of four completed egg
 10 retrievals; and c. is 45 years of age or younger]. Coverage for
 11 infertility services provided to partners of persons who have
 12 successfully reversed a voluntary sterilization shall not be excluded.
 13 ²A contract shall not impose any restriction concerning the coverage of
 14 infertility services based on age.²

15 【For purposes of】 ¹[b.]¹ As used in ¹[this]¹ this section[,]:

16 "Infertility" means a disease 【or】, condition, or status
 17 characterized by ¹any of the following¹: 【that results in the abnormal
 18 function of the reproductive system, as determined pursuant to
 19 American Society for Reproductive Medicine practice guidelines by a
 20 physician who is Board Certified or Board Eligible in Reproductive
 21 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 22 the patient has met one of the following conditions:

- 23 (1) A male is unable to impregnate a female;
 24 (2) A female with a male partner and under 35 years of age is
 25 unable to conceive after 12 months of unprotected sexual intercourse;
 26 (3) A female with a male partner and 35 years of age and over is
 27 unable to conceive after six months of unprotected sexual intercourse;
 28 (4) A female without a male partner and under 35 years of age who
 29 is unable to conceive after 12 failed attempts of intrauterine
 30 insemination under medical supervision;
 31 (5) A female without a male partner and over 35 years of age who
 32 is unable to conceive after six failed attempts of intrauterine
 33 insemination under medical supervision;
 34 (6) Partners are unable to conceive as a result of involuntary
 35 medical sterility;
 36 (7) A person is unable to carry a pregnancy to live birth; or
 37 (8) A previous determination of infertility pursuant to this section】

38 (1) the ¹【failure to establish a pregnancy or carry a pregnancy to
 39 term】 inability to achieve a successful pregnancy based on a patient's
 40 medical, sexual, and reproductive history, age, physical findings,
 41 diagnostic testing, or any combination of those factors¹;

42 (2) ¹【a person's inability to reproduce as a single individual or
 43 with a partner of the individual without medical intervention】 the need
 44 for medical intervention, including, but not limited to, the use of donor
 45 gametes or donor embryos in order to achieve a successful pregnancy
 46 either as an individual or with a partner¹; or

1 (3) ¹ [a physician’s recommendation, diagnosis, treatment plan, or
2 prescription based on a patient’s medical, sexual, and reproductive
3 history, age, physical findings or diagnostic testing] in patients having
4 regular, unprotected intercourse and without any known etiology for
5 either partner suggestive of impaired reproductive ability, evaluation
6 should be initiated at 12 months when the female partner is under 35
7 years of age and at 6 months when the female partner is 35 years of
8 age or older.

9 Nothing in this definition shall be used to deny or delay treatment
10 to any individual, regardless of relationship status or sexual
11 orientation¹.

12 “Treatment of infertility” means the recommended treatment plan
13 or prescribed procedures, services, and medications as directed by a
14 licensed physician for fertility as defined in this section.

15 The benefits shall be provided to the same extent as for other
16 **[pregnancy-related procedures]** medical conditions under the contract,
17 except that the services provided for in this section shall be performed
18 at facilities that conform to standards established by the American
19 Society for Reproductive Medicine or the American College of
20 Obstetricians and Gynecologists. The same copayments, deductibles
21 and benefit limits shall apply to the diagnosis and treatment of
22 infertility pursuant to this section as those applied to other medical or
23 surgical benefits under the contract. **[Infertility resulting from**
24 **voluntary sterilization procedures shall be excluded under the contract**
25 **for the coverage required by this section]** Infertility resulting from a
26 voluntary unreversed sterilization procedure may be excluded if the
27 voluntary unreversed sterilization is the sole cause of infertility,
28 provided, however, that coverage for infertility services shall not be
29 excluded if the voluntary sterilization is successfully reversed. ²[A
30 contract shall not impose any exclusions, limitations, or restrictions on
31 coverage of any fertility services provided by or to a third party.]²

32 b. A religious employer may request, and a hospital service
33 corporation shall grant, an exclusion under the contract for the
34 coverage required by this section for in vitro fertilization, embryo
35 transfer, artificial insemination, zygote intra fallopian transfer and
36 intracytoplasmic sperm injection, if the required coverage is contrary
37 to the religious employer's bona fide religious tenets. The hospital
38 service corporation that issues a contract containing such an exclusion
39 shall provide written notice thereof to each prospective subscriber or
40 subscriber, which shall appear in not less than 10 point type, in the
41 contract, application and sales brochure. For the purposes of this
42 subsection, "religious employer" means an employer that is a church,
43 convention or association of churches or any group or entity that is
44 operated, supervised or controlled by or in connection with a church or
45 a convention or association of churches as defined in 26 U.S.C.
46 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
47 26 U.S.C. s.501(c)(3).

1 c. This section shall apply to those health service corporation
2 contracts in which the health service corporation has reserved the right
3 to change the premium.

4 d. The provisions of this section shall not apply to a health service
5 corporation contract which, pursuant to a contract between the health
6 service corporation and the Department of Human Services, provides
7 benefits to persons who are eligible for medical assistance under
8 P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program
9 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other
10 program administered by the Division of Medical Assistance and
11 Health Services in the Department of Human Services.

12 ²e. Nothing in this section shall preclude the health service
13 corporation from performing utilization review, including periodic
14 review of the medical necessity of a particular service, provided all
15 utilization review decisions are consistent with American Society for
16 Reproductive Medicine guidelines.²

17 (cf: P.L.2017, c.48, s.3)

18
19 4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended to
20 read as follows:

21 4. a. A group health insurance policy which provides hospital or
22 medical expense benefits for groups with more than 50 persons, which
23 includes pregnancy-related benefits, shall not be delivered, issued,
24 executed or renewed in this State, or approved for issuance or renewal
25 in this State by the Commissioner of Banking and Insurance on or after
26 the effective date of this act unless the policy provides coverage for
27 persons covered under the policy for medically necessary expenses, as
28 determined by a physician, incurred in the diagnosis and treatment of
29 infertility as provided pursuant to this section. The policy shall
30 provide coverage for any services related to infertility ¹[that is
31 recommended] in accordance with American Society for Reproductive
32 Medicine guidelines and as determined¹ by a physician, which
33 includes, but is not limited to ¹[, the following services related to
34 infertility]: diagnosis and diagnostic tests; medications; surgery;
35 intrauterine insemination; in vitro fertilization², including in vitro
36 fertilization using donor eggs and in vitro fertilization where the
37 embryo is transferred to a gestational carrier or surrogate²; genetic
38 testing; ²[embryo transfer;]² artificial insemination; [gamete intra
39 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
40 sperm injection; [and] four completed egg retrievals [per lifetime of
41 the covered person]; ²[and]² unlimited embryo transfers, in
42 accordance with guidelines from the American Society for
43 Reproductive Medicine, using single embryo transfer when
44 recommended and deemed medically appropriate by a physician²; and
45 medical costs of egg or sperm donors, including office visits,
46 medications, laboratory and radiological procedures and retrieval, shall
47 be covered until the donor is released from treatment by the

1 reproductive endocrinologist². The policy may provide that coverage
 2 for in vitro fertilization~~], gamete intra fallopian transfer and zygote~~
 3 ~~intra fallopian transfer]~~ shall be limited to a covered person who~~]: a.]~~
 4 has used all reasonable, less expensive and medically appropriate
 5 treatments , as determined by a licensed physician, and is still unable
 6 to become pregnant or carry a pregnancy to a live birth~~]; b. has not~~
 7 reached the limit of four completed egg retrievals; and c. is 45 years of
 8 age or younger~~]. Coverage for infertility services provided to partners~~
 9 of persons who have successfully reversed a voluntary sterilization
 10 shall not be excluded. ²A policy shall not impose any restriction
 11 concerning the coverage of infertility services based on age.²

12 ~~For purposes of]~~ ¹~~[b.]~~ ¹As used in ¹~~[this]~~ ¹this section~~],]:~~

13 "Infertility" means a disease ~~[or],~~ condition, or status
 14 characterized by ¹any of the following¹: ~~[that results in the abnormal~~
 15 function of the reproductive system, as determined pursuant to
 16 American Society for Reproductive Medicine practice guidelines by a
 17 physician who is Board Certified or Board Eligible in Reproductive
 18 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 19 the patient has met one of the following conditions:

20 (1) A male is unable to impregnate a female;

21 (2) A female with a male partner and under 35 years of age is
 22 unable to conceive after 12 months of unprotected sexual intercourse;

23 (3) A female with a male partner and 35 years of age and over is
 24 unable to conceive after six months of unprotected sexual intercourse;

25 (4) A female without a male partner and under 35 years of age who
 26 is unable to conceive after 12 failed attempts of intrauterine
 27 insemination under medical supervision;

28 (5) A female without a male partner and over 35 years of age who
 29 is unable to conceive after six failed attempts of intrauterine
 30 insemination under medical supervision;

31 (6) Partners are unable to conceive as a result of involuntary
 32 medical sterility;

33 (7) A person is unable to carry a pregnancy to live birth; or

34 (8) A previous determination of infertility pursuant to this section~~]~~

35 (1) the ¹~~[failure to establish a pregnancy or carry a pregnancy to~~
 36 term] inability to achieve a successful pregnancy based on a patient's
 37 medical, sexual, and reproductive history, age, physical findings,
 38 diagnostic testing, or any combination of those factors¹;

39 (2) ¹~~[a person's inability to reproduce as a single individual or~~
 40 with a partner of the individual without medical intervention] the need
 41 for medical intervention, including, but not limited to, the use of donor
 42 gametes or donor embryos in order to achieve a successful pregnancy
 43 either as an individual or with a partner¹; or

44 (3) ¹~~[a physician's recommendation, diagnosis, treatment plan, or~~
 45 prescription based on a patient's medical, sexual, and reproductive
 46 history, age, physical findings or diagnostic testing] in patients having

1 regular, unprotected intercourse and without any known etiology for
2 either partner suggestive of impaired reproductive ability, evaluation
3 should be initiated at 12 months when the female partner is under 35
4 years of age and at 6 months when the female partner is 35 years of
5 age or older.

6 Nothing in this definition shall be used to deny or delay treatment
7 to any individual, regardless of relationship status or sexual
8 orientation¹.

9 “Treatment of infertility” means the recommended treatment plan
10 or prescribed procedures, services, and medications directed by a
11 licensed physician for infertility as defined in this section.

12 The benefits shall be provided to the same extent as for other
13 **【pregnancy-related procedures】** medical conditions under the policy,
14 except that the services provided for in this section shall be performed
15 at facilities that conform to standards established by the American
16 Society for Reproductive Medicine or the American College of
17 Obstetricians and Gynecologists. The same copayments, deductibles
18 and benefit limits shall apply to the diagnosis and treatment of
19 infertility pursuant to this section as those applied to other medical or
20 surgical benefits under the contract. **【Infertility resulting from**
21 **voluntary sterilization procedures shall be excluded under the contract**
22 **for the coverage required by this section】** Infertility resulting from a
23 voluntary unreversed sterilization procedure may be excluded if the
24 voluntary unreversed sterilization is the sole cause of infertility,
25 provided, however, that coverage for infertility services shall not be
26 excluded if the voluntary sterilization is successfully reversed. ²**【A**
27 **policy shall not impose any exclusions, limitations, or restrictions on**
28 **coverage of any fertility services provided by or to a third party.】**²

29 b. A religious employer may request, and a hospital service
30 corporation shall grant, an exclusion under the contract for the
31 coverage required by this section for in vitro fertilization, embryo
32 transfer, artificial insemination, zygote intra fallopian transfer and
33 intracytoplasmic sperm injection, if the required coverage is contrary
34 to the religious employer's bona fide religious tenets. The hospital
35 service corporation that issues a contract containing such an exclusion
36 shall provide written notice thereof to each prospective subscriber or
37 subscriber, which shall appear in not less than 10 point type, in the
38 contract, application and sales brochure. For the purposes of this
39 subsection, "religious employer" means an employer that is a church,
40 convention or association of churches or any group or entity that is
41 operated, supervised or controlled by or in connection with a church or
42 a convention or association of churches as defined in 26 U.S.C.
43 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
44 26 U.S.C. s.501(c)(3).

45 c. This section shall apply to those insurance policies in which the
46 insurer has reserved the right to change the premium.

1 d. The provisions of this section shall not apply to a group health
 2 insurance policy which, pursuant to a contract between the insurer and
 3 the Department of Human Services, provides benefits to persons who
 4 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et
 5 seq.), the NJ FamilyCare Program established pursuant to P.L.2005,
 6 c.156 (C.30:4J-8 et al.), or any other program administered by the
 7 Division of Medical Assistance and Health Services in the Department
 8 of Human Services.

9 ²e. Nothing in this section shall preclude the insurer from
 10 performing utilization review, including periodic review of the
 11 medical necessity of a particular service, provided all utilization
 12 review decisions are consistent with American Society for
 13 Reproductive Medicine guidelines.²

14 (cf: P.L.2017, c.48, s.4)

15
 16 5. Section 5 of P.L.2001²~~1~~² c.236 (C.26:2J-4.23) is amended
 17 to read as follows:

18 5. a. No certificate of authority to establish and operate a health
 19 maintenance organization in this State shall be issued or continued on
 20 or after the effective date of this act unless the health maintenance
 21 organization provides health care services, to groups of more than 50
 22 enrollees, for medically necessary expenses, as determined by a
 23 physician, incurred in the diagnosis and treatment of infertility as
 24 provided pursuant to this section. A health maintenance organization
 25 shall provide enrollee coverage for any services related to infertility
 26 ¹[that is recommended] in accordance with American Society for
 27 Reproductive Medicine guidelines and as determined¹ by a physician,
 28 which includes, but is not limited to~~],~~ the following services related to
 29 infertility~~]:~~ diagnosis and diagnostic tests; medications; surgery;
 30 intrauterine insemination; in vitro fertilization², including in vitro
 31 fertilization using donor eggs and in vitro fertilization where the
 32 embryo is transferred to a gestational carrier or surrogate²; genetic
 33 testing; ²[embryo transfer;]² artificial insemination; [gamete intra
 34 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
 35 sperm injection; [and] four completed egg retrievals [per lifetime of
 36 the covered person]; ²[and]² unlimited embryo transfers, in
 37 accordance with guidelines from the American Society for
 38 Reproductive Medicine, using single embryo transfer when
 39 recommended and deemed medically appropriate by a physician²; and
 40 medical costs of egg or sperm donors, including office visits,
 41 medications, laboratory and radiological procedures and retrieval, shall
 42 be covered until the donor is released from treatment by the
 43 reproductive endocrinologist². A health maintenance organization
 44 may provide that coverage for in vitro fertilization~~],~~ gamete intra
 45 fallopian transfer and zygote intra fallopian transfer~~]~~ shall be limited
 46 to a covered person who~~]:~~ a.] has used all reasonable, less expensive

1 and medically appropriate treatments , as determined by a licensed
 2 physician, and is still unable to become pregnant or carry a pregnancy
 3 to a live birth]; b. has not reached the limit of four completed egg
 4 retrievals; and c. is 45 years of age or younger]. Coverage for
 5 infertility services provided to partners of persons who have
 6 successfully reversed a voluntary sterilization shall not be excluded.

7 ²A contract shall not impose any restriction concerning the coverage of
 8 infertility services based on age.²

9 **【For purposes of】** ¹**【b.】** ¹**As used in** ¹**【this】** ¹**this section【.】**;

10 "Infertility" means a disease **【or】**, condition, or status
 11 characterized by ¹any of the following¹: **【that results in the abnormal**
 12 **function of the reproductive system, as determined pursuant to**
 13 **American Society for Reproductive Medicine practice guidelines by a**
 14 **physician who is Board Certified or Board Eligible in Reproductive**
 15 **Endocrinology and Infertility or in Obstetrics and Gynecology or that**
 16 **the patient has met one of the following conditions:**

17 (1) A male is unable to impregnate a female;

18 (2) A female with a male partner and under 35 years of age is
 19 unable to conceive after 12 months of unprotected sexual intercourse;

20 (3) A female with a male partner and 35 years of age and over is
 21 unable to conceive after six months of unprotected sexual intercourse;

22 (4) A female without a male partner and under 35 years of age who
 23 is unable to conceive after 12 failed attempts of intrauterine
 24 insemination under medical supervision;

25 (5) A female without a male partner and over 35 years of age who
 26 is unable to conceive after six failed attempts of intrauterine
 27 insemination under medical supervision;

28 (6) Partners are unable to conceive as a result of involuntary
 29 medical sterility;

30 (7) A person is unable to carry a pregnancy to live birth; or

31 (8) A previous determination of infertility pursuant to this section**】**

32 (1) the ¹**【failure to establish a pregnancy or carry a pregnancy to**
 33 **term】** inability to achieve a successful pregnancy based on a patient's
 34 medical, sexual, and reproductive history, age, physical findings,
 35 diagnostic testing, or any combination of those factors¹;

36 (2) ¹**【a person's inability to reproduce as a single individual or**
 37 **with a partner of the individual without medical intervention】** the need
 38 for medical intervention, including, but not limited to, the use of donor
 39 gametes or donor embryos in order to achieve a successful pregnancy
 40 either as an individual or with a partner¹; or

41 (3) ¹**【a physician's recommendation, diagnosis, treatment plan, or**
 42 **prescription based on a patient's medical, sexual, and reproductive**
 43 **history, age, physical findings or diagnostic testing】** in patients having
 44 regular, unprotected intercourse and without any known etiology for
 45 either partner suggestive of impaired reproductive ability, evaluation
 46 should be initiated at 12 months when the female partner is under 35

1 years of age and at 6 months when the female partner is 35 years of
2 age or older.

3 Nothing in this definition shall be used to deny or delay treatment
4 to any individual, regardless of relationship status or sexual
5 orientation¹.

6 “Treatment of infertility” means the recommended treatment plan
7 or prescribed procedures, services, and medications directed by a
8 licensed physician for infertility as defined in this section.

9 The benefits shall be provided to the same extent as for other
10 **【pregnancy-related procedures】** medical conditions under the contract,
11 except that the services provided for in this section shall be performed
12 at facilities that conform to standards established by the American
13 Society for Reproductive Medicine or the American College of
14 Obstetricians and Gynecologists. The same copayments, deductibles
15 and benefit limits shall apply to the diagnosis and treatment of
16 infertility pursuant to this section as those applied to other medical or
17 surgical benefits under the contract. **【Infertility resulting from**
18 **voluntary sterilization procedures shall be excluded under the contract**
19 **for the coverage required by this section】** Infertility resulting from a
20 voluntary unreversed sterilization procedure may be excluded if the
21 voluntary unreversed sterilization is the sole cause of infertility,
22 provided, however, that coverage for infertility services shall not be
23 excluded if the voluntary sterilization is successfully reversed. ²**【A**
24 **contract shall not impose any exclusions, limitations, or restrictions on**
25 **coverage of any fertility services provided by or to a third party.】²**

26 b. A religious employer may request, and a health maintenance
27 organization shall grant, an exclusion under the contract for the
28 coverage required by this section for in vitro fertilization, embryo
29 transfer, artificial insemination, zygote intra fallopian transfer and
30 intracytoplasmic sperm injection, if the required coverage is contrary
31 to the religious employer's bona fide religious tenets. The hospital
32 service corporation that issues a contract containing such an exclusion
33 shall provide written notice thereof to each prospective subscriber or
34 subscriber, which shall appear in not less than 10 point type, in the
35 contract, application and sales brochure. For the purposes of this
36 subsection, "religious employer" means an employer that is a church,
37 convention or association of churches or any group or entity that is
38 operated, supervised or controlled by or in connection with a church or
39 a convention or association of churches as defined in 26 U.S.C.
40 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
41 26 U.S.C. s.501(c)(3).

42 c. The provisions of this section shall apply to those contracts for
43 health care services by health maintenance organizations under which
44 the right to change the schedule of charges for enrollee coverage is
45 reserved.

46 d. The provisions of this section shall not apply to a contract for
47 health care services by a health maintenance organization which,

1 pursuant to a contract between the health maintenance organization
2 and the Department of Human Services, provides benefits to persons
3 who are eligible for medical assistance under P.L.1968, c.413
4 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant
5 to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
6 administered by the Division of Medical Assistance and Health
7 Services in the Department of Human Services.

8 ²e. Nothing in this section shall preclude the health maintenance
9 organization from performing utilization review, including periodic
10 review of the medical necessity of a particular service, provided all
11 utilization review decisions are consistent with American Society for
12 Reproductive Medicine guidelines.²

13 (cf: P.L.2017, c.48, s.5)

14
15 ¹¶6. (New section) a. Every individual health benefits plan that
16 provides hospital or medical expense benefits and is delivered,
17 issued, executed or renewed in this State pursuant to P.L.1992,
18 c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in
19 this State on or after the effective date of this act, shall provide
20 benefits to any person covered thereunder for medically necessary
21 expenses incurred in the diagnosis and treatment of infertility as
22 provided pursuant to this section. The individual health benefits
23 plan shall provide for any services related to infertility that is
24 recommended by a physician, which includes, but is not limited to:
25 diagnosis and diagnostic tests; medications; surgery; intrauterine
26 insemination; in vitro fertilization; genetic testing; embryo transfer;
27 artificial insemination; intracytoplasmic sperm injection; four
28 completed egg retrievals; and unlimited embryo transfers, in
29 accordance with guidelines from the American Society for
30 Reproductive Medicine, using single embryo transfer when
31 recommended and deemed medically appropriate by a physician.
32 The plan may provide that coverage for in vitro fertilization shall be
33 limited to a covered person who has used all reasonable, less
34 expensive and medically appropriate treatments, as determined by a
35 licensed physician, and is still unable to become pregnant or carry a
36 pregnancy to a live birth. Coverage for infertility services provided
37 to partners of persons who have successfully reversed a voluntary
38 sterilization shall not be excluded.

39 b. As used in this this section:

40 "Infertility" means a disease, condition, or status characterized
41 by:

42 (1) the failure to establish a pregnancy or carry a pregnancy to
43 term;

44 (2) a person's inability to reproduce as a single individual or
45 with a partner of the individual without medical intervention; or

46 (3) a physician's recommendation, diagnosis, treatment plan, or
47 prescription based on a patient's medical, sexual, and reproductive
48 history, age, physical findings or diagnostic testing.

1 “Treatment of infertility” means the recommended treatment
2 plan or prescribed procedures, services, and medications directed by
3 a licensed physician for infertility as defined in this section.

4 The benefits shall be provided to the same extent as for other
5 medical conditions under the health benefits plan, except that the
6 services provided for in this section shall be performed at facilities
7 that conform to standards established by the American Society for
8 Reproductive Medicine or the American College of Obstetricians
9 and Gynecologists. The same copayments, deductibles and benefit
10 limits shall apply to the diagnosis and treatment of infertility
11 pursuant to this section as those applied to other medical or surgical
12 benefits under the plan. Infertility resulting from a voluntary
13 unreversed sterilization procedure may be excluded if the voluntary
14 unreversed sterilization is the sole cause of infertility, provided,
15 however, that coverage for infertility services shall not be excluded
16 if the voluntary sterilization is successfully reversed. A plan shall
17 not impose any exclusions, limitations, or restrictions on coverage
18 of any fertility services provided by or to a third party.

19 c. A religious employer may request, and a health maintenance
20 organization shall grant, an exclusion under the contract for the
21 coverage required by this section for in vitro fertilization, embryo
22 transfer, artificial insemination, zygote intra fallopian transfer and
23 intracytoplasmic sperm injection, if the required coverage is
24 contrary to the religious employer's bona fide religious tenets. The
25 hospital service corporation that issues a contract containing such
26 an exclusion shall provide written notice thereof to each prospective
27 subscriber or subscriber, which shall appear in not less than 10
28 point type, in the contract, application and sales brochure. For the
29 purposes of this subsection, "religious employer" means an
30 employer that is a church, convention or association of churches or
31 any group or entity that is operated, supervised or controlled by or
32 in connection with a church or a convention or association of
33 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
34 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

35 d. This section shall apply to all individual health benefit plans
36 in which the carrier has reserved the right to change the premium.

37 e. The provisions of this section shall not apply to an
38 individual health benefit plan contract which, pursuant to a contract
39 between the individual health benefit plan and the Department of
40 Human Services, provides benefits to persons who are eligible for
41 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the
42 NJ FamilyCare Program established pursuant to P.L.2005, c.156
43 (C.30:4J-8 et al.), or any other program administered by the
44 Division of Medical Assistance and Health Services in the
45 Department of Human Services.】¹

46
47 ¹【7. (New section) a. Every small employer health benefits plan
48 that provides hospital or medical expense benefits and is delivered,

1 issued, executed or renewed in this State pursuant to P.L.1992,
2 c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal
3 in this State on or after the effective date of this act, shall provide to
4 any person covered thereunder for medically necessary expenses
5 incurred in the diagnosis and treatment of infertility as provided
6 pursuant to this section. The health benefits plan shall provide for
7 any services related to infertility that is recommended by a
8 physician, which includes, but is not limited to: diagnosis and
9 diagnostic tests; medications; surgery; intrauterine insemination; in
10 vitro fertilization; genetic testing; embryo transfer; artificial
11 insemination; intracytoplasmic sperm injection; four completed egg
12 retrievals; and unlimited embryo transfers, in accordance with
13 guidelines from the American Society for Reproductive Medicine,
14 using single embryo transfer when recommended and deemed
15 medically appropriate by a physician. The health benefits plan may
16 provide that coverage for in vitro fertilization shall be limited to a
17 covered person who has used all reasonable, less expensive and
18 medically appropriate treatments, as determined by a licensed
19 physician, and is still unable to become pregnant or carry a
20 pregnancy to a live birth. Coverage for infertility services provided
21 to partners of persons who have successfully reversed a voluntary
22 sterilization shall not be excluded.

23 b. As used in this this section:

24 "Infertility" means a disease, condition, or status characterized
25 by:

26 (1) the failure to establish a pregnancy or carry a pregnancy to
27 term;

28 (2) a person's inability to reproduce as a single individual or
29 with a partner of the individual without medical intervention; or

30 (3) a physician's recommendation, diagnosis, treatment plan, or
31 prescription based on a patient's medical, sexual, and reproductive
32 history, age, physical findings or diagnostic testing.

33 "Treatment of infertility" means the recommended treatment
34 plan or prescribed procedures, services, and medications directed by
35 a licensed physician for infertility as defined in this section.

36 The benefits shall be provided to the same extent as for other
37 medical conditions under the health benefits plan, except that the
38 services provided for in this section shall be performed at facilities
39 that conform to standards established by the American Society for
40 Reproductive Medicine or the American College of Obstetricians
41 and Gynecologists. The same copayments, deductibles and benefit
42 limits shall apply to the diagnosis and treatment of infertility
43 pursuant to this section as those applied to other medical or surgical
44 benefits under the plan. Infertility resulting from a voluntary
45 unreversed sterilization procedure may be excluded if the voluntary
46 unreversed sterilization is the sole cause of infertility, provided,
47 however, that coverage for infertility services shall not be excluded
48 if the voluntary sterilization is successfully reversed. A plan shall

1 not impose any exclusions, limitations, or restrictions on coverage
2 of any fertility services provided by or to a third party.

3 c. A religious employer may request, and a health maintenance
4 organization shall grant, an exclusion under the contract for the
5 coverage required by this section for in vitro fertilization, embryo
6 transfer, artificial insemination, zygote intra fallopian transfer and
7 intracytoplasmic sperm injection, if the required coverage is
8 contrary to the religious employer's bona fide religious tenets. The
9 hospital service corporation that issues a contract containing such
10 an exclusion shall provide written notice thereof to each prospective
11 subscriber or subscriber, which shall appear in not less than 10
12 point type, in the contract, application and sales brochure. For the
13 purposes of this subsection, "religious employer" means an
14 employer that is a church, convention or association of churches or
15 any group or entity that is operated, supervised or controlled by or
16 in connection with a church or a convention or association of
17 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
18 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

19 d. The provisions of this section shall apply to all health
20 benefit plans in which the carrier has reserved the right to change
21 the premium.

22 e. The provisions of this section shall not apply to a small
23 employer health benefits plan contract which, pursuant to a contract
24 between the small employer health benefits plan and the
25 Department of Human Services, provides benefits to persons who
26 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-
27 1 et seq.), the NJ FamilyCare Program established pursuant to
28 P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
29 administered by the Division of Medical Assistance and Health
30 Services in the Department of Human Services. ¹

31

32 **[6] ¹[8] 6¹. Section 6 of P.L.2017, c.48 ²[(C.52:14-17.29y)]**
33 **(C.52:14-17.29v)²** is amended to read as follows:

34 6. The State Health Benefits Commission shall ensure that every
35 contract under the State Health Benefits Program shall provide
36 coverage for medically necessary expenses , as determined by a
37 physician, incurred in the diagnosis and treatment of infertility as
38 provided pursuant to this section. The State Health Benefits Program
39 shall provide coverage for any services related to infertility ¹**[that is**
40 **recommended]** in accordance with American Society for Reproductive
41 Medicine guidelines and as determined¹ by a physician, which
42 includes, but is not limited to**[**, the following services related to
43 infertility**]**: diagnosis and diagnostic tests; medications; surgery;
44 intrauterine insemination; in vitro fertilization², including in vitro
45 fertilization using donor eggs and in vitro fertilization where the
46 embryo is transferred to a gestational carrier or surrogate²; genetic
47 testing; ²**[embryo transfer;]**² artificial insemination; **[gamete intra**

1 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
 2 sperm injection; [and] four completed egg retrievals [per lifetime of
 3 the covered person]; ²[and]² unlimited embryo transfers, in
 4 accordance with guidelines from the American Society for
 5 Reproductive Medicine, using single embryo transfer when
 6 recommended and deemed medically appropriate by a physician²; and
 7 medical costs of egg or sperm donors, including office visits,
 8 medications, laboratory and radiological procedures and retrieval, shall
 9 be covered until the donor is released from treatment by the
 10 reproductive endocrinologist². The State Health Benefits Commission
 11 may provide that coverage for in vitro fertilization[, gamete intra
 12 fallopian transfer and zygote intra fallopian transfer] shall be limited
 13 to a covered person who[: a.] has used all reasonable, less expensive
 14 and medically appropriate treatments , as determined by a licensed
 15 physician, and is still unable to become pregnant or carry a pregnancy
 16 to a live birth[: b. has not reached the limit of four completed egg
 17 retrievals; and c. is 45 years of age or younger]. Coverage for
 18 infertility services provided to partners of persons who have
 19 successfully reversed a voluntary sterilization shall not be excluded.
 20 ²A contract shall not impose any restriction concerning the coverage of
 21 infertility services based on age.²

22 [For purposes of] ¹[b.]¹ As used in ¹[this]¹ this section[.]:

23 "Infertility" means a disease [or], condition, or status
 24 characterized by ¹any of the following¹: [that results in the abnormal
 25 function of the reproductive system, as determined pursuant to
 26 American Society for Reproductive Medicine practice guidelines by a
 27 physician who is Board Certified or Board Eligible in Reproductive
 28 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 29 the patient has met one of the following conditions:

- 30 (1) A male is unable to impregnate a female;
- 31 (2) A female with a male partner and under 35 years of age is
- 32 unable to conceive after 12 months of unprotected sexual intercourse;
- 33 (3) A female with a male partner and 35 years of age and over is
- 34 unable to conceive after six months of unprotected sexual intercourse;
- 35 (4) A female without a male partner and under 35 years of age who
- 36 is unable to conceive after 12 failed attempts of intrauterine
- 37 insemination under medical supervision;
- 38 (5) A female without a male partner and over 35 years of age who
- 39 is unable to conceive after six failed attempts of intrauterine
- 40 insemination under medical supervision;
- 41 (6) Partners are unable to conceive as a result of involuntary
- 42 medical sterility;
- 43 (7) A person is unable to carry a pregnancy to live birth; or
- 44 (8) A previous determination of infertility pursuant to this section]

45 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
 46 term] inability to achieve a successful pregnancy based on a patient's

1 medical, sexual, and reproductive history, age, physical findings,
2 diagnostic testing, or any combination of those factors¹;

3 (2) ¹【a person’s inability to reproduce as a single individual or
4 with a partner of the individual without medical intervention】 the need
5 for medical intervention, including, but not limited to, the use of donor
6 gametes or donor embryos in order to achieve a successful pregnancy
7 either as an individual or with a partner¹; or

8 (3) ¹【a physician’s recommendation, diagnosis, treatment plan, or
9 prescription based on a patient’s medical, sexual, and reproductive
10 history, age, physical findings or diagnostic testing】 in patients having
11 regular, unprotected intercourse and without any known etiology for
12 either partner suggestive of impaired reproductive ability, evaluation
13 should be initiated at 12 months when the female partner is under 35
14 years of age and at 6 months when the female partner is 35 years of
15 age or older.

16 Nothing in this definition shall be used to deny or delay treatment
17 to any individual, regardless of relationship status or sexual
18 orientation¹.

19 “Treatment of infertility” means the recommended treatment plan
20 or prescribed procedures, services, and medications directed by a
21 licensed physician for infertility as defined in this section.

22 The benefits shall be provided to the same extent as for other
23 **【pregnancy-related procedures】** medical conditions under the contract,
24 except that the services provided for in this section shall be performed
25 at facilities that conform to standards established by the American
26 Society for Reproductive Medicine or the American College of
27 Obstetricians and Gynecologists. The same copayments, deductibles
28 and benefit limits shall apply to the diagnosis and treatment of
29 infertility pursuant to this section as those applied to other medical or
30 surgical benefits under the contract. **【Infertility resulting from**
31 **voluntary sterilization procedures shall be excluded under the contract**
32 **for the coverage required by this section】** Infertility resulting from a
33 voluntary unreversed sterilization procedure may be excluded if the
34 voluntary unreversed sterilization is the sole cause of infertility,
35 provided, however, that coverage for infertility services shall not be
36 excluded if the voluntary sterilization is successfully reversed. ²**【A**
37 **contract shall not impose any exclusions, limitations, or restrictions on**
38 **coverage of any fertility services provided by or to a third party】**

39 Nothing in this section shall preclude the carrier from performing
40 utilization review, including periodic review of the medical necessity
41 of a particular service, provided all utilization review decisions are
42 consistent with American Society for Reproductive Medicine
43 guidelines².

44 (cf: P.L.2017, c.48, s.6)

45

46 **【7】** ¹**【9】** 7¹. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
47 amended to read as follows:

1 7. The School Employees Health Benefits Commission shall
 2 ensure that every contract under the School Employees Health
 3 Benefits Program shall provide coverage for medically necessary
 4 expenses, as determined by a physician, incurred in the diagnosis and
 5 treatment of infertility as provided pursuant to this section. The
 6 School Employees Health Benefits Program contract shall provide
 7 coverage for any services related to infertility ¹**[that is recommended]**
 8 in accordance with American Society for Reproductive Medicine
 9 guidelines and as determined¹ by a physician, which includes, but is
 10 not limited to**[**, the following services related to infertility**]**: diagnosis
 11 and diagnostic tests; medications; surgery; intrauterine insemination;
 12 in vitro fertilization², including in vitro fertilization using donor eggs
 13 and in vitro fertilization where the embryo is transferred to a
 14 gestational carrier or surrogate²; genetic testing; ²**[embryo transfer;]**²
 15 artificial insemination; **[gamete intra fallopian transfer; zygote intra**
 16 fallopian transfer;] intracytoplasmic sperm injection; **[and]** four
 17 completed egg retrievals **[per lifetime of the covered person];** ²**[and]**²
 18 unlimited embryo transfers, in accordance with guidelines from the
 19 American Society for Reproductive Medicine, using single embryo
 20 transfer when recommended and deemed medically appropriate by a
 21 physician²; and medical costs of egg or sperm donors, including office
 22 visits, medications, laboratory and radiological procedures and
 23 retrieval, shall be covered until the donor is released from treatment by
 24 the reproductive endocrinologist². The School Employees Health
 25 Benefits Commission may provide that coverage for in vitro
 26 fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian
 27 transfer**]** shall be limited to a covered person who**[**: a.**]** has used all
 28 reasonable, less expensive and medically appropriate treatments, as
 29 determined by a licensed physician, and is still unable to become
 30 pregnant or carry a pregnancy to a live birth**[**; b. has not reached the
 31 limit of four completed egg retrievals; and c. is 45 years of age or
 32 younger**]**. Coverage for infertility services provided to partners of
 33 persons who have successfully reversed a voluntary sterilization shall
 34 not be excluded. ²A contract shall not impose any restriction
 35 concerning the coverage of infertility services based on age.²

36 **[For purposes of]** ¹**[b.]**¹ As used in ¹**[this]**¹ this section**[.];**
 37 "Infertility" means a disease **[or]**, condition, or status
 38 characterized by ¹any of the following¹: **[that results in the abnormal**
 39 function of the reproductive system, as determined pursuant to
 40 American Society for Reproductive Medicine practice guidelines by a
 41 physician who is Board Certified or Board Eligible in Reproductive
 42 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 43 the patient has met one of the following conditions:
 44 (1) A male is unable to impregnate a female;
 45 (2) A female with a male partner and under 35 years of age is
 46 unable to conceive after 12 months of unprotected sexual intercourse;

- 1 (3) A female with a male partner and 35 years of age and over is
2 unable to conceive after six months of unprotected sexual intercourse;
- 3 (4) A female without a male partner and under 35 years of age who
4 is unable to conceive after 12 failed attempts of intrauterine
5 insemination under medical supervision;
- 6 (5) A female without a male partner and over 35 years of age who
7 is unable to conceive after six failed attempts of intrauterine
8 insemination under medical supervision;
- 9 (6) Partners are unable to conceive as a result of involuntary
10 medical sterility;
- 11 (7) A person is unable to carry a pregnancy to live birth; or
- 12 (8) A previous determination of infertility pursuant to this section]
- 13 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
14 term] inability to achieve a successful pregnancy based on a patient's
15 medical, sexual, and reproductive history, age, physical findings,
16 diagnostic testing, or any combination of those factors¹;
- 17 (2) ¹[a person's inability to reproduce as a single individual or
18 with a partner of the individual without medical intervention] the need
19 for medical intervention, including, but not limited to, the use of donor
20 gametes or donor embryos in order to achieve a successful pregnancy
21 either as an individual or with a partner¹; or
- 22 (3) ¹[a physician's recommendation, diagnosis, treatment plan, or
23 prescription based on a patient's medical, sexual, and reproductive
24 history, age, physical findings or diagnostic testing] in patients having
25 regular, unprotected intercourse and without any known etiology for
26 either partner suggestive of impaired reproductive ability, evaluation
27 should be initiated at 12 months when the female partner is under 35
28 years of age and at 6 months when the female partner is 35 years of
29 age or older.
- 30 Nothing in this definition shall be used to deny or delay treatment
31 to any individual, regardless of relationship status or sexual
32 orientation¹.
- 33 "Treatment of infertility" means the recommended treatment plan
34 or prescribed procedures, services, and medications directed by a
35 licensed physician for infertility as defined in this section.
- 36 The benefits shall be provided to the same extent as for other
37 **[pregnancy-related procedures]** medical conditions under the contract,
38 except that the services provided for in this section shall be performed
39 at facilities that conform to standards established by the American
40 Society for Reproductive Medicine or the American College of
41 Obstetricians and Gynecologists. The same copayments, deductibles
42 and benefit limits shall apply to the diagnosis and treatment of
43 infertility pursuant to this section as those applied to other medical or
44 surgical benefits under the contract. **[Infertility resulting from**
45 **voluntary sterilization procedures shall be excluded under the contract**
46 **for the coverage required by this section]** Infertility resulting from a
47 voluntary unreversed sterilization procedure may be excluded under

1 the contract if the voluntary unreversed sterilization is the sole cause
2 of infertility, provided, however, that coverage for infertility services
3 shall not be excluded if the voluntary sterilization is successfully
4 reversed. ²**[A contract shall not impose any exclusions, limitations, or**
5 **restrictions on coverage of any fertility services provided by or to a**
6 **third party]**

7 Nothing in this section shall preclude the carrier from performing
8 utilization review, including periodic review of the medical necessity
9 of a particular service, provided all utilization review decisions are
10 consistent with American Society for Reproductive Medicine
11 guidelines².

12 (cf: P.L.2017, c.48, s.7)

13

14 **[8]** ¹**[10.]** 8.¹ This act shall take effect ²**[immediately]** on the
15 first day of the seventh month next following the date of enactment²
16 and shall apply to contracts issued or renewed on or after the
17 effective date.

18

19

20

21

22 Revises health insurance coverage requirements for treatment of
23 infertility.

ASSEMBLY, No. 5235

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman McKeon and Assemblywoman Park

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2023)

1 AN ACT concerning health insurance coverage requirements for
2 infertility treatment and amending and supplementing various
3 parts of the statutory law.

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

7
8 1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to
9 read as follows:

10 1. a. A hospital service corporation contract which provides
11 hospital or medical expense benefits for groups with more than 50
12 persons, which includes pregnancy-related benefits, shall not be
13 delivered, issued, executed or renewed in this State, or approved for
14 issuance or renewal in this State by the Commissioner of Banking
15 and Insurance on or after the effective date of this act unless the
16 contract provides coverage for persons covered under the contract
17 for medically necessary expenses , as determined by a physician,
18 incurred in the diagnosis and treatment of infertility as provided
19 pursuant to this section. The hospital service corporation contract
20 shall provide coverage for any services related to infertility that is
21 recommended by a physician, which includes, but is not limited to**【,**
22 the following services related to infertility**】**: diagnosis and
23 diagnostic tests; medications; surgery; intrauterine insemination; in
24 vitro fertilization; genetic testing; embryo transfer; artificial
25 insemination; **【gamete intra fallopian transfer; zygote intra**
26 fallopian transfer;**】** intracytoplasmic sperm injection; **【and】** four
27 completed egg retrievals **【per lifetime of the covered person】**; and
28 unlimited embryo transfers, in accordance with guidelines from the
29 American Society for Reproductive Medicine, using single embryo
30 transfer when recommended and deemed medically appropriate by a
31 physician. The hospital service corporation may provide that
32 coverage for in vitro fertilization**【,** gamete intra fallopian transfer
33 and zygote intra fallopian transfer**】** shall be limited to a covered
34 person who**【:** a.**】** has used all reasonable, less expensive and
35 medically appropriate treatments , as determined by a licensed
36 physician, and is still unable to become pregnant or carry a
37 pregnancy **【;** b. has not reached the limit of four completed egg
38 retrievals; and c. is 45 years of age or younger**】** to a live birth.
39 Coverage for infertility services provided to partners of persons
40 who have successfully reversed a voluntary sterilization shall not be
41 excluded.

42 **【For purposes of】** b. As used in this this section**【,】**:

43 "Infertility" means a disease **【or】**, condition **【that results in the**
44 abnormal function of the reproductive system, as determined
45 pursuant to American Society for Reproductive Medicine practice

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.

1 guidelines by a physician who is Board Certified or Board Eligible
2 in Reproductive Endocrinology and Infertility or in Obstetrics and
3 Gynecology or that the patient has met one of the following
4 conditions:

- 5 (1) A male is unable to impregnate a female;
- 6 (2) A female with a male partner and under 35 years of age is
7 unable to conceive after 12 months of unprotected sexual
8 intercourse;
- 9 (3) A female with a male partner and 35 years of age and over is
10 unable to conceive after six months of unprotected sexual
11 intercourse;
- 12 (4) A female without a male partner and under 35 years of age
13 who is unable to conceive after 12 failed attempts of intrauterine
14 insemination under medical supervision;
- 15 (5) A female without a male partner and over 35 years of age
16 who is unable to conceive after six failed attempts of intrauterine
17 insemination under medical supervision;
- 18 (6) Partners are unable to conceive as a result of involuntary
19 medical sterility;
- 20 (7) A person is unable to carry a pregnancy to live birth; or
- 21 (8) A previous determination of infertility pursuant to this
22 section **】**, or status characterized by:

23 (1) the failure to establish a pregnancy or carry a pregnancy to
24 term;

25 (2) a person's inability to reproduce as a single individual or
26 with a partner of the individual without medical intervention; or

27 (3) a physician's recommendation, diagnosis, treatment plan, or
28 prescription based on a patient's medical, sexual, and reproductive
29 history, age, physical findings or diagnostic testing.

30 "Treatment of infertility" means the recommended treatment
31 plan or prescribed procedures, services, and medications as directed
32 by a licensed physician for infertility as defined in this section.

33 The benefits shall be provided to the same extent as for other
34 **【pregnancy-related procedures】** medical conditions under the
35 contract, except that the services provided for in this section shall
36 be performed at facilities that conform to standards established by
37 the American Society for Reproductive Medicine or the American
38 College of Obstetricians and Gynecologists. The same copayments,
39 deductibles and benefit limits shall apply to the diagnosis and
40 treatment of infertility pursuant to this section as those applied to
41 other medical or surgical benefits under the contract. **【Infertility**
42 **resulting from voluntary sterilization procedures shall be excluded**
43 **under the contract for the coverage required by this section】**
44 Infertility resulting from a voluntary unreversed sterilization
45 procedure may be excluded if the voluntary unreversed sterilization
46 is the sole cause of infertility, provided, however, that coverage for
47 infertility services shall not be excluded if the voluntary
48 sterilization is successfully reversed. A contract shall not impose

1 any exclusions, limitations, or restrictions on coverage of any
2 fertility services provided by or to a third party.

3 b. A religious employer may request, and a hospital service
4 corporation shall grant, an exclusion under the contract for the
5 coverage required by this section for in vitro fertilization, embryo
6 transfer, artificial insemination, zygote intra fallopian transfer and
7 intracytoplasmic sperm injection, if the required coverage is
8 contrary to the religious employer's bona fide religious tenets. The
9 hospital service corporation that issues a contract containing such
10 an exclusion shall provide written notice thereof to each prospective
11 subscriber or subscriber, which shall appear in not less than 10
12 point type, in the contract, application and sales brochure. For the
13 purposes of this subsection, "religious employer" means an
14 employer that is a church, convention or association of churches or
15 any group or entity that is operated, supervised or controlled by or
16 in connection with a church or a convention or association of
17 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
18 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

22 d. The provisions of this section shall not apply to a hospital
23 service corporation contract which, pursuant to a contract between
24 the hospital service corporation and the Department of Human
25 Services, provides benefits to persons who are eligible for medical
26 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
27 FamilyCare Program established pursuant to P.L.2005, c.156
28 (C.30:4J-8 et al.), or any other program administered by the
29 Division of Medical Assistance and Health Services in the
30 Department of Human Services.
31 (cf: P.L.2017, c.48, s.1)

32

33 2. Section 2 of P.L.2001, c.236 (C.17:48A-7w) is amended to
34 read as follows:

35 2. a. A medical service corporation contract which provides
36 hospital or medical expense benefits for groups with more than 50
37 persons, which includes pregnancy-related benefits, shall not be
38 delivered, issued, executed or renewed in this State, or approved for
39 issuance or renewal in this State by the Commissioner of Banking
40 and Insurance on or after the effective date of this act unless the
41 contract provides coverage for persons covered under the contract
42 for medically necessary expenses, as determined by a physician,
43 incurred in the diagnosis and treatment of infertility as provided
44 pursuant to this section. The medical service corporation contract
45 shall provide coverage for any services related to infertility that is
46 recommended by a physician, which includes, but is not limited to【,
47 the following services related to infertility】: diagnosis and
48 diagnostic tests; medications; surgery; intrauterine insemination; in

1 vitro fertilization; genetic testing; embryo transfer; artificial
2 insemination; **【gamete intra fallopian transfer; zygote intra**
3 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
4 completed egg retrievals **【per lifetime of the covered person】**; and
5 unlimited embryo transfers, in accordance with guidelines from the
6 American Society for Reproductive Medicine, using single embryo
7 transfer when recommended and deemed medically appropriate by a
8 physician. The medical service corporation may provide that
9 coverage for in vitro fertilization**【, gamete intra fallopian transfer**
10 **and zygote intra fallopian transfer】** shall be limited to a covered
11 person who**【: a.】** has used all reasonable, less expensive and
12 medically appropriate treatments , as determined by a licensed
13 physician, and is still unable to become pregnant or carry a
14 pregnancy to a live birth【; b. has not reached the limit of four
15 completed egg retrievals; and c. is 45 years of age or younger】.
16 Coverage for infertility services provided to partners of persons
17 who have successfully reversed a voluntary sterilization shall not be
18 excluded.

19 **【For purposes of】b. As used in this this section【,】:**

20 "Infertility" means a disease **【or】**, condition, or status
21 characterized by: 【that results in the abnormal function of the
22 reproductive system, as determined pursuant to American Society
23 for Reproductive Medicine practice guidelines by a physician who
24 is Board Certified or Board Eligible in Reproductive Endocrinology
25 and Infertility or in Obstetrics and Gynecology or that the patient
26 has met one of the following conditions:

27 (1) A male is unable to impregnate a female;

28 (2) A female with a male partner and under 35 years of age is
29 unable to conceive after 12 months of unprotected sexual
30 intercourse;

31 (3) A female with a male partner and 35 years of age and over is
32 unable to conceive after six months of unprotected sexual
33 intercourse;

34 (4) A female without a male partner and under 35 years of age
35 who is unable to conceive after 12 failed attempts of intrauterine
36 insemination under medical supervision;

37 (5) A female without a male partner and over 35 years of age
38 who is unable to conceive after six failed attempts of intrauterine
39 insemination under medical supervision;

40 (6) Partners are unable to conceive as a result of involuntary
41 medical sterility;

42 (7) A person is unable to carry a pregnancy to live birth; or

43 (8) A previous determination of infertility pursuant to this
44 section**【(1) the failure to establish a pregnancy or carry a**
45 pregnancy to term;

46 (2) a person's inability to reproduce as a single individual or
47 with a partner of the individual without medical intervention; or

1 (3) a physician's recommendation, diagnosis, treatment plan, or
2 prescription based on a patient's medical, sexual, and reproductive
3 history, age, physical findings or diagnostic testing.

4 "Treatment of infertility" means the recommended treatment
5 plan or prescribed procedures, services, and medications as directed
6 by a licensed physician for infertility as defined in this section.

7 The benefits shall be provided to the same extent as for other
8 **【pregnancy-related procedures】** medical conditions under the
9 contract, except that the services provided for in this section shall
10 be performed at facilities that conform to standards established by
11 the American Society for Reproductive Medicine or the American
12 College of Obstetricians and Gynecologists. The same copayments,
13 deductibles and benefit limits shall apply to the diagnosis and
14 treatment of infertility pursuant to this section as those applied to
15 other medical or surgical benefits under the contract. **【Infertility**
16 **resulting from voluntary sterilization procedures shall be excluded**
17 **under the contract for the coverage required by this section】**
18 Infertility resulting from a voluntary unreversed sterilization
19 procedure may be excluded if the voluntary unreversed sterilization
20 is the sole cause of infertility, provided, however, that coverage for
21 infertility services shall not be excluded if the voluntary
22 sterilization is successfully reversed. A contract shall not impose
23 any exclusions, limitations, or restrictions on coverage of any
24 fertility services provided by or to a third party.

25 b. A religious employer may request, and a hospital service
26 corporation shall grant, an exclusion under the contract for the
27 coverage required by this section for in vitro fertilization, embryo
28 transfer, artificial insemination, zygote intra fallopian transfer and
29 intracytoplasmic sperm injection, if the required coverage is
30 contrary to the religious employer's bona fide religious tenets. The
31 hospital service corporation that issues a contract containing such
32 an exclusion shall provide written notice thereof to each prospective
33 subscriber or subscriber, which shall appear in not less than 10
34 point type, in the contract, application and sales brochure. For the
35 purposes of this subsection, "religious employer" means an
36 employer that is a church, convention or association of churches or
37 any group or entity that is operated, supervised or controlled by or
38 in connection with a church or a convention or association of
39 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
40 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

44 d. The provisions of this section shall not apply to a medical
45 service corporation contract which, pursuant to a contract between
46 the medical service corporation and the Department of Human
47 Services, provides benefits to persons who are eligible for medical
48 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ

1 FamilyCare Program established pursuant to P.L.2005, c.156
2 (C.30:4J-8 et al.), or any other program administered by the
3 Division of Medical Assistance and Health Services in the
4 Department of Human Services.
5 (cf: P.L.2017, c.48, s.2)

6
7 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended
8 to read as follows:

9 3. a. A health service corporation contract which provides
10 hospital or medical expense benefits for groups with more than 50
11 persons, which includes pregnancy-related benefits, shall not be
12 delivered, issued, executed or renewed in this State, or approved for
13 issuance or renewal in this State by the Commissioner of Banking
14 and Insurance on or after the effective date of this act unless the
15 contract provides coverage for persons covered under the contract
16 for medically necessary expenses, as determined by a physician,
17 incurred in the diagnosis and treatment of infertility as provided
18 pursuant to this section. The health service corporation contract
19 shall provide coverage for any services related to infertility that is
20 recommended by a physician, which includes, but is not limited to~~],~~
21 the following services related to infertility~~]:~~ diagnosis and
22 diagnostic tests; medications; surgery; intrauterine insemination; in
23 vitro fertilization; genetic testing; embryo transfer; artificial
24 insemination; ~~],~~ gamete intra fallopian transfer; zygote intra
25 fallopian transfer;~~];~~ intracytoplasmic sperm injection; ~~],~~ and
26 completed egg retrievals ~~],~~ per lifetime of the covered person~~];~~ and
27 unlimited embryo transfers, in accordance with guidelines from the
28 American Society for Reproductive Medicine, using single embryo
29 transfer when recommended and deemed medically appropriate by a
30 physician. The health service corporation may provide that
31 coverage for in vitro fertilization~~],~~ gamete intra fallopian transfer
32 and zygote intra fallopian transfer~~]~~ shall be limited to a covered
33 person who~~]:~~ a. ~~]~~ has used all reasonable, less expensive and
34 medically appropriate treatments , as determined by a licensed
35 physician, and is still unable to become pregnant or carry a
36 pregnancy to a live birth~~];~~ b. has not reached the limit of four
37 completed egg retrievals; and c. is 45 years of age or younger~~].~~
38 Coverage for infertility services provided to partners of persons
39 who have successfully reversed a voluntary sterilization shall not be
40 excluded.

41 For purposes of]b. As used in this this section[,]:

42 "Infertility" means a disease ~~],~~ condition, or status
43 characterized by: [that results in the abnormal function of the
44 reproductive system, as determined pursuant to American Society
45 for Reproductive Medicine practice guidelines by a physician who
46 is Board Certified or Board Eligible in Reproductive Endocrinology

1 and Infertility or in Obstetrics and Gynecology or that the patient
2 has met one of the following conditions:

- 3 (1) A male is unable to impregnate a female;
- 4 (2) A female with a male partner and under 35 years of age is
5 unable to conceive after 12 months of unprotected sexual
6 intercourse;
- 7 (3) A female with a male partner and 35 years of age and over is
8 unable to conceive after six months of unprotected sexual
9 intercourse;
- 10 (4) A female without a male partner and under 35 years of age
11 who is unable to conceive after 12 failed attempts of intrauterine
12 insemination under medical supervision;
- 13 (5) A female without a male partner and over 35 years of age
14 who is unable to conceive after six failed attempts of intrauterine
15 insemination under medical supervision;
- 16 (6) Partners are unable to conceive as a result of involuntary
17 medical sterility;
- 18 (7) A person is unable to carry a pregnancy to live birth; or
- 19 (8) A previous determination of infertility pursuant to this
20 section **】** (1) the failure to establish a pregnancy or carry a
21 pregnancy to term;

22 (2) a person's inability to reproduce as a single individual or
23 with a partner of the individual without medical intervention; or

24 (3) a physician's recommendation, diagnosis, treatment plan, or
25 prescription based on a patient's medical, sexual, and reproductive
26 history, age, physical findings or diagnostic testing.

27 "Treatment of infertility" means the recommended treatment
28 plan or prescribed procedures, services, and medications as directed
29 by a licensed physician for fertility as defined in this section.

30 The benefits shall be provided to the same extent as for other
31 **【**pregnancy-related procedures**】** medical conditions under the
32 contract, except that the services provided for in this section shall
33 be performed at facilities that conform to standards established by
34 the American Society for Reproductive Medicine or the American
35 College of Obstetricians and Gynecologists. The same copayments,
36 deductibles and benefit limits shall apply to the diagnosis and
37 treatment of infertility pursuant to this section as those applied to
38 other medical or surgical benefits under the contract. **【**Infertility
39 resulting from voluntary sterilization procedures shall be excluded
40 under the contract for the coverage required by this section**】**
41 Infertility resulting from a voluntary unreversed sterilization
42 procedure may be excluded if the voluntary unreversed sterilization
43 is the sole cause of infertility, provided, however, that coverage for
44 infertility services shall not be excluded if the voluntary
45 sterilization is successfully reversed. A contract shall not impose
46 any exclusions, limitations, or restrictions on coverage of any
47 fertility services provided by or to a third party.

1 b. A religious employer may request, and a hospital service
2 corporation shall grant, an exclusion under the contract for the
3 coverage required by this section for in vitro fertilization, embryo
4 transfer, artificial insemination, zygote intra fallopian transfer and
5 intracytoplasmic sperm injection, if the required coverage is
6 contrary to the religious employer's bona fide religious tenets. The
7 hospital service corporation that issues a contract containing such
8 an exclusion shall provide written notice thereof to each prospective
9 subscriber or subscriber, which shall appear in not less than 10
10 point type, in the contract, application and sales brochure. For the
11 purposes of this subsection, "religious employer" means an
12 employer that is a church, convention or association of churches or
13 any group or entity that is operated, supervised or controlled by or
14 in connection with a church or a convention or association of
15 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
16 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

20 d. The provisions of this section shall not apply to a health
21 service corporation contract which, pursuant to a contract between
22 the health service corporation and the Department of Human
23 Services, provides benefits to persons who are eligible for medical
24 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
25 FamilyCare Program established pursuant to P.L.2005, c.156
26 (C.30:4J-8 et al.), or any other program administered by the
27 Division of Medical Assistance and Health Services in the
28 Department of Human Services.
29 (cf: P.L.2017, c.48, s.3)

30
31 4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended
32 to read as follows:

33 4. a. A group health insurance policy which provides hospital
34 or medical expense benefits for groups with more than 50 persons,
35 which includes pregnancy-related benefits, shall not be delivered,
36 issued, executed or renewed in this State, or approved for issuance
37 or renewal in this State by the Commissioner of Banking and
38 Insurance on or after the effective date of this act unless the policy
39 provides coverage for persons covered under the policy for
40 medically necessary expenses , as determined by a physician,
41 incurred in the diagnosis and treatment of infertility as provided
42 pursuant to this section. The policy shall provide coverage for any
43 services related to infertility that is recommended by a physician,
44 which includes, but is not limited to **【**, the following services related
45 to infertility**】**: diagnosis and diagnostic tests; medications; surgery;
46 intrauterine insemination; in vitro fertilization; genetic testing;
47 embryo transfer; artificial insemination; **【**gamete intra fallopian
48 transfer; zygote intra fallopian transfer;**】** intracytoplasmic sperm

1 injection; **[and]** four completed egg retrievals **[per lifetime of the**
2 **covered person]**; and unlimited embryo transfers, in accordance
3 with guidelines from the American Society for Reproductive
4 Medicine, using single embryo transfer when recommended and
5 deemed medically appropriate by a physician. The policy may
6 provide that coverage for in vitro fertilization**[, gamete intra**
7 **fallopian transfer and zygote intra fallopian transfer]** shall be
8 limited to a covered person who**[:** a.**]** has used all reasonable, less
9 expensive and medically appropriate treatments , as determined by a
10 licensed physician, and is still unable to become pregnant or carry a
11 pregnancy to a live birth**[;** b. has not reached the limit of four
12 completed egg retrievals; and c. is 45 years of age or younger**].**
13 Coverage for infertility services provided to partners of persons
14 who have successfully reversed a voluntary sterilization shall not be
15 excluded.

16 **[For purposes of]**b. As used in this this section[,]:

17 "Infertility" means a disease **[or],** condition, or status
18 characterized by: **[that results in the abnormal function of the**
19 **reproductive system, as determined pursuant to American Society**
20 **for Reproductive Medicine practice guidelines by a physician who**
21 **is Board Certified or Board Eligible in Reproductive Endocrinology**
22 **and Infertility or in Obstetrics and Gynecology or that the patient**
23 **has met one of the following conditions:**

24 (1) A male is unable to impregnate a female;

25 (2) A female with a male partner and under 35 years of age is
26 unable to conceive after 12 months of unprotected sexual
27 intercourse;

28 (3) A female with a male partner and 35 years of age and over is
29 unable to conceive after six months of unprotected sexual
30 intercourse;

31 (4) A female without a male partner and under 35 years of age
32 who is unable to conceive after 12 failed attempts of intrauterine
33 insemination under medical supervision;

34 (5) A female without a male partner and over 35 years of age
35 who is unable to conceive after six failed attempts of intrauterine
36 insemination under medical supervision;

37 (6) Partners are unable to conceive as a result of involuntary
38 medical sterility;

39 (7) A person is unable to carry a pregnancy to live birth; or

40 (8) A previous determination of infertility pursuant to this
41 section **]** (1) the failure to establish a pregnancy or carry a
42 pregnancy to term;

43 (2) a person's inability to reproduce as a single individual or
44 with a partner of the individual without medical intervention; or

45 (3) a physician's recommendation, diagnosis, treatment plan, or
46 prescription based on a patient's medical, sexual, and reproductive
47 history, age, physical findings or diagnostic testing.

1 “Treatment of infertility” means the recommended treatment
2 plan or prescribed procedures, services, and medications directed by
3 a licensed physician for infertility as defined in this section.

4 The benefits shall be provided to the same extent as for other
5 **【pregnancy-related procedures】** medical conditions under the
6 policy, except that the services provided for in this section shall be
7 performed at facilities that conform to standards established by the
8 American Society for Reproductive Medicine or the American
9 College of Obstetricians and Gynecologists. The same copayments,
10 deductibles and benefit limits shall apply to the diagnosis and
11 treatment of infertility pursuant to this section as those applied to
12 other medical or surgical benefits under the contract. **【Infertility**
13 **resulting from voluntary sterilization procedures shall be excluded**
14 **under the contract for the coverage required by this section】**
15 Infertility resulting from a voluntary unreversed sterilization
16 procedure may be excluded if the voluntary unreversed sterilization
17 is the sole cause of infertility, provided, however, that coverage for
18 infertility services shall not be excluded if the voluntary
19 sterilization is successfully reversed. A policy shall not impose any
20 exclusions, limitations, or restrictions on coverage of any fertility
21 services provided by or to a third party.

22 b. A religious employer may request, and a hospital service
23 corporation shall grant, an exclusion under the contract for the
24 coverage required by this section for in vitro fertilization, embryo
25 transfer, artificial insemination, zygote intra fallopian transfer and
26 intracytoplasmic sperm injection, if the required coverage is
27 contrary to the religious employer's bona fide religious tenets. The
28 hospital service corporation that issues a contract containing such
29 an exclusion shall provide written notice thereof to each prospective
30 subscriber or subscriber, which shall appear in not less than 10
31 point type, in the contract, application and sales brochure. For the
32 purposes of this subsection, "religious employer" means an
33 employer that is a church, convention or association of churches or
34 any group or entity that is operated, supervised or controlled by or
35 in connection with a church or a convention or association of
36 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
37 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

38 c. This section shall apply to those insurance policies in which
39 the insurer has reserved the right to change the premium.

40 d. The provisions of this section shall not apply to a group
41 health insurance policy which, pursuant to a contract between the
42 insurer and the Department of Human Services, provides benefits to
43 persons who are eligible for medical assistance under P.L.1968,
44 c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established
45 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
46 administered by the Division of Medical Assistance and Health
47 Services in the Department of Human Services.

48 (cf: P.L.2017, c.48, s.4)

1 5. Section 5 of P.L.2001. c.236 (C.26:2J-4.23) is amended to
2 read as follows:

3 5. a. No certificate of authority to establish and operate a health
4 maintenance organization in this State shall be issued or continued
5 on or after the effective date of this act unless the health
6 maintenance organization provides health care services, to groups
7 of more than 50 enrollees, for medically necessary expenses, as
8 determined by a physician, incurred in the diagnosis and treatment
9 of infertility as provided pursuant to this section. A health
10 maintenance organization shall provide enrollee coverage for any
11 services related to infertility that is recommended by a physician,
12 which includes, but is not limited to **【**, the following services related
13 to infertility**】**: diagnosis and diagnostic tests; medications; surgery;
14 intrauterine insemination; in vitro fertilization; genetic testing;
15 embryo transfer; artificial insemination; **【**gamete intra fallopian
16 transfer; zygote intra fallopian transfer;**】** intracytoplasmic sperm
17 injection; **【and】** four completed egg retrievals **【**per lifetime of the
18 covered person**】**; and unlimited embryo transfers, in accordance
19 with guidelines from the American Society for Reproductive
20 Medicine, using single embryo transfer when recommended and
21 deemed medically appropriate by a physician. A health maintenance
22 organization may provide that coverage for in vitro fertilization **【**,
23 gamete intra fallopian transfer and zygote intra fallopian transfer**】**
24 shall be limited to a covered person who **【**: a. **】** has used all
25 reasonable, less expensive and medically appropriate treatments, as
26 determined by a licensed physician, and is still unable to become
27 pregnant or carry a pregnancy to a live birth**【**; b. has not reached the
28 limit of four completed egg retrievals; and c. is 45 years of age or
29 younger**】**. Coverage for infertility services provided to partners of
30 persons who have successfully reversed a voluntary sterilization
31 shall not be excluded.

32 **【**For purposes of **】** b. As used in this this section**【,】**:

33 "Infertility" means a disease **【or】**, condition, or status
34 characterized by: **【**that results in the abnormal function of the
35 reproductive system, as determined pursuant to American Society
36 for Reproductive Medicine practice guidelines by a physician who
37 is Board Certified or Board Eligible in Reproductive Endocrinology
38 and Infertility or in Obstetrics and Gynecology or that the patient
39 has met one of the following conditions:

40 (1) A male is unable to impregnate a female;

41 (2) A female with a male partner and under 35 years of age is
42 unable to conceive after 12 months of unprotected sexual
43 intercourse;

44 (3) A female with a male partner and 35 years of age and over is
45 unable to conceive after six months of unprotected sexual
46 intercourse;

- 1 (4) A female without a male partner and under 35 years of age
2 who is unable to conceive after 12 failed attempts of intrauterine
3 insemination under medical supervision;
- 4 (5) A female without a male partner and over 35 years of age
5 who is unable to conceive after six failed attempts of intrauterine
6 insemination under medical supervision;
- 7 (6) Partners are unable to conceive as a result of involuntary
8 medical sterility;
- 9 (7) A person is unable to carry a pregnancy to live birth; or
- 10 (8) A previous determination of infertility pursuant to this
11 section **】** (1) the failure to establish a pregnancy or carry a
12 pregnancy to term;
- 13 (2) a person’s inability to reproduce as a single individual or
14 with a partner of the individual without medical intervention; or
- 15 (3) a physician’s recommendation, diagnosis, treatment plan, or
16 prescription based on a patient’s medical, sexual, and reproductive
17 history, age, physical findings or diagnostic testing.
- 18 “Treatment of infertility” means the recommended treatment
19 plan or prescribed procedures, services, and medications directed by
20 a licensed physician for infertility as defined in this section.
- 21 The benefits shall be provided to the same extent as for other
22 **【**pregnancy-related procedures**】** medical conditions under the
23 contract, except that the services provided for in this section shall
24 be performed at facilities that conform to standards established by
25 the American Society for Reproductive Medicine or the American
26 College of Obstetricians and Gynecologists. The same copayments,
27 deductibles and benefit limits shall apply to the diagnosis and
28 treatment of infertility pursuant to this section as those applied to
29 other medical or surgical benefits under the contract. **【**Infertility
30 resulting from voluntary sterilization procedures shall be excluded
31 under the contract for the coverage required by this section**】**
32 Infertility resulting from a voluntary unreversed sterilization
33 procedure may be excluded if the voluntary unreversed sterilization
34 is the sole cause of infertility, provided, however, that coverage for
35 infertility services shall not be excluded if the voluntary
36 sterilization is successfully reversed. A contract shall not impose
37 any exclusions, limitations, or restrictions on coverage of any
38 fertility services provided by or to a third party.
- 39 b. A religious employer may request, and a health maintenance
40 organization shall grant, an exclusion under the contract for the
41 coverage required by this section for in vitro fertilization, embryo
42 transfer, artificial insemination, zygote intra fallopian transfer and
43 intracytoplasmic sperm injection, if the required coverage is
44 contrary to the religious employer's bona fide religious tenets. The
45 hospital service corporation that issues a contract containing such
46 an exclusion shall provide written notice thereof to each prospective
47 subscriber or subscriber, which shall appear in not less than 10
48 point type, in the contract, application and sales brochure. For the

1 purposes of this subsection, "religious employer" means an
2 employer that is a church, convention or association of churches or
3 any group or entity that is operated, supervised or controlled by or
4 in connection with a church or a convention or association of
5 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
6 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

7 c. The provisions of this section shall apply to those contracts
8 for health care services by health maintenance organizations under
9 which the right to change the schedule of charges for enrollee
10 coverage is reserved.

11 d. The provisions of this section shall not apply to a contract
12 for health care services by a health maintenance organization
13 which, pursuant to a contract between the health maintenance
14 organization and the Department of Human Services, provides
15 benefits to persons who are eligible for medical assistance under
16 P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program
17 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any
18 other program administered by the Division of Medical Assistance
19 and Health Services in the Department of Human Services.
20 (cf: P.L.2017, c.48, s.5)

21
22 6. (New section) a. Every individual health benefits plan that
23 provides hospital or medical expense benefits and is delivered,
24 issued, executed or renewed in this State pursuant to P.L.1992,
25 c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in
26 this State on or after the effective date of this act, shall provide
27 benefits to any person covered thereunder for medically necessary
28 expenses incurred in the diagnosis and treatment of infertility as
29 provided pursuant to this section. The individual health benefits
30 plan shall provide for any services related to infertility that is
31 recommended by a physician, which includes, but is not limited to:
32 diagnosis and diagnostic tests; medications; surgery; intrauterine
33 insemination; in vitro fertilization; genetic testing; embryo transfer;
34 artificial insemination; intracytoplasmic sperm injection; four
35 completed egg retrievals; and unlimited embryo transfers, in
36 accordance with guidelines from the American Society for
37 Reproductive Medicine, using single embryo transfer when
38 recommended and deemed medically appropriate by a physician.
39 The plan may provide that coverage for in vitro fertilization shall be
40 limited to a covered person who has used all reasonable, less
41 expensive and medically appropriate treatments, as determined by a
42 licensed physician, and is still unable to become pregnant or carry a
43 pregnancy to a live birth. Coverage for infertility services provided
44 to partners of persons who have successfully reversed a voluntary
45 sterilization shall not be excluded.

46 b. As used in this this section:

47 "Infertility" means a disease, condition, or status characterized
48 by:

1 (1) the failure to establish a pregnancy or carry a pregnancy to
2 term;

3 (2) a person's inability to reproduce as a single individual or
4 with a partner of the individual without medical intervention; or

5 (3) a physician's recommendation, diagnosis, treatment plan, or
6 prescription based on a patient's medical, sexual, and reproductive
7 history, age, physical findings or diagnostic testing.

8 "Treatment of infertility" means the recommended treatment
9 plan or prescribed procedures, services, and medications directed by
10 a licensed physician for infertility as defined in this section.

11 The benefits shall be provided to the same extent as for other
12 medical conditions under the health benefits plan, except that the
13 services provided for in this section shall be performed at facilities
14 that conform to standards established by the American Society for
15 Reproductive Medicine or the American College of Obstetricians
16 and Gynecologists. The same copayments, deductibles and benefit
17 limits shall apply to the diagnosis and treatment of infertility
18 pursuant to this section as those applied to other medical or surgical
19 benefits under the plan. Infertility resulting from a voluntary
20 unreversed sterilization procedure may be excluded if the voluntary
21 unreversed sterilization is the sole cause of infertility, provided,
22 however, that coverage for infertility services shall not be excluded
23 if the voluntary sterilization is successfully reversed. A plan shall
24 not impose any exclusions, limitations, or restrictions on coverage
25 of any fertility services provided by or to a third party.

26 c. A religious employer may request, and a health maintenance
27 organization shall grant, an exclusion under the contract for the
28 coverage required by this section for in vitro fertilization, embryo
29 transfer, artificial insemination, zygote intra fallopian transfer and
30 intracytoplasmic sperm injection, if the required coverage is
31 contrary to the religious employer's bona fide religious tenets. The
32 hospital service corporation that issues a contract containing such
33 an exclusion shall provide written notice thereof to each prospective
34 subscriber or subscriber, which shall appear in not less than 10
35 point type, in the contract, application and sales brochure. For the
36 purposes of this subsection, "religious employer" means an
37 employer that is a church, convention or association of churches or
38 any group or entity that is operated, supervised or controlled by or
39 in connection with a church or a convention or association of
40 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
41 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

42 d. This section shall apply to all individual health benefit plans
43 in which the carrier has reserved the right to change the premium.

44 e. The provisions of this section shall not apply to an
45 individual health benefit plan contract which, pursuant to a contract
46 between the individual health benefit plan and the Department of
47 Human Services, provides benefits to persons who are eligible for
48 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the

1 NJ FamilyCare Program established pursuant to P.L.2005, c.156
2 (C.30:4J-8 et al.), or any other program administered by the
3 Division of Medical Assistance and Health Services in the
4 Department of Human Services.

5
6 7. (New section) a. Every small employer health benefits plan
7 that provides hospital or medical expense benefits and is delivered,
8 issued, executed or renewed in this State pursuant to P.L.1992,
9 c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal
10 in this State on or after the effective date of this act, shall provide to
11 any person covered thereunder for medically necessary expenses
12 incurred in the diagnosis and treatment of infertility as provided
13 pursuant to this section. The health benefits plan shall provide for
14 any services related to infertility that is recommended by a
15 physician, which includes, but is not limited to: diagnosis and
16 diagnostic tests; medications; surgery; intrauterine insemination; in
17 vitro fertilization; genetic testing; embryo transfer; artificial
18 insemination; intracytoplasmic sperm injection; four completed egg
19 retrievals; and unlimited embryo transfers, in accordance with
20 guidelines from the American Society for Reproductive Medicine,
21 using single embryo transfer when recommended and deemed
22 medically appropriate by a physician. The health benefits plan may
23 provide that coverage for in vitro fertilization shall be limited to a
24 covered person who has used all reasonable, less expensive and
25 medically appropriate treatments, as determined by a licensed
26 physician, and is still unable to become pregnant or carry a
27 pregnancy to a live birth. Coverage for infertility services provided
28 to partners of persons who have successfully reversed a voluntary
29 sterilization shall not be excluded.

30 b. As used in this this section:

31 "Infertility" means a disease, condition, or status characterized
32 by:

33 (1) the failure to establish a pregnancy or carry a pregnancy to
34 term;

35 (2) a person's inability to reproduce as a single individual or
36 with a partner of the individual without medical intervention; or

37 (3) a physician's recommendation, diagnosis, treatment plan, or
38 prescription based on a patient's medical, sexual, and reproductive
39 history, age, physical findings or diagnostic testing.

40 "Treatment of infertility" means the recommended treatment
41 plan or prescribed procedures, services, and medications directed by
42 a licensed physician for infertility as defined in this section.

43 The benefits shall be provided to the same extent as for other
44 medical conditions under the health benefits plan, except that the
45 services provided for in this section shall be performed at facilities
46 that conform to standards established by the American Society for
47 Reproductive Medicine or the American College of Obstetricians
48 and Gynecologists. The same copayments, deductibles and benefit

1 limits shall apply to the diagnosis and treatment of infertility
2 pursuant to this section as those applied to other medical or surgical
3 benefits under the plan. Infertility resulting from a voluntary
4 unreversed sterilization procedure may be excluded if the voluntary
5 unreversed sterilization is the sole cause of infertility, provided,
6 however, that coverage for infertility services shall not be excluded
7 if the voluntary sterilization is successfully reversed. A plan shall
8 not impose any exclusions, limitations, or restrictions on coverage
9 of any fertility services provided by or to a third party.

10 c. A religious employer may request, and a health maintenance
11 organization shall grant, an exclusion under the contract for the
12 coverage required by this section for in vitro fertilization, embryo
13 transfer, artificial insemination, zygote intra fallopian transfer and
14 intracytoplasmic sperm injection, if the required coverage is
15 contrary to the religious employer's bona fide religious tenets. The
16 hospital service corporation that issues a contract containing such
17 an exclusion shall provide written notice thereof to each prospective
18 subscriber or subscriber, which shall appear in not less than 10
19 point type, in the contract, application and sales brochure. For the
20 purposes of this subsection, "religious employer" means an
21 employer that is a church, convention or association of churches or
22 any group or entity that is operated, supervised or controlled by or
23 in connection with a church or a convention or association of
24 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
25 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

26 d. The provisions of this section shall apply to all health
27 benefit plans in which the carrier has reserved the right to change
28 the premium.

29 e. The provisions of this section shall not apply to a small
30 employer health benefits plan contract which, pursuant to a contract
31 between the small employer health benefits plan and the
32 Department of Human Services, provides benefits to persons who
33 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-
34 1 et seq.), the NJ FamilyCare Program established pursuant to
35 P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
36 administered by the Division of Medical Assistance and Health
37 Services in the Department of Human Services.

38

39 **【6】** 8. Section 6 of P.L.2017, c.48 (C.52:14-17.29y) is amended
40 to read as follows:

41 6. The State Health Benefits Commission shall ensure that
42 every contract under the State Health Benefits Program shall
43 provide coverage for medically necessary expenses , as determined
44 by a physician, incurred in the diagnosis and treatment of infertility
45 as provided pursuant to this section. The State Health Benefits
46 Program shall provide coverage for any services related to
47 infertility that is recommended by a physician, which includes, but
48 is not limited to**【**, the following services related to infertility**】**:

1 diagnosis and diagnostic tests; medications; surgery; intrauterine
2 insemination; in vitro fertilization; genetic testing; embryo transfer;
3 artificial insemination; **[gamete intra fallopian transfer; zygote intra**
4 **fallopian transfer;]** intracytoplasmic sperm injection; **[and]** four
5 completed egg retrievals **[per lifetime of the covered person]; and**
6 unlimited embryo transfers, in accordance with guidelines from the
7 American Society for Reproductive Medicine, using single embryo
8 transfer when recommended and deemed medically appropriate by a
9 physician. The State Health Benefits Commission may provide that
10 coverage for in vitro fertilization**], gamete intra fallopian transfer**
11 **and zygote intra fallopian transfer]** shall be limited to a covered
12 person who**[: a.]** has used all reasonable, less expensive and
13 medically appropriate treatments , as determined by a licensed
14 physician, and is still unable to become pregnant or carry a
15 pregnancy to a live birth**]; b.** has not reached the limit of four
16 completed egg retrievals; and c. is 45 years of age or younger**].**
17 Coverage for infertility services provided to partners of persons
18 who have successfully reversed a voluntary sterilization shall not be
19 excluded.

20 **[For purposes of] b. As used in this this section[.]:**

21 "Infertility" means a disease **[or], condition, or status**
22 characterized by: **[that results in the abnormal function of the**
23 **reproductive system, as determined pursuant to American Society**
24 **for Reproductive Medicine practice guidelines by a physician who**
25 **is Board Certified or Board Eligible in Reproductive Endocrinology**
26 **and Infertility or in Obstetrics and Gynecology or that the patient**
27 **has met one of the following conditions:**

28 (1) A male is unable to impregnate a female;

29 (2) A female with a male partner and under 35 years of age is
30 unable to conceive after 12 months of unprotected sexual
31 intercourse;

32 (3) A female with a male partner and 35 years of age and over is
33 unable to conceive after six months of unprotected sexual
34 intercourse;

35 (4) A female without a male partner and under 35 years of age
36 who is unable to conceive after 12 failed attempts of intrauterine
37 insemination under medical supervision;

38 (5) A female without a male partner and over 35 years of age
39 who is unable to conceive after six failed attempts of intrauterine
40 insemination under medical supervision;

41 (6) Partners are unable to conceive as a result of involuntary
42 medical sterility;

43 (7) A person is unable to carry a pregnancy to live birth; or

44 (8) A previous determination of infertility pursuant to this
45 section **](1) the failure to establish a pregnancy or carry a**
46 pregnancy to term;

1 (2) a person's inability to reproduce as a single individual or
2 with a partner of the individual without medical intervention; or

3 (3) a physician's recommendation, diagnosis, treatment plan, or
4 prescription based on a patient's medical, sexual, and reproductive
5 history, age, physical findings or diagnostic testing.

6 "Treatment of infertility" means the recommended treatment
7 plan or prescribed procedures, services, and medications directed by
8 a licensed physician for infertility as defined in this section.

9 The benefits shall be provided to the same extent as for other
10 **【pregnancy-related procedures】** medical conditions under the
11 contract, except that the services provided for in this section shall
12 be performed at facilities that conform to standards established by
13 the American Society for Reproductive Medicine or the American
14 College of Obstetricians and Gynecologists. The same copayments,
15 deductibles and benefit limits shall apply to the diagnosis and
16 treatment of infertility pursuant to this section as those applied to
17 other medical or surgical benefits under the contract. **【Infertility**
18 **resulting from voluntary sterilization procedures shall be excluded**
19 **under the contract for the coverage required by this section】**
20 Infertility resulting from a voluntary unreversed sterilization
21 procedure may be excluded if the voluntary unreversed sterilization
22 is the sole cause of infertility, provided, however, that coverage for
23 infertility services shall not be excluded if the voluntary
24 sterilization is successfully reversed. A contract shall not impose
25 any exclusions, limitations, or restrictions on coverage of any
26 fertility services provided by or to a third party.

27 (cf: P.L.2017, c.48, s.6)

28
29 **【7】** 9. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
30 amended to read as follows:

31 7. The School Employees Health Benefits Commission shall
32 ensure that every contract under the School Employees Health
33 Benefits Program shall provide coverage for medically necessary
34 expenses , as determined by a physician, incurred in the diagnosis
35 and treatment of infertility as provided pursuant to this section. The
36 School Employees Health Benefits Program contract shall provide
37 coverage for any services related to infertility that is recommended
38 by a physician, which includes, but is not limited to**【,** the following
39 services related to infertility**】**: diagnosis and diagnostic tests;
40 medications; surgery; intrauterine insemination; in vitro
41 fertilization; genetic testing; embryo transfer; artificial
42 insemination; **【gamete intra fallopian transfer; zygote intra**
43 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
44 completed egg retrievals **【per lifetime of the covered person】**; and
45 unlimited embryo transfers, in accordance with guidelines from the
46 American Society for Reproductive Medicine, using single embryo
47 transfer when recommended and deemed medically appropriate by a

1 physician. The School Employees Health Benefits Commission
2 may provide that coverage for in vitro fertilization[, gamete intra
3 fallopian transfer and zygote intra fallopian transfer] shall be
4 limited to a covered person who[: a.] has used all reasonable, less
5 expensive and medically appropriate treatments , as determined by a
6 licensed physician, and is still unable to become pregnant or carry a
7 pregnancy to a live birth[: b. has not reached the limit of four
8 completed egg retrievals; and c. is 45 years of age or younger].
9 Coverage for infertility services provided to partners of persons
10 who have successfully reversed a voluntary sterilization shall not be
11 excluded.

12 **[For purposes of] b. As used in this this section[.]:**

13 "Infertility" means a disease **[or],** condition, or status
14 characterized by: **[**that results in the abnormal function of the
15 reproductive system, as determined pursuant to American Society
16 for Reproductive Medicine practice guidelines by a physician who
17 is Board Certified or Board Eligible in Reproductive Endocrinology
18 and Infertility or in Obstetrics and Gynecology or that the patient
19 has met one of the following conditions:

20 (1) A male is unable to impregnate a female;

21 (2) A female with a male partner and under 35 years of age is
22 unable to conceive after 12 months of unprotected sexual
23 intercourse;

24 (3) A female with a male partner and 35 years of age and over is
25 unable to conceive after six months of unprotected sexual
26 intercourse;

27 (4) A female without a male partner and under 35 years of age
28 who is unable to conceive after 12 failed attempts of intrauterine
29 insemination under medical supervision;

30 (5) A female without a male partner and over 35 years of age
31 who is unable to conceive after six failed attempts of intrauterine
32 insemination under medical supervision;

33 (6) Partners are unable to conceive as a result of involuntary
34 medical sterility;

35 (7) A person is unable to carry a pregnancy to live birth; or

36 (8) A previous determination of infertility pursuant to this
37 section] (1) the failure to establish a pregnancy or carry a
38 pregnancy to term;

39 (2) a person's inability to reproduce as a single individual or
40 with a partner of the individual without medical intervention; or

41 (3) a physician's recommendation, diagnosis, treatment plan, or
42 prescription based on a patient's medical, sexual, and reproductive
43 history, age, physical findings or diagnostic testing.

44 "Treatment of infertility" means the recommended treatment
45 plan or prescribed procedures, services, and medications directed by
46 a licensed physician for infertility as defined in this section.

1 The benefits shall be provided to the same extent as for other
2 **【pregnancy-related procedures】** medical conditions under the
3 contract, except that the services provided for in this section shall
4 be performed at facilities that conform to standards established by
5 the American Society for Reproductive Medicine or the American
6 College of Obstetricians and Gynecologists. The same copayments,
7 deductibles and benefit limits shall apply to the diagnosis and
8 treatment of infertility pursuant to this section as those applied to
9 other medical or surgical benefits under the contract. **【Infertility**
10 **resulting from voluntary sterilization procedures shall be excluded**
11 **under the contract for the coverage required by this section】**
12 Infertility resulting from a voluntary unreversed sterilization
13 procedure may be excluded under the contract if the voluntary
14 unreversed sterilization is the sole cause of infertility, provided,
15 however, that coverage for infertility services shall not be excluded
16 if the voluntary sterilization is successfully reversed. A contract
17 shall not impose any exclusions, limitations, or restrictions on
18 coverage of any fertility services provided by or to a third party.
19 (cf: P.L.2017, c.48, s.7)

20
21 **【8】 10.** This act shall take effect immediately and shall apply
22 to contracts issued or renewed on or after the effective date.

23 24 25 STATEMENT

26
27 This bill updates current law on health insurance coverage of
28 infertility by requiring health insurance carriers (which include
29 hospital service corporations, medical service corporations, health
30 service corporations, health maintenance organizations authorized
31 to issue health benefits plans in New Jersey, individual and small
32 employer health benefits plans, and any entities contracted to
33 administer health benefits in connection with the State Health
34 Benefits Program and School Employees' Health Benefits Program)
35 to cover infertility services for a partner of a person who has
36 successfully reversed a voluntary sterilization. The bill also
37 requires health insurance carriers to cover certain infertility services
38 including intrauterine insemination, genetic testing, unlimited
39 embryo transfers, in accordance with guidelines from the American
40 Society for Reproductive Medicine, and any other services related to
41 infertility recommended by a physician. Additionally, the bill revises
42 the current statutory definition of "infertility" and adds a definition of
43 "treatment of infertility."

44 Finally, the bill excludes coverage for infertility services if an
45 individual's infertility resulted solely from a voluntary unreversed
46 sterilization; provided, however, that coverage for infertility
47 services shall not be excluded if the voluntary sterilization is
48 successfully reversed.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5235

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2023

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 5235.

This bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers (including hospital service corporations, medical service corporations, health service corporations, and health maintenance organizations authorized to issue health benefits plans in New Jersey, commercial individual and group insurance providers, and any entities contracted to administer health benefits in connection with the State Health Benefits Program and School Employees' Health Benefits Program) to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill also requires health insurance carriers to cover any services related to infertility in accordance with American Society for Reproductive Medicine guidelines and as determined by a physician, including intrauterine insemination, genetic testing, unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, and any other services related to infertility recommended by a physician. Additionally, the bill revises the current statutory definition of "infertility" and adds a definition of "treatment of infertility."

Finally, the bill excludes coverage for infertility services if an individual's infertility resulted solely from a voluntary unreversed sterilization; provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove provisions that would have added coverage for the treatment of infertility to the individual and small employer health insurance markets;

(2) require health insurance carriers to cover any services related to infertility in accordance with American Society for Reproductive Medicine guidelines and as determined by a physician;

(3) change the definition of “infertility” as used in the bill; and

(4) stipulate that nothing in the definition of “infertility” may be used to deny or delay treatment to any individual, regardless of relationship status or sexual orientation.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5235

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5235 (1R).

As amended, this bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers (including hospital service corporations, medical service corporations, health service corporations, and health maintenance organizations authorized to issue health benefits plans in New Jersey, commercial group health insurance providers, and any entities contracted to administer health benefits in connection with the State Health Benefits Program and School Employees' Health Benefits Program) to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill also requires health insurance carriers to cover any services related to infertility in accordance with American Society for Reproductive Medicine guidelines and as determined by a physician, including intrauterine insemination, genetic testing, in vitro fertilization using donor eggs, in vitro fertilization where the embryo is transferred to a gestational carrier or surrogate, unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, medical costs of egg or sperm donors, including office visits, medications, laboratory and radiological procedures and retrieval until the donor is released from treatment by the reproductive endocrinologist, and any other services related to infertility recommended by a physician. Additionally, the bill revises the current statutory definition of "infertility" and adds a definition of "treatment of infertility."

The bill also provides that nothing in the definition of "infertility" may be used to deny or delay treatment to any individual, regardless of relationship status or sexual orientation and prohibits health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age. Additionally, the bill prohibits health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age. The bill also clarifies that nothing in the bill prohibits a health insurance carrier from performing

utilization review, including periodic review of the medical necessity of a particular service, provided all utilization review decisions are consistent with American Society for Reproductive Medicine guidelines

Finally, the bill excludes coverage for infertility services if an individual's infertility resulted solely from a voluntary unreversed sterilization; provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove from the bill a provision prohibiting a health insurance contract from imposing any exclusions, limitations, or restrictions on coverage of fertility services provided by or to a third party;

(2) stipulate that the provisions of the bill do not preclude the health insurance carrier from performing utilization review, including periodic review of the medical necessity of a particular service, provided all utilization review decisions are consistent with American Society for Reproductive Medicine guidelines;

(3) prohibit health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age;

(4) clarify the infertility services for which health insurance carriers are required to provide coverage;

(5) provide that coverage for in vitro fertilization includes in vitro fertilization using donor eggs and in vitro fertilization where the embryo is transferred to a gestational carrier or surrogate;

(6) extend the effective date of the bill; and

(7) make technical changes.

FISCAL IMPACT:

The Office of Legislative Services anticipates that revising health insurance coverage requirements for treatment of infertility will result in indeterminate expenditure increases to the State and certain local government units for State Health Benefits Program and School Employees' Health Benefits Program costs. For reference only, data from the Plan Year 2024 Rate Setting Analyses indicate that a one percent increase in projected costs for incurred medical claims would result in expenditure increases of approximately \$19.5 million for the State portion of the State Health Benefits Program, \$14 million for the local portion of the State Health Benefits Program, and \$18.8 million for the School Employees' Health Benefits Program for Plan Year 2024.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5235

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 11, 2024

SUMMARY

- Synopsis:** Revises health insurance coverage requirements for treatment of infertility.
- Type of Impact:** Annual expenditure increase to the State General Fund and certain local government units.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury; certain local government units.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.
- The OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, but anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.
- For reference only, the OLS notes that State Health Benefits Program and School Employees' Health Benefits Program expenditure increases may potentially range from \$1,200 to \$73,000 per newly eligible covered individual who chooses to seek treatment for infertility services under the expanded coverage provided by the bill.

BILL DESCRIPTION

This bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill states that infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

Under the bill, health insurance carriers are prohibited from imposing restrictions concerning the coverage of infertility services based on age. The bill also requires health insurance carriers to cover any services related to infertility in accordance with the American Society for Reproductive Medicine guidelines and as determined by a physician.

The bill does not preclude health insurance carriers, including hospital service corporations, medical service corporations, health service corporations, insurers, or health maintenance organizations, from performing utilization review regarding coverage for infertility services, provided that such decisions are consistent with American Society for Reproductive Medicine guidelines.

Current law limits coverage for certain infertility treatments to individuals 45 years of age or younger who have met certain conditions. Under current law, infertility resulting from voluntary sterilization is excluded from coverage requirements.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.

While the OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, the OLS anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.

Based on data from the Plan Year 2024 Rate Setting Analyses, a one percent increase in projected costs for incurred medical claims would result in expenditure increases of approximately \$19.5 million for the State portion of the State Health Benefits Program, \$14 million for the local portion of the State Health Benefits Program, and \$18.8 million for the School Employees' Health Benefits Program for Plan Year 2024.

Section: State Government

*Analyst: Anna Harris
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE, No. 3627

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senators Cruz-Perez and Stack

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2023)

1 AN ACT concerning health insurance coverage requirements for
2 infertility treatment and amending and supplementing various
3 parts of the statutory law.

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

7
8 1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to
9 read as follows:

10 1. a. A hospital service corporation contract which provides
11 hospital or medical expense benefits for groups with more than 50
12 persons, which includes pregnancy-related benefits, shall not be
13 delivered, issued, executed or renewed in this State, or approved for
14 issuance or renewal in this State by the Commissioner of Banking
15 and Insurance on or after the effective date of this act unless the
16 contract provides coverage for persons covered under the contract
17 for medically necessary expenses , as determined by a physician,
18 incurred in the diagnosis and treatment of infertility as provided
19 pursuant to this section. The hospital service corporation contract
20 shall provide coverage for any services related to infertility that is
21 recommended by a physician, which includes, but is not limited to**【,**
22 **the following services related to infertility】:** diagnosis and
23 diagnostic tests; medications; surgery; intrauterine insemination; in
24 vitro fertilization; genetic testing; embryo transfer; artificial
25 insemination; **【gamete intra fallopian transfer; zygote intra**
26 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
27 completed egg retrievals **【per lifetime of the covered person】;** and
28 unlimited embryo transfers, in accordance with guidelines from the
29 American Society for Reproductive Medicine, using single embryo
30 transfer when recommended and deemed medically appropriate by a
31 physician. The hospital service corporation may provide that
32 coverage for in vitro fertilization**【,** gamete intra fallopian transfer
33 and zygote intra fallopian transfer**】** shall be limited to a covered
34 person who**【:** a.**】** has used all reasonable, less expensive and
35 medically appropriate treatments , as determined by a licensed
36 physician, and is still unable to become pregnant or carry a
37 pregnancy **【;** b. has not reached the limit of four completed egg
38 retrievals; and c. is 45 years of age or younger**】** to a live birth.
39 Coverage for infertility services provided to partners of persons
40 who have successfully reversed a voluntary sterilization shall not be
41 excluded.

42 **【For purposes of】** b. As used in this this section**【,】:**

43 "Infertility" means a disease **【or】,** condition **【that results in the**
44 abnormal function of the reproductive system, as determined
45 pursuant to American Society for Reproductive Medicine practice
46 guidelines by a physician who is Board Certified or Board Eligible

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.

1 in Reproductive Endocrinology and Infertility or in Obstetrics and
2 Gynecology or that the patient has met one of the following
3 conditions:

- 4 (1) A male is unable to impregnate a female;
- 5 (2) A female with a male partner and under 35 years of age is
6 unable to conceive after 12 months of unprotected sexual
7 intercourse;
- 8 (3) A female with a male partner and 35 years of age and over is
9 unable to conceive after six months of unprotected sexual
10 intercourse;
- 11 (4) A female without a male partner and under 35 years of age
12 who is unable to conceive after 12 failed attempts of intrauterine
13 insemination under medical supervision;
- 14 (5) A female without a male partner and over 35 years of age
15 who is unable to conceive after six failed attempts of intrauterine
16 insemination under medical supervision;
- 17 (6) Partners are unable to conceive as a result of involuntary
18 medical sterility;
- 19 (7) A person is unable to carry a pregnancy to live birth; or
- 20 (8) A previous determination of infertility pursuant to this
21 section **】**, or status characterized by:

22 (1) the failure to establish a pregnancy or carry a pregnancy to
23 term;

24 (2) a person's inability to reproduce as a single individual or
25 with a partner of the individual without medical intervention; or

26 (3) a physician's recommendation, diagnosis, treatment plan, or
27 prescription based on a patient's medical, sexual, and reproductive
28 history, age, physical findings or diagnostic testing.

29 "Treatment of infertility" means the recommended treatment
30 plan or prescribed procedures, services, and medications as directed
31 by a licensed physician for infertility as defined in this section.

32 The benefits shall be provided to the same extent as for other
33 **【**pregnancy-related procedures**】** medical conditions under the
34 contract, except that the services provided for in this section shall
35 be performed at facilities that conform to standards established by
36 the American Society for Reproductive Medicine or the American
37 College of Obstetricians and Gynecologists. The same copayments,
38 deductibles and benefit limits shall apply to the diagnosis and
39 treatment of infertility pursuant to this section as those applied to
40 other medical or surgical benefits under the contract. **【**Infertility
41 resulting from voluntary sterilization procedures shall be excluded
42 under the contract for the coverage required by this section**】**
43 Infertility resulting from a voluntary unreversed sterilization
44 procedure may be excluded if the voluntary unreversed sterilization
45 is the sole cause of infertility, provided, however, that coverage for
46 infertility services shall not be excluded if the voluntary
47 sterilization is successfully reversed. A contract shall not impose

1 any exclusions, limitations, or restrictions on coverage of any
2 fertility services provided by or to a third party.

3 b. A religious employer may request, and a hospital service
4 corporation shall grant, an exclusion under the contract for the
5 coverage required by this section for in vitro fertilization, embryo
6 transfer, artificial insemination, zygote intra fallopian transfer and
7 intracytoplasmic sperm injection, if the required coverage is
8 contrary to the religious employer's bona fide religious tenets. The
9 hospital service corporation that issues a contract containing such
10 an exclusion shall provide written notice thereof to each prospective
11 subscriber or subscriber, which shall appear in not less than 10
12 point type, in the contract, application and sales brochure. For the
13 purposes of this subsection, "religious employer" means an
14 employer that is a church, convention or association of churches or
15 any group or entity that is operated, supervised or controlled by or
16 in connection with a church or a convention or association of
17 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
18 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

22 d. The provisions of this section shall not apply to a hospital
23 service corporation contract which, pursuant to a contract between
24 the hospital service corporation and the Department of Human
25 Services, provides benefits to persons who are eligible for medical
26 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
27 FamilyCare Program established pursuant to P.L.2005, c.156
28 (C.30:4J-8 et al.), or any other program administered by the
29 Division of Medical Assistance and Health Services in the
30 Department of Human Services.
31 (cf: P.L.2017, c.48, s.1)

32

33 2. Section 2 of P.L.2001, c.236 (C.17:48A-7w) is amended to
34 read as follows:

35 2. a. A medical service corporation contract which provides
36 hospital or medical expense benefits for groups with more than 50
37 persons, which includes pregnancy-related benefits, shall not be
38 delivered, issued, executed or renewed in this State, or approved for
39 issuance or renewal in this State by the Commissioner of Banking
40 and Insurance on or after the effective date of this act unless the
41 contract provides coverage for persons covered under the contract
42 for medically necessary expenses, as determined by a physician,
43 incurred in the diagnosis and treatment of infertility as provided
44 pursuant to this section. The medical service corporation contract
45 shall provide coverage for any services related to infertility that is
46 recommended by a physician, which includes, but is not limited to【,
47 the following services related to infertility】: diagnosis and
48 diagnostic tests; medications; surgery; intrauterine insemination; in

1 vitro fertilization; genetic testing; embryo transfer; artificial
2 insemination; **【gamete intra fallopian transfer; zygote intra**
3 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
4 completed egg retrievals **【per lifetime of the covered person】**; and
5 unlimited embryo transfers, in accordance with guidelines from the
6 American Society for Reproductive Medicine, using single embryo
7 transfer when recommended and deemed medically appropriate by a
8 physician. The medical service corporation may provide that
9 coverage for in vitro fertilization**【, gamete intra fallopian transfer**
10 **and zygote intra fallopian transfer】** shall be limited to a covered
11 person who**【: a.】** has used all reasonable, less expensive and
12 medically appropriate treatments , as determined by a licensed
13 physician, and is still unable to become pregnant or carry a
14 pregnancy to a live birth【; b. has not reached the limit of four
15 completed egg retrievals; and c. is 45 years of age or younger】.
16 Coverage for infertility services provided to partners of persons
17 who have successfully reversed a voluntary sterilization shall not be
18 excluded.

19 **【For purposes of】b. As used in this this section【,】:**

20 "Infertility" means a disease **【or】**, condition, or status
21 characterized by: 【that results in the abnormal function of the
22 reproductive system, as determined pursuant to American Society
23 for Reproductive Medicine practice guidelines by a physician who
24 is Board Certified or Board Eligible in Reproductive Endocrinology
25 and Infertility or in Obstetrics and Gynecology or that the patient
26 has met one of the following conditions:

27 (1) A male is unable to impregnate a female;

28 (2) A female with a male partner and under 35 years of age is
29 unable to conceive after 12 months of unprotected sexual
30 intercourse;

31 (3) A female with a male partner and 35 years of age and over is
32 unable to conceive after six months of unprotected sexual
33 intercourse;

34 (4) A female without a male partner and under 35 years of age
35 who is unable to conceive after 12 failed attempts of intrauterine
36 insemination under medical supervision;

37 (5) A female without a male partner and over 35 years of age
38 who is unable to conceive after six failed attempts of intrauterine
39 insemination under medical supervision;

40 (6) Partners are unable to conceive as a result of involuntary
41 medical sterility;

42 (7) A person is unable to carry a pregnancy to live birth; or

43 (8) A previous determination of infertility pursuant to this
44 section**】** (1) the failure to establish a pregnancy or carry a
45 pregnancy to term;

46 (2) a person's inability to reproduce as a single individual or
47 with a partner of the individual without medical intervention; or

1 (3) a physician's recommendation, diagnosis, treatment plan, or
2 prescription based on a patient's medical, sexual, and reproductive
3 history, age, physical findings or diagnostic testing.

4 "Treatment of infertility" means the recommended treatment
5 plan or prescribed procedures, services, and medications as directed
6 by a licensed physician for infertility as defined in this section.

7 The benefits shall be provided to the same extent as for other
8 **【pregnancy-related procedures】** medical conditions under the
9 contract, except that the services provided for in this section shall
10 be performed at facilities that conform to standards established by
11 the American Society for Reproductive Medicine or the American
12 College of Obstetricians and Gynecologists. The same copayments,
13 deductibles and benefit limits shall apply to the diagnosis and
14 treatment of infertility pursuant to this section as those applied to
15 other medical or surgical benefits under the contract. **【Infertility**
16 **resulting from voluntary sterilization procedures shall be excluded**
17 **under the contract for the coverage required by this section】**
18 Infertility resulting from a voluntary unreversed sterilization
19 procedure may be excluded if the voluntary unreversed sterilization
20 is the sole cause of infertility, provided, however, that coverage for
21 infertility services shall not be excluded if the voluntary
22 sterilization is successfully reversed. A contract shall not impose
23 any exclusions, limitations, or restrictions on coverage of any
24 fertility services provided by or to a third party.

25 b. A religious employer may request, and a hospital service
26 corporation shall grant, an exclusion under the contract for the
27 coverage required by this section for in vitro fertilization, embryo
28 transfer, artificial insemination, zygote intra fallopian transfer and
29 intracytoplasmic sperm injection, if the required coverage is
30 contrary to the religious employer's bona fide religious tenets. The
31 hospital service corporation that issues a contract containing such
32 an exclusion shall provide written notice thereof to each prospective
33 subscriber or subscriber, which shall appear in not less than 10
34 point type, in the contract, application and sales brochure. For the
35 purposes of this subsection, "religious employer" means an
36 employer that is a church, convention or association of churches or
37 any group or entity that is operated, supervised or controlled by or
38 in connection with a church or a convention or association of
39 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
40 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

44 d. The provisions of this section shall not apply to a medical
45 service corporation contract which, pursuant to a contract between
46 the medical service corporation and the Department of Human
47 Services, provides benefits to persons who are eligible for medical
48 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ

1 FamilyCare Program established pursuant to P.L.2005, c.156
2 (C.30:4J-8 et al.), or any other program administered by the
3 Division of Medical Assistance and Health Services in the
4 Department of Human Services.
5 (cf: P.L.2017, c.48, s.2)

6
7 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended
8 to read as follows:

9 3. a. A health service corporation contract which provides
10 hospital or medical expense benefits for groups with more than 50
11 persons, which includes pregnancy-related benefits, shall not be
12 delivered, issued, executed or renewed in this State, or approved for
13 issuance or renewal in this State by the Commissioner of Banking
14 and Insurance on or after the effective date of this act unless the
15 contract provides coverage for persons covered under the contract
16 for medically necessary expenses, as determined by a physician,
17 incurred in the diagnosis and treatment of infertility as provided
18 pursuant to this section. The health service corporation contract
19 shall provide coverage for any services related to infertility that is
20 recommended by a physician, which includes, but is not limited to【,
21 the following services related to infertility】: diagnosis and
22 diagnostic tests; medications; surgery; intrauterine insemination; in
23 vitro fertilization; genetic testing; embryo transfer; artificial
24 insemination; 【gamete intra fallopian transfer; zygote intra
25 fallopian transfer;】 intracytoplasmic sperm injection; 【and】 four
26 completed egg retrievals 【per lifetime of the covered person】; and
27 unlimited embryo transfers, in accordance with guidelines from the
28 American Society for Reproductive Medicine, using single embryo
29 transfer when recommended and deemed medically appropriate by a
30 physician. The health service corporation may provide that
31 coverage for in vitro fertilization【, gamete intra fallopian transfer
32 and zygote intra fallopian transfer】 shall be limited to a covered
33 person who【: a.】 has used all reasonable, less expensive and
34 medically appropriate treatments , as determined by a licensed
35 physician, and is still unable to become pregnant or carry a
36 pregnancy to a live birth【; b. has not reached the limit of four
37 completed egg retrievals; and c. is 45 years of age or younger】.
38 Coverage for infertility services provided to partners of persons
39 who have successfully reversed a voluntary sterilization shall not be
40 excluded.

41 【For purposes of】b. As used in this this section【,】:

42 "Infertility" means a disease 【or】 condition, or status
43 characterized by: 【that results in the abnormal function of the
44 reproductive system, as determined pursuant to American Society
45 for Reproductive Medicine practice guidelines by a physician who
46 is Board Certified or Board Eligible in Reproductive Endocrinology

1 and Infertility or in Obstetrics and Gynecology or that the patient
2 has met one of the following conditions:

- 3 (1) A male is unable to impregnate a female;
- 4 (2) A female with a male partner and under 35 years of age is
5 unable to conceive after 12 months of unprotected sexual
6 intercourse;
- 7 (3) A female with a male partner and 35 years of age and over is
8 unable to conceive after six months of unprotected sexual
9 intercourse;
- 10 (4) A female without a male partner and under 35 years of age
11 who is unable to conceive after 12 failed attempts of intrauterine
12 insemination under medical supervision;
- 13 (5) A female without a male partner and over 35 years of age
14 who is unable to conceive after six failed attempts of intrauterine
15 insemination under medical supervision;
- 16 (6) Partners are unable to conceive as a result of involuntary
17 medical sterility;
- 18 (7) A person is unable to carry a pregnancy to live birth; or
- 19 (8) A previous determination of infertility pursuant to this
20 section **】** (1) the failure to establish a pregnancy or carry a
21 pregnancy to term;

22 (2) a person's inability to reproduce as a single individual or
23 with a partner of the individual without medical intervention; or

24 (3) a physician's recommendation, diagnosis, treatment plan, or
25 prescription based on a patient's medical, sexual, and reproductive
26 history, age, physical findings or diagnostic testing.

27 "Treatment of infertility" means the recommended treatment
28 plan or prescribed procedures, services, and medications as directed
29 by a licensed physician for fertility as defined in this section.

30 The benefits shall be provided to the same extent as for other
31 **【**pregnancy-related procedures**】** medical conditions under the
32 contract, except that the services provided for in this section shall
33 be performed at facilities that conform to standards established by
34 the American Society for Reproductive Medicine or the American
35 College of Obstetricians and Gynecologists. The same copayments,
36 deductibles and benefit limits shall apply to the diagnosis and
37 treatment of infertility pursuant to this section as those applied to
38 other medical or surgical benefits under the contract. **【**Infertility
39 resulting from voluntary sterilization procedures shall be excluded
40 under the contract for the coverage required by this section**】**
41 Infertility resulting from a voluntary unreversed sterilization
42 procedure may be excluded if the voluntary unreversed sterilization
43 is the sole cause of infertility, provided, however, that coverage for
44 infertility services shall not be excluded if the voluntary
45 sterilization is successfully reversed. A contract shall not impose
46 any exclusions, limitations, or restrictions on coverage of any
47 fertility services provided by or to a third party.

1 b. A religious employer may request, and a hospital service
2 corporation shall grant, an exclusion under the contract for the
3 coverage required by this section for in vitro fertilization, embryo
4 transfer, artificial insemination, zygote intra fallopian transfer and
5 intracytoplasmic sperm injection, if the required coverage is
6 contrary to the religious employer's bona fide religious tenets. The
7 hospital service corporation that issues a contract containing such
8 an exclusion shall provide written notice thereof to each prospective
9 subscriber or subscriber, which shall appear in not less than 10
10 point type, in the contract, application and sales brochure. For the
11 purposes of this subsection, "religious employer" means an
12 employer that is a church, convention or association of churches or
13 any group or entity that is operated, supervised or controlled by or
14 in connection with a church or a convention or association of
15 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
16 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

20 d. The provisions of this section shall not apply to a health
21 service corporation contract which, pursuant to a contract between
22 the health service corporation and the Department of Human
23 Services, provides benefits to persons who are eligible for medical
24 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
25 FamilyCare Program established pursuant to P.L.2005, c.156
26 (C.30:4J-8 et al.), or any other program administered by the
27 Division of Medical Assistance and Health Services in the
28 Department of Human Services.
29 (cf: P.L.2017, c.48, s.3)

30
31 4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended
32 to read as follows:

33 4. a. A group health insurance policy which provides hospital
34 or medical expense benefits for groups with more than 50 persons,
35 which includes pregnancy-related benefits, shall not be delivered,
36 issued, executed or renewed in this State, or approved for issuance
37 or renewal in this State by the Commissioner of Banking and
38 Insurance on or after the effective date of this act unless the policy
39 provides coverage for persons covered under the policy for
40 medically necessary expenses , as determined by a physician,
41 incurred in the diagnosis and treatment of infertility as provided
42 pursuant to this section. The policy shall provide coverage for any
43 services related to infertility that is recommended by a physician,
44 which includes, but is not limited to **【**, the following services related
45 to infertility**】**: diagnosis and diagnostic tests; medications; surgery;
46 intrauterine insemination; in vitro fertilization; genetic testing;
47 embryo transfer; artificial insemination; **【**gamete intra fallopian
48 transfer; zygote intra fallopian transfer;**】** intracytoplasmic sperm

1 injection; **[and]** four completed egg retrievals **[per lifetime of the**
2 **covered person]**; and unlimited embryo transfers, in accordance
3 with guidelines from the American Society for Reproductive
4 Medicine, using single embryo transfer when recommended and
5 deemed medically appropriate by a physician. The policy may
6 provide that coverage for in vitro fertilization**[, gamete intra**
7 **fallopian transfer and zygote intra fallopian transfer]** shall be
8 limited to a covered person who**[:** a.**]** has used all reasonable, less
9 expensive and medically appropriate treatments , as determined by a
10 licensed physician, and is still unable to become pregnant or carry a
11 pregnancy to a live birth**];** b. has not reached the limit of four
12 completed egg retrievals; and c. is 45 years of age or younger**].**
13 Coverage for infertility services provided to partners of persons
14 who have successfully reversed a voluntary sterilization shall not be
15 excluded.

16 **[For purposes of]**b. As used in this this section[,]:

17 "Infertility" means a disease **[or],** condition, or status
18 characterized by: **[that results in the abnormal function of the**
19 **reproductive system, as determined pursuant to American Society**
20 **for Reproductive Medicine practice guidelines by a physician who**
21 **is Board Certified or Board Eligible in Reproductive Endocrinology**
22 **and Infertility or in Obstetrics and Gynecology or that the patient**
23 **has met one of the following conditions:**

24 (1) A male is unable to impregnate a female;

25 (2) A female with a male partner and under 35 years of age is
26 unable to conceive after 12 months of unprotected sexual
27 intercourse;

28 (3) A female with a male partner and 35 years of age and over is
29 unable to conceive after six months of unprotected sexual
30 intercourse;

31 (4) A female without a male partner and under 35 years of age
32 who is unable to conceive after 12 failed attempts of intrauterine
33 insemination under medical supervision;

34 (5) A female without a male partner and over 35 years of age
35 who is unable to conceive after six failed attempts of intrauterine
36 insemination under medical supervision;

37 (6) Partners are unable to conceive as a result of involuntary
38 medical sterility;

39 (7) A person is unable to carry a pregnancy to live birth; or

40 (8) A previous determination of infertility pursuant to this
41 section**]** (1) the failure to establish a pregnancy or carry a
42 pregnancy to term;

43 (2) a person's inability to reproduce as a single individual or
44 with a partner of the individual without medical intervention; or

45 (3) a physician's recommendation, diagnosis, treatment plan, or
46 prescription based on a patient's medical, sexual, and reproductive
47 history, age, physical findings or diagnostic testing.

1 “Treatment of infertility” means the recommended treatment
2 plan or prescribed procedures, services, and medications directed by
3 a licensed physician for infertility as defined in this section.

4 The benefits shall be provided to the same extent as for other
5 **【pregnancy-related procedures】** medical conditions under the
6 policy, except that the services provided for in this section shall be
7 performed at facilities that conform to standards established by the
8 American Society for Reproductive Medicine or the American
9 College of Obstetricians and Gynecologists. The same copayments,
10 deductibles and benefit limits shall apply to the diagnosis and
11 treatment of infertility pursuant to this section as those applied to
12 other medical or surgical benefits under the contract. **【Infertility**
13 **resulting from voluntary sterilization procedures shall be excluded**
14 **under the contract for the coverage required by this section】**
15 Infertility resulting from a voluntary unreversed sterilization
16 procedure may be excluded if the voluntary unreversed sterilization
17 is the sole cause of infertility, provided, however, that coverage for
18 infertility services shall not be excluded if the voluntary
19 sterilization is successfully reversed. A policy shall not impose any
20 exclusions, limitations, or restrictions on coverage of any fertility
21 services provided by or to a third party.

22 b. A religious employer may request, and a hospital service
23 corporation shall grant, an exclusion under the contract for the
24 coverage required by this section for in vitro fertilization, embryo
25 transfer, artificial insemination, zygote intra fallopian transfer and
26 intracytoplasmic sperm injection, if the required coverage is
27 contrary to the religious employer's bona fide religious tenets. The
28 hospital service corporation that issues a contract containing such
29 an exclusion shall provide written notice thereof to each prospective
30 subscriber or subscriber, which shall appear in not less than 10
31 point type, in the contract, application and sales brochure. For the
32 purposes of this subsection, "religious employer" means an
33 employer that is a church, convention or association of churches or
34 any group or entity that is operated, supervised or controlled by or
35 in connection with a church or a convention or association of
36 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
37 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

38 c. This section shall apply to those insurance policies in which
39 the insurer has reserved the right to change the premium.

40 d. The provisions of this section shall not apply to a group
41 health insurance policy which, pursuant to a contract between the
42 insurer and the Department of Human Services, provides benefits to
43 persons who are eligible for medical assistance under P.L.1968,
44 c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established
45 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
46 administered by the Division of Medical Assistance and Health
47 Services in the Department of Human Services.

48 (cf: P.L.2017, c.48, s.4)

1 5. Section 5 of P.L.2001. c.236 (C.26:2J-4.23) is amended to
2 read as follows:

3 5. a. No certificate of authority to establish and operate a health
4 maintenance organization in this State shall be issued or continued
5 on or after the effective date of this act unless the health
6 maintenance organization provides health care services, to groups
7 of more than 50 enrollees, for medically necessary expenses, as
8 determined by a physician, incurred in the diagnosis and treatment
9 of infertility as provided pursuant to this section. A health
10 maintenance organization shall provide enrollee coverage for any
11 services related to infertility that is recommended by a physician,
12 which includes, but is not limited to **【**, the following services related
13 to infertility **】**: diagnosis and diagnostic tests; medications; surgery;
14 intrauterine insemination; in vitro fertilization; genetic testing;
15 embryo transfer; artificial insemination; **【**gamete intra fallopian
16 transfer; zygote intra fallopian transfer; **】** intracytoplasmic sperm
17 injection; **【and】** four completed egg retrievals **【**per lifetime of the
18 covered person **】**; and unlimited embryo transfers, in accordance
19 with guidelines from the American Society for Reproductive
20 Medicine, using single embryo transfer when recommended and
21 deemed medically appropriate by a physician. A health maintenance
22 organization may provide that coverage for in vitro fertilization **【**,
23 gamete intra fallopian transfer and zygote intra fallopian transfer **】**
24 shall be limited to a covered person who **【**: a. **】** has used all
25 reasonable, less expensive and medically appropriate treatments, as
26 determined by a licensed physician, and is still unable to become
27 pregnant or carry a pregnancy to a live birth **【**; b. has not reached the
28 limit of four completed egg retrievals; and c. is 45 years of age or
29 younger **】**. Coverage for infertility services provided to partners of
30 persons who have successfully reversed a voluntary sterilization
31 shall not be excluded.

32 **【**For purposes of **】** b. As used in this this section **【**, **】**:

33 "Infertility" means a disease **【or】**, condition, or status
34 characterized by: **【**that results in the abnormal function of the
35 reproductive system, as determined pursuant to American Society
36 for Reproductive Medicine practice guidelines by a physician who
37 is Board Certified or Board Eligible in Reproductive Endocrinology
38 and Infertility or in Obstetrics and Gynecology or that the patient
39 has met one of the following conditions:

40 (1) A male is unable to impregnate a female;

41 (2) A female with a male partner and under 35 years of age is
42 unable to conceive after 12 months of unprotected sexual
43 intercourse;

44 (3) A female with a male partner and 35 years of age and over is
45 unable to conceive after six months of unprotected sexual
46 intercourse;

1 (4) A female without a male partner and under 35 years of age
2 who is unable to conceive after 12 failed attempts of intrauterine
3 insemination under medical supervision;

4 (5) A female without a male partner and over 35 years of age
5 who is unable to conceive after six failed attempts of intrauterine
6 insemination under medical supervision;

7 (6) Partners are unable to conceive as a result of involuntary
8 medical sterility;

9 (7) A person is unable to carry a pregnancy to live birth; or

10 (8) A previous determination of infertility pursuant to this
11 section **】** (1) the failure to establish a pregnancy or carry a
12 pregnancy to term;

13 (2) a person's inability to reproduce as a single individual or
14 with a partner of the individual without medical intervention; or

15 (3) a physician's recommendation, diagnosis, treatment plan, or
16 prescription based on a patient's medical, sexual, and reproductive
17 history, age, physical findings or diagnostic testing.

18 "Treatment of infertility" means the recommended treatment
19 plan or prescribed procedures, services, and medications directed by
20 a licensed physician for infertility as defined in this section.

21 The benefits shall be provided to the same extent as for other
22 **【**pregnancy-related procedures**】** medical conditions under the
23 contract, except that the services provided for in this section shall
24 be performed at facilities that conform to standards established by
25 the American Society for Reproductive Medicine or the American
26 College of Obstetricians and Gynecologists. The same copayments,
27 deductibles and benefit limits shall apply to the diagnosis and
28 treatment of infertility pursuant to this section as those applied to
29 other medical or surgical benefits under the contract. **【**Infertility
30 resulting from voluntary sterilization procedures shall be excluded
31 under the contract for the coverage required by this section**】**
32 Infertility resulting from a voluntary unreversed sterilization
33 procedure may be excluded if the voluntary unreversed sterilization
34 is the sole cause of infertility, provided, however, that coverage for
35 infertility services shall not be excluded if the voluntary
36 sterilization is successfully reversed. A contract shall not impose
37 any exclusions, limitations, or restrictions on coverage of any
38 fertility services provided by or to a third party.

39 b. A religious employer may request, and a health maintenance
40 organization shall grant, an exclusion under the contract for the
41 coverage required by this section for in vitro fertilization, embryo
42 transfer, artificial insemination, zygote intra fallopian transfer and
43 intracytoplasmic sperm injection, if the required coverage is
44 contrary to the religious employer's bona fide religious tenets. The
45 hospital service corporation that issues a contract containing such
46 an exclusion shall provide written notice thereof to each prospective
47 subscriber or subscriber, which shall appear in not less than 10
48 point type, in the contract, application and sales brochure. For the

1 purposes of this subsection, "religious employer" means an
2 employer that is a church, convention or association of churches or
3 any group or entity that is operated, supervised or controlled by or
4 in connection with a church or a convention or association of
5 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
6 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

7 c. The provisions of this section shall apply to those contracts
8 for health care services by health maintenance organizations under
9 which the right to change the schedule of charges for enrollee
10 coverage is reserved.

11 d. The provisions of this section shall not apply to a contract
12 for health care services by a health maintenance organization
13 which, pursuant to a contract between the health maintenance
14 organization and the Department of Human Services, provides
15 benefits to persons who are eligible for medical assistance under
16 P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program
17 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any
18 other program administered by the Division of Medical Assistance
19 and Health Services in the Department of Human Services.
20 (cf: P.L.2017, c.48, s.5)

21
22 6. (New section) a. Every individual health benefits plan that
23 provides hospital or medical expense benefits and is delivered,
24 issued, executed or renewed in this State pursuant to P.L.1992,
25 c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in
26 this State on or after the effective date of this act, shall provide
27 benefits to any person covered thereunder for medically necessary
28 expenses incurred in the diagnosis and treatment of infertility as
29 provided pursuant to this section. The individual health benefits
30 plan shall provide for any services related to infertility that is
31 recommended by a physician, which includes, but is not limited to:
32 diagnosis and diagnostic tests; medications; surgery; intrauterine
33 insemination; in vitro fertilization; genetic testing; embryo transfer;
34 artificial insemination; intracytoplasmic sperm injection; four
35 completed egg retrievals; and unlimited embryo transfers, in
36 accordance with guidelines from the American Society for
37 Reproductive Medicine, using single embryo transfer when
38 recommended and deemed medically appropriate by a physician.
39 The plan may provide that coverage for in vitro fertilization shall be
40 limited to a covered person who has used all reasonable, less
41 expensive and medically appropriate treatments, as determined by a
42 licensed physician, and is still unable to become pregnant or carry a
43 pregnancy to a live birth. Coverage for infertility services provided
44 to partners of persons who have successfully reversed a voluntary
45 sterilization shall not be excluded.

46 b. As used in this this section:

47 "Infertility" means a disease, condition, or status characterized
48 by:

1 (1) the failure to establish a pregnancy or carry a pregnancy to
2 term;

3 (2) a person's inability to reproduce as a single individual or
4 with a partner of the individual without medical intervention; or

5 (3) a physician's recommendation, diagnosis, treatment plan, or
6 prescription based on a patient's medical, sexual, and reproductive
7 history, age, physical findings or diagnostic testing.

8 "Treatment of infertility" means the recommended treatment
9 plan or prescribed procedures, services, and medications directed by
10 a licensed physician for infertility as defined in this section.

11 The benefits shall be provided to the same extent as for other
12 medical conditions under the health benefits plan, except that the
13 services provided for in this section shall be performed at facilities
14 that conform to standards established by the American Society for
15 Reproductive Medicine or the American College of Obstetricians
16 and Gynecologists. The same copayments, deductibles and benefit
17 limits shall apply to the diagnosis and treatment of infertility
18 pursuant to this section as those applied to other medical or surgical
19 benefits under the plan. Infertility resulting from a voluntary
20 unreversed sterilization procedure may be excluded if the voluntary
21 unreversed sterilization is the sole cause of infertility, provided,
22 however, that coverage for infertility services shall not be excluded
23 if the voluntary sterilization is successfully reversed. A plan shall
24 not impose any exclusions, limitations, or restrictions on coverage
25 of any fertility services provided by or to a third party.

26 c. A religious employer may request, and a health maintenance
27 organization shall grant, an exclusion under the contract for the
28 coverage required by this section for in vitro fertilization, embryo
29 transfer, artificial insemination, zygote intra fallopian transfer and
30 intracytoplasmic sperm injection, if the required coverage is
31 contrary to the religious employer's bona fide religious tenets. The
32 hospital service corporation that issues a contract containing such
33 an exclusion shall provide written notice thereof to each prospective
34 subscriber or subscriber, which shall appear in not less than 10
35 point type, in the contract, application and sales brochure. For the
36 purposes of this subsection, "religious employer" means an
37 employer that is a church, convention or association of churches or
38 any group or entity that is operated, supervised or controlled by or
39 in connection with a church or a convention or association of
40 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
41 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

42 d. This section shall apply to all individual health benefit plans
43 in which the carrier has reserved the right to change the premium.

44 e. The provisions of this section shall not apply to an
45 individual health benefit plan contract which, pursuant to a contract
46 between the individual health benefit plan and the Department of
47 Human Services, provides benefits to persons who are eligible for
48 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the

1 NJ FamilyCare Program established pursuant to P.L.2005, c.156
2 (C.30:4J-8 et al.), or any other program administered by the
3 Division of Medical Assistance and Health Services in the
4 Department of Human Services.

5
6 7. (New section) a. Every small employer health benefits plan
7 that provides hospital or medical expense benefits and is delivered,
8 issued, executed or renewed in this State pursuant to P.L.1992,
9 c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal
10 in this State on or after the effective date of this act, shall provide to
11 any person covered thereunder for medically necessary expenses
12 incurred in the diagnosis and treatment of infertility as provided
13 pursuant to this section. The health benefits plan shall provide for
14 any services related to infertility that is recommended by a
15 physician, which includes, but is not limited to: diagnosis and
16 diagnostic tests; medications; surgery; intrauterine insemination; in
17 vitro fertilization; genetic testing; embryo transfer; artificial
18 insemination; intracytoplasmic sperm injection; four completed egg
19 retrievals; and unlimited embryo transfers, in accordance with
20 guidelines from the American Society for Reproductive Medicine,
21 using single embryo transfer when recommended and deemed
22 medically appropriate by a physician. The health benefits plan may
23 provide that coverage for in vitro fertilization shall be limited to a
24 covered person who has used all reasonable, less expensive and
25 medically appropriate treatments, as determined by a licensed
26 physician, and is still unable to become pregnant or carry a
27 pregnancy to a live birth. Coverage for infertility services provided
28 to partners of persons who have successfully reversed a voluntary
29 sterilization shall not be excluded.

30 b. As used in this this section:

31 "Infertility" means a disease, condition, or status characterized
32 by:

33 (1) the failure to establish a pregnancy or carry a pregnancy to
34 term;

35 (2) a person's inability to reproduce as a single individual or
36 with a partner of the individual without medical intervention; or

37 (3) a physician's recommendation, diagnosis, treatment plan, or
38 prescription based on a patient's medical, sexual, and reproductive
39 history, age, physical findings or diagnostic testing.

40 "Treatment of infertility" means the recommended treatment
41 plan or prescribed procedures, services, and medications directed by
42 a licensed physician for infertility as defined in this section.

43 The benefits shall be provided to the same extent as for other
44 medical conditions under the health benefits plan, except that the
45 services provided for in this section shall be performed at facilities
46 that conform to standards established by the American Society for
47 Reproductive Medicine or the American College of Obstetricians
48 and Gynecologists. The same copayments, deductibles and benefit

1 limits shall apply to the diagnosis and treatment of infertility
2 pursuant to this section as those applied to other medical or surgical
3 benefits under the plan. Infertility resulting from a voluntary
4 unreversed sterilization procedure may be excluded if the voluntary
5 unreversed sterilization is the sole cause of infertility, provided,
6 however, that coverage for infertility services shall not be excluded
7 if the voluntary sterilization is successfully reversed. A plan shall
8 not impose any exclusions, limitations, or restrictions on coverage
9 of any fertility services provided by or to a third party.

10 c. A religious employer may request, and a health maintenance
11 organization shall grant, an exclusion under the contract for the
12 coverage required by this section for in vitro fertilization, embryo
13 transfer, artificial insemination, zygote intra fallopian transfer and
14 intracytoplasmic sperm injection, if the required coverage is
15 contrary to the religious employer's bona fide religious tenets. The
16 hospital service corporation that issues a contract containing such
17 an exclusion shall provide written notice thereof to each prospective
18 subscriber or subscriber, which shall appear in not less than 10
19 point type, in the contract, application and sales brochure. For the
20 purposes of this subsection, "religious employer" means an
21 employer that is a church, convention or association of churches or
22 any group or entity that is operated, supervised or controlled by or
23 in connection with a church or a convention or association of
24 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
25 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

26 d. The provisions of this section shall apply to all health
27 benefit plans in which the carrier has reserved the right to change
28 the premium.

29 e. The provisions of this section shall not apply to a small
30 employer health benefits plan contract which, pursuant to a contract
31 between the small employer health benefits plan and the
32 Department of Human Services, provides benefits to persons who
33 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-
34 1 et seq.), the NJ FamilyCare Program established pursuant to
35 P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
36 administered by the Division of Medical Assistance and Health
37 Services in the Department of Human Services.

38

39 **【6】** 8. Section 6 of P.L.2017, c.48 (C.52:14-17.29y) is amended
40 to read as follows:

41 6. The State Health Benefits Commission shall ensure that
42 every contract under the State Health Benefits Program shall
43 provide coverage for medically necessary expenses , as determined
44 by a physician, incurred in the diagnosis and treatment of infertility
45 as provided pursuant to this section. The State Health Benefits
46 Program shall provide coverage for any services related to
47 infertility that is recommended by a physician, which includes, but
48 is not limited to**【**, the following services related to infertility**】**:

1 diagnosis and diagnostic tests; medications; surgery; intrauterine
2 insemination; in vitro fertilization; genetic testing; embryo transfer;
3 artificial insemination; **[gamete intra fallopian transfer; zygote intra**
4 **fallopian transfer;]** intracytoplasmic sperm injection; **[and]** four
5 completed egg retrievals **[per lifetime of the covered person]; and**
6 unlimited embryo transfers, in accordance with guidelines from the
7 American Society for Reproductive Medicine, using single embryo
8 transfer when recommended and deemed medically appropriate by a
9 physician. The State Health Benefits Commission may provide that
10 coverage for in vitro fertilization**], gamete intra fallopian transfer**
11 **and zygote intra fallopian transfer]** shall be limited to a covered
12 person who**[: a.]** has used all reasonable, less expensive and
13 medically appropriate treatments , as determined by a licensed
14 physician, and is still unable to become pregnant or carry a
15 pregnancy to a live birth**]; b.** has not reached the limit of four
16 completed egg retrievals; and c. is 45 years of age or younger**].**
17 Coverage for infertility services provided to partners of persons
18 who have successfully reversed a voluntary sterilization shall not be
19 excluded.

20 **[For purposes of] b. As used in this this section[.]:**

21 "Infertility" means a disease **[or], condition, or status**
22 characterized by: **[that results in the abnormal function of the**
23 **reproductive system, as determined pursuant to American Society**
24 **for Reproductive Medicine practice guidelines by a physician who**
25 **is Board Certified or Board Eligible in Reproductive Endocrinology**
26 **and Infertility or in Obstetrics and Gynecology or that the patient**
27 **has met one of the following conditions:**

28 (1) A male is unable to impregnate a female;

29 (2) A female with a male partner and under 35 years of age is
30 unable to conceive after 12 months of unprotected sexual
31 intercourse;

32 (3) A female with a male partner and 35 years of age and over is
33 unable to conceive after six months of unprotected sexual
34 intercourse;

35 (4) A female without a male partner and under 35 years of age
36 who is unable to conceive after 12 failed attempts of intrauterine
37 insemination under medical supervision;

38 (5) A female without a male partner and over 35 years of age
39 who is unable to conceive after six failed attempts of intrauterine
40 insemination under medical supervision;

41 (6) Partners are unable to conceive as a result of involuntary
42 medical sterility;

43 (7) A person is unable to carry a pregnancy to live birth; or

44 (8) A previous determination of infertility pursuant to this
45 section **](1) the failure to establish a pregnancy or carry a**
46 pregnancy to term;

1 (2) a person's inability to reproduce as a single individual or
2 with a partner of the individual without medical intervention; or

3 (3) a physician's recommendation, diagnosis, treatment plan, or
4 prescription based on a patient's medical, sexual, and reproductive
5 history, age, physical findings or diagnostic testing.

6 "Treatment of infertility" means the recommended treatment
7 plan or prescribed procedures, services, and medications directed by
8 a licensed physician for infertility as defined in this section.

9 The benefits shall be provided to the same extent as for other
10 **【pregnancy-related procedures】** medical conditions under the
11 contract, except that the services provided for in this section shall
12 be performed at facilities that conform to standards established by
13 the American Society for Reproductive Medicine or the American
14 College of Obstetricians and Gynecologists. The same copayments,
15 deductibles and benefit limits shall apply to the diagnosis and
16 treatment of infertility pursuant to this section as those applied to
17 other medical or surgical benefits under the contract. **【Infertility**
18 **resulting from voluntary sterilization procedures shall be excluded**
19 **under the contract for the coverage required by this section】**
20 Infertility resulting from a voluntary unreversed sterilization
21 procedure may be excluded if the voluntary unreversed sterilization
22 is the sole cause of infertility, provided, however, that coverage for
23 infertility services shall not be excluded if the voluntary
24 sterilization is successfully reversed. A contract shall not impose
25 any exclusions, limitations, or restrictions on coverage of any
26 fertility services provided by or to a third party.

27 (cf: P.L.2017, c.48, s.6)

28
29 **【7】** 9. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
30 amended to read as follows:

31 7. The School Employees Health Benefits Commission shall
32 ensure that every contract under the School Employees Health
33 Benefits Program shall provide coverage for medically necessary
34 expenses , as determined by a physician, incurred in the diagnosis
35 and treatment of infertility as provided pursuant to this section. The
36 School Employees Health Benefits Program contract shall provide
37 coverage for any services related to infertility that is recommended
38 by a physician, which includes, but is not limited to**【,** the following
39 services related to infertility**】**: diagnosis and diagnostic tests;
40 medications; surgery; intrauterine insemination; in vitro
41 fertilization; genetic testing; embryo transfer; artificial
42 insemination; **【gamete intra fallopian transfer; zygote intra**
43 **fallopian transfer;】** intracytoplasmic sperm injection; **【and】** four
44 completed egg retrievals **【per lifetime of the covered person】**; and
45 unlimited embryo transfers, in accordance with guidelines from the
46 American Society for Reproductive Medicine, using single embryo
47 transfer when recommended and deemed medically appropriate by a

1 physician. The School Employees Health Benefits Commission
2 may provide that coverage for in vitro fertilization[, gamete intra
3 fallopian transfer and zygote intra fallopian transfer] shall be
4 limited to a covered person who[: a.] has used all reasonable, less
5 expensive and medically appropriate treatments , as determined by a
6 licensed physician, and is still unable to become pregnant or carry a
7 pregnancy to a live birth[: b. has not reached the limit of four
8 completed egg retrievals; and c. is 45 years of age or younger].
9 Coverage for infertility services provided to partners of persons
10 who have successfully reversed a voluntary sterilization shall not be
11 excluded.

12 **[For purposes of] b. As used in this this section[.]:**

13 "Infertility" means a disease **[or],** condition, or status
14 characterized by: **[that results in the abnormal function of the**
15 **reproductive system, as determined pursuant to American Society**
16 **for Reproductive Medicine practice guidelines by a physician who**
17 **is Board Certified or Board Eligible in Reproductive Endocrinology**
18 **and Infertility or in Obstetrics and Gynecology or that the patient**
19 **has met one of the following conditions:**

20 (1) A male is unable to impregnate a female;

21 (2) A female with a male partner and under 35 years of age is
22 unable to conceive after 12 months of unprotected sexual
23 intercourse;

24 (3) A female with a male partner and 35 years of age and over is
25 unable to conceive after six months of unprotected sexual
26 intercourse;

27 (4) A female without a male partner and under 35 years of age
28 who is unable to conceive after 12 failed attempts of intrauterine
29 insemination under medical supervision;

30 (5) A female without a male partner and over 35 years of age
31 who is unable to conceive after six failed attempts of intrauterine
32 insemination under medical supervision;

33 (6) Partners are unable to conceive as a result of involuntary
34 medical sterility;

35 (7) A person is unable to carry a pregnancy to live birth; or

36 (8) A previous determination of infertility pursuant to this
37 section] (1) the failure to establish a pregnancy or carry a
38 pregnancy to term;

39 (2) a person's inability to reproduce as a single individual or
40 with a partner of the individual without medical intervention; or

41 (3) a physician's recommendation, diagnosis, treatment plan, or
42 prescription based on a patient's medical, sexual, and reproductive
43 history, age, physical findings or diagnostic testing.

44 "Treatment of infertility" means the recommended treatment
45 plan or prescribed procedures, services, and medications directed by
46 a licensed physician for infertility as defined in this section.

1 The benefits shall be provided to the same extent as for other
2 **【pregnancy-related procedures】** medical conditions under the
3 contract, except that the services provided for in this section shall
4 be performed at facilities that conform to standards established by
5 the American Society for Reproductive Medicine or the American
6 College of Obstetricians and Gynecologists. The same copayments,
7 deductibles and benefit limits shall apply to the diagnosis and
8 treatment of infertility pursuant to this section as those applied to
9 other medical or surgical benefits under the contract. **【Infertility**
10 **resulting from voluntary sterilization procedures shall be excluded**
11 **under the contract for the coverage required by this section】**
12 Infertility resulting from a voluntary unreversed sterilization
13 procedure may be excluded under the contract if the voluntary
14 unreversed sterilization is the sole cause of infertility, provided,
15 however, that coverage for infertility services shall not be excluded
16 if the voluntary sterilization is successfully reversed. A contract
17 shall not impose any exclusions, limitations, or restrictions on
18 coverage of any fertility services provided by or to a third party.
19 (cf: P.L.2017, c.48, s.7)

20
21 **【8】 10.** This act shall take effect immediately and shall apply
22 to contracts issued or renewed on or after the effective date.

23 24 25 STATEMENT

26
27 This bill updates current law on health insurance coverage of
28 infertility by requiring health insurance carriers (which include
29 hospital service corporations, medical service corporations, health
30 service corporations, health maintenance organizations authorized
31 to issue health benefits plans in New Jersey, individual and small
32 employer health benefits plans, and any entities contracted to
33 administer health benefits in connection with the State Health
34 Benefits Program and School Employees' Health Benefits Program)
35 to cover infertility services for a partner of a person who has
36 successfully reversed a voluntary sterilization. The bill also
37 requires health insurance carriers to cover certain infertility services
38 including intrauterine insemination, genetic testing, unlimited
39 embryo transfers, in accordance with guidelines from the American
40 Society for Reproductive Medicine, and any other services related to
41 infertility recommended by a physician. Additionally, the bill revises
42 the current statutory definition of "infertility" and adds a definition of
43 "treatment of infertility."

44 Finally, the bill excludes coverage for infertility services if an
45 individual's infertility resulted solely from a voluntary unreversed
46 sterilization; provided, however, that coverage for infertility
47 services shall not be excluded if the voluntary sterilization is
48 successfully reversed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3627

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2023

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3627.

As amended, this bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers (including hospital service corporations, medical service corporations, health service corporations, and health maintenance organizations authorized to issue health benefits plans in New Jersey, commercial group health insurance providers, and any entities contracted to administer health benefits in connection with the State Health Benefits Program and School Employees' Health Benefits Program) to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill also requires health insurance carriers to cover any services related to infertility in accordance with American Society for Reproductive Medicine guidelines and as determined by a physician, including intrauterine insemination, genetic testing, in vitro fertilization using donor eggs, in vitro fertilization where the embryo is transferred to a gestational carrier or surrogate, and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, and any other services related to infertility recommended by a physician. Additionally, the bill revises the current statutory definition of "infertility" and adds a definition of "treatment of infertility."

The bill also provides that nothing in the definition of "infertility" may be used to deny or delay treatment to any individual, regardless of relationship status or sexual orientation and prohibits health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age.

Finally, the bill excludes coverage for infertility services if an individual's infertility resulted solely from a voluntary unreversed sterilization; provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove provisions that would have added coverage for the treatment of infertility to the individual and small employer health insurance markets;

(2) require health insurance carriers to cover any services related to infertility in accordance with American Society for Reproductive Medicine guidelines and as determined by a physician;

(3) change the definition of “infertility” as used in the bill;

(4) stipulate that nothing in the definition of “infertility” may be used to deny or delay treatment to any individual, regardless of relationship status or sexual orientation;

(5) prohibit health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age;

(6) clarify the infertility services for which health insurance carriers are required to provide coverage;

(7) provide that coverage for in vitro fertilization includes in vitro fertilization using donor eggs and in vitro fertilization where the embryo is transferred to a gestational carrier or surrogate; and

(8) extend the effective date of the bill.

STATEMENT TO
[First Reprint]
SENATE, No. 3627

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 21, 2023

These floor amendments:

(1) remove from the bill a provision prohibiting a health insurance contract from imposing any exclusions, limitations, or restrictions on coverage of fertility services provided by or to a third party; and

(2) stipulate that the provisions of the bill do not preclude the health insurance carrier from performing utilization review, including periodic review of the medical necessity of a particular service, provided all utilization review decisions are consistent with American Society for Reproductive Medicine guidelines.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3627 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: DECEMBER 27, 2023

SUMMARY

- Synopsis:** Revises health insurance coverage requirements for treatment of infertility.
- Type of Impact:** Annual expenditure increase to the State General Fund and certain local government units.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury; certain local government units.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.
- The OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, but anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.
- For reference only, the OLS notes that State Health Benefits Program and School Employees' Health Benefits Program expenditure increases may potentially range from \$1,200 to \$73,000 per newly eligible covered individual who chooses to seek treatment for infertility services under the expanded coverage provided by the bill.

BILL DESCRIPTION

This bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill states that infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

Under the bill, health insurance carriers are prohibited from imposing restrictions concerning the coverage of infertility services based on age. The bill also requires health insurance carriers to cover any services related to infertility in accordance with the American Society for Reproductive Medicine guidelines and as determined by a physician.

Current law limits coverage for certain infertility treatments to individuals 45 years of age or younger who have met certain conditions. Under current law, infertility resulting from voluntary sterilization is excluded from coverage requirements.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.

While the OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, the OLS anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.

Based on data from the Plan Year 2024 Rate Setting Analyses, a one percent increase in projected costs for incurred medical claims would result in expenditure increases of approximately \$19.5 million for the State portion of the State Health Benefits Program, \$14 million for the local portion of the State Health Benefits Program, and \$18.8 million for the School Employees' Health Benefits Program for Plan Year 2024.

Section: State Government

Analyst: Anna Harris
Assistant Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3627

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 5, 2024

SUMMARY

- Synopsis:** Revises health insurance coverage requirements for treatment of infertility.
- Type of Impact:** Annual expenditure increase to the State General Fund and certain local government units.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury; certain local government units.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.
- The OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, but anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.
- For reference only, the OLS notes that State Health Benefits Program and School Employees' Health Benefits Program expenditure increases may potentially range from \$1,200 to \$73,000 per newly eligible covered individual who chooses to seek treatment for infertility services under the expanded coverage provided by the bill.

BILL DESCRIPTION

This bill updates current law on health insurance coverage of infertility by requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill states that infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.

Under the bill, health insurance carriers are prohibited from imposing restrictions concerning the coverage of infertility services based on age. The bill also requires health insurance carriers to cover any services related to infertility in accordance with the American Society for Reproductive Medicine guidelines and as determined by a physician.

The bill does not preclude health insurance carriers, including hospital service corporations, medical service corporations, health service corporations, insurers, or health maintenance organizations, from performing utilization review regarding coverage for infertility services, provided that such decisions are consistent with American Society for Reproductive Medicine guidelines.

Current law limits coverage for certain infertility treatments to individuals 45 years of age or younger who have met certain conditions. Under current law, infertility resulting from voluntary sterilization is excluded from coverage requirements.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that requiring certain health insurance carriers, including entities contracted to administer health benefits in connection with the State Health Benefits Program and the School Employees' Health Benefits Program, to provide expanded coverage for the treatment of infertility will result in an indeterminate increase in State and local government unit expenditures for State Health Benefits Program and School Employees' Health Benefits program costs.

While the OLS does not know the actual number of newly eligible covered individuals who will choose to seek treatment for infertility services under the bill's provisions, the OLS anticipates that the overall impact to State Health Benefits Program and School Employees' Health Benefits Program expenditures will be moderate.

Based on data from the Plan Year 2024 Rate Setting Analyses, a one percent increase in projected costs for incurred medical claims would result in expenditure increases of approximately \$19.5 million for the State portion of the State Health Benefits Program, \$14 million for the local portion of the State Health Benefits Program, and \$18.8 million for the School Employees' Health Benefits Program for Plan Year 2024.

Section: State Government

*Analyst: Anna Harris
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

Governor Murphy Signs Legislation Expanding Insurance Coverage for Infertility Care

01/12/2024

TRENTON – Governor Phil Murphy today signed [A5235/S3627](#) to expand health insurance coverage requirements for infertility services. The bill requires that certain private sector health insurers, which are regulated by the State and which provide pregnancy-related benefits to groups of more than 50 people, the State Health Benefits Program, and the Schuylkill County Employees' Health Benefits Program, to provide coverage for any services related to infertility in accordance with the American Society for Reproductive Medicine guidelines and as determined by a physician.

Covered services include, but are not limited to, different types of in vitro fertilization, intrauterine insemination, genetic testing, and embryo transfers. The bill mandates coverage for infertility services for a partner of a person who has successfully reversed a voluntary sterilization, and further provides that nothing in the definition of "infertility" may be used to delay treatment to any individual, regardless of relationship status or sexual orientation, as well as prohibits health insurance carriers from imposing restrictions concerning the coverage of infertility services based on age. Today's coverage expansion builds upon health benefits coverage mandates for fertility preservation services under P.L. 2019, c. 306.

"Making fertility services more accessible and affordable is another step in New Jersey's comprehensive approach to strengthening reproductive health care and reproductive freedom. There are many different paths toward starting a family, each defined by their own unique challenges and joys," said **Governor Murphy**. "For those who struggle with infertility and for same-sex couples, the possibility of starting a family is deeply impacted by the availability and accessibility of infertility care and other medical services that, without coverage can be extremely costly. Today's bill will create new opportunities for families across New Jersey to take on one of the hardest and most rewarding jobs there is — parenthood."

"With this legislation, we are putting critical fertility services within reach for individuals and families in New Jersey. Those struggling with infertility or in need of medical services to a family should not have to refinance their home or spend through their savings to achieve their dreams of parenthood," said **Lieutenant Governor Tahesha Way**. "With today's action, we are making critical fertility treatments accessible and affordable for New Jersey families."

"In New Jersey, we have made it a priority to uplift reproductive freedoms, giving individuals and families the ability to decide if, when, and how they start a family," said **First Lady Tammy Murphy**. "Providing coverage for fertility services such as intrauterine insemination, genetic testing, and embryo transfers directly aligns with our mission to empower choice in the reproductive decision-making process. This will make a difference for so many New Jerseyans who are trying to start a family."

"Expanding insurance coverage for infertility treatment will help many New Jersey residents who are struggling with starting or expanding their families," said **New Jersey Department of Banking and Insurance Acting Commissioner Justin Zimmerman**. "This legislation will eliminate barriers to accessing affordable treatment and services that can make the dream of having a family a reality."

Sponsors of the legislation include Senators Joe Vitale and Brian Stack and Assemblymembers Pamela Lampitt, Shavonda Sumter, and Sterley Stanley.

"As many as one in six people of childbearing age suffer from difficulties involving infertility. And while viable treatment services are available, they are often too expensive or too difficult to access," said **Senator Joe Vitale, Chair of the Senate Health, Human Services and Senior Citizens Committee**. "This law will help ensure all people with dreams of starting a family can access the support they need and require health insurance to help cover the cost."

"Starting to grow a family is often a financial challenge, which is only exacerbated by exorbitant costs that persist in infertility treatment services," said **Senator Brian Stack**. "This will help remove barriers for those treatments, allowing many New Jerseyans to more easily have children."

"Infertility challenges and struggles to conceive affect far more people in our state than most of us realize," said **Assemblywoman Pamela Lampitt**. "Because of inadequacy in health care, these cases have been treated by insurance, the cost burden for starting a family in such instances is overwhelming and unachievable for the vast majority who need help. Successful conception should be a realistic option for any New Jersey family, not a luxury item for the wealthy and privileged. The signing of this legislation is a victory for all those who face these challenges, particularly those who are doing so with limited financial resources."

"Financial hardships should not be a barrier to starting a family," said **Assemblywoman Shavonda E. Sumter**. "With the enactment of this legislation, we are working to ensure that health insurance coverage for infertility treatment isn't denied to individuals, regardless of relationship status or sexual orientation. This is a momentous day for couples - and individuals - long to be parents."

"A couple or individual struggling with infertility should not have their decisions of how to proceed dictated by their finances," said **Assemblyman Sterley Stanley**. "Revising health insurance coverage requirements for the treatment of infertility will enable many more individuals - and couples - to experience the joys of starting or expanding a family."

"Today, New Jersey took another step towards equality when Governor Phil Murphy signed A5235/S3627 into law. ASRM thanks bill sponsors Senator Vitale and Assemblymember Lampitt for championing the expansion of fertility care, and Governor Murphy for signing this bill into law today, ensuring that more New Jerseyans are able to access vital family-building care," said **American Society of Reproductive Medicine President Dr. Paula Amato**.

"Governor Murphy and the Legislature have again committed to making New Jersey a family-friendly state. This legislation provides people who want to have children with affordable means to overcome the barrier of infertility," said **Garden State Equality Action Fund Board Member Bill Singer, Esq.**

"Thank you to all who supported making this bill a reality. This new legislation isn't solely about mitigating financial constraints; it acknowledges an undeniable truth that every individual, irrespective of circumstances, should be able to embrace their dream of parenthood," said **Ralph and Michael Maguire-Losanno, of Morris Plains, advocates for families who benefit from the bill**.

"We celebrate the passage of a groundbreaking bill, which makes the dream of parenthood a reality for many citizens. This landmark legislation demonstrates New Jersey's continued commitment to equality and inclusion, and is a significant step towards ensuring reproductive rights for all," said **Amelia and Rachel Fairley, of Bridgewater, advocates for families who will benefit from the bill**.

"Expanding insurance coverage for infertility treatment assures that every person in New Jersey can start a family if and when it is right for them, regardless of their income. This bill ensures that people already facing the most barriers to health services, including LGBTQ+ people, people of color, and people with low incomes, can start a family on their own terms. Planned Parenthood Action Fund of New Jersey applauds Senators Vitale, and Stack, Assemblymembers Lampitt, Sumter, and Stanley, and the Governor for taking this critical step towards making New Jersey one of the best places to access the full range of reproductive health care," said **Planned Parenthood Action Fund of New Jersey Executive Director Jackie Cornell**.

"The New Jersey State Bar Association is grateful for the Governor's support of A5235/S3627 as it expands access to the treatment of infertility by requiring insurance companies to provide coverage for such treatment when a person has been determined by their physician to be in need of medical intervention to achieve a pregnancy. The NJSBA has supported this bill and its revision to the definition of the disease of infertility as an important measure that will help ensure equitable access to coverage for crucial medical treatment," said **New Jersey State Bar Association President Timothy F. McGoughran**.