

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to health insurance coverage for diagnostic testing and treatment for infertility

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (i) of section 3216 of the insurance law is  
2 amended by adding a new paragraph 26 to read as follows:

3 (26) (A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE  
4 WHICH PROVIDES MEDICAL COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN  
5 SERVICES IN A PHYSICIAN'S OFFICE AND EVERY POLICY WHICH PROVIDES MAJOR  
6 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE  
7 FOR THE DIAGNOSIS AND TREATMENT OF INFERTILITY, INCLUDING, BUT NOT  
8 LIMITED TO, DRUG THERAPY, ARTIFICIAL INSEMINATION, IN VITRO FERTILIZA-  
9 TION, INTRACYTOPLASMIC SPERM INJECTION, GAMETE DONATION, EMBRYO  
10 DONATION, ASSISTED HATCHING, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER,  
11 GAMETE INTRAFALLOPIAN TUBE TRANSFER, ZYGOTE INTRAFALLOPIAN TUBE TRANS-  
12 FER, LOW TUBAL OVUM TRANSFER, GAMETE PRESERVATION, EMBRYO PRESERVATION  
13 AND ANY OTHER MEDICALLY OR SURGICALLY INDICATED SERVICE OR PROCEDURE  
14 THAT IS USED TO TREAT INFERTILITY OR INDUCE PREGNANCY, EXCEPT THAT IF  
15 THE GROUP OR ENTITY ON WHOSE BEHALF THE POLICY IS ISSUED IS, OR IS  
16 CONTROLLED BY, A RELIGIOUS OR DENOMINATIONAL GROUP OR ENTITY, NOTHING IN  
17 THIS SECTION SHALL REQUIRE THE POLICY TO COVER ANY DIAGNOSIS OR TREAT-  
18 MENT THAT IS CONTRARY TO THE RELIGIOUS TENETS OF SUCH GROUP OR ENTITY.

19 (B) THE COVERAGE REQUIRED UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH IS  
20 SUBJECT TO THE FOLLOWING CONDITIONS:

21 (I) THE TERMS OF SUCH COVERAGE, INCLUDING, BUT NOT LIMITED TO, CO-PAY-  
22 MENTS, DEDUCTIBLES AND ACCESS TO OUT-OF-NETWORK PROVIDERS, SHALL BE  
23 CONSISTENT WITH THE COVERAGE PROVIDED IN THE POLICY FOR THE SPECIALTY  
24 TREATMENT OF ANY OTHER DISEASE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

1 (II) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTO-  
2 PLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO  
3 DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE  
4 INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

5 (A) THE COVERED INDIVIDUAL HAS BEEN UNABLE TO ATTAIN OR SUSTAIN A  
6 SUCCESSFUL PREGNANCY THROUGH REASONABLE, LESS COSTLY MEDICALLY APPROPRI-  
7 ATE INFERTILITY TREATMENTS FOR WHICH COVERAGE IS AVAILABLE UNDER THE  
8 POLICY, PLAN OR CONTRACT;

9 (B) THE COVERED INDIVIDUAL HAS NOT UNDERGONE FOUR COMPLETED OOCYTE  
10 RETRIEVALS, EACH OF WHICH HAS RESULTED IN AT LEAST ONE COMPLETED EMBRYO  
11 TRANSFER, EXCEPT THAT IF A LIVE BIRTH FOLLOWS A COMPLETED OOCYTE  
12 RETRIEVAL AND EMBRYO TRANSFER, THEN COVERAGE SHALL BE REQUIRED FOR TWO  
13 ADDITIONAL COMPLETED OOCYTE RETRIEVALS EACH OF WHICH RESULTS IN AT LEAST  
14 ONE COMPLETED EMBRYO TRANSFER; AND

15 (C) THE PROCEDURES ARE PERFORMED AT MEDICAL FACILITIES THAT CONFORM TO  
16 THE AMERICAN COLLEGE OF OBSTETRIC AND GYNECOLOGY GUIDELINES FOR IN VITRO  
17 FERTILIZATION CLINICS OR TO THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDI-  
18 CINE MINIMAL STANDARDS FOR PROGRAMS OF IN VITRO FERTILIZATION.

19 (III) FOR PURPOSES OF THIS SECTION, "INFERTILITY" MEANS THE INABILITY  
20 TO CONCEIVE AFTER ONE YEAR OF UNPROTECTED SEXUAL INTERCOURSE OR THE  
21 INABILITY TO SUSTAIN A SUCCESSFUL PREGNANCY OR THE PRESENCE OF A DEMON-  
22 STRATED CONDITION IN THE MALE OR FEMALE PARTNER RECOGNIZED BY A LICENSED  
23 PHYSICIAN AS A CAUSE OF THE INABILITY TO CONCEIVE OR SUSTAIN A PREGNANCY  
24 TO A LIVE BIRTH.

25 S 2. Subsection (k) of section 3221 of the insurance law is amended by  
26 adding a new paragraph 15 to read as follows:

27 (15)(A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE  
28 WHICH PROVIDES MEDICAL COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN  
29 SERVICES IN A PHYSICIAN'S OFFICE AND EVERY POLICY WHICH PROVIDES MAJOR  
30 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE  
31 FOR THE DIAGNOSIS AND TREATMENT OF INFERTILITY, INCLUDING, BUT NOT  
32 LIMITED TO, DRUG THERAPY, ARTIFICIAL INSEMINATION, IN VITRO FERTILIZA-  
33 TION, INTRACYTOPLASMIC SPERM INJECTION, GAMETE DONATION, EMBRYO  
34 DONATION, ASSISTED HATCHING, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER,  
35 GAMETE INTRAFALLOPIAN TUBE TRANSFER, ZYGOTE INTRAFALLOPIAN TUBE TRANS-  
36 FER, LOW TUBAL OVUM TRANSFER, GAMETE PRESERVATION, EMBRYO PRESERVATION  
37 AND ANY OTHER MEDICALLY OR SURGICALLY INDICATED SERVICE OR PROCEDURE  
38 THAT IS USED TO TREAT INFERTILITY OR INDUCE PREGNANCY, EXCEPT THAT IF  
39 THE GROUP OR ENTITY ON WHOSE BEHALF THE POLICY IS ISSUED IS, OR IS  
40 CONTROLLED BY, A RELIGIOUS OR DENOMINATIONAL GROUP OR ENTITY, NOTHING IN  
41 THIS SECTION SHALL REQUIRE THE POLICY TO COVER ANY DIAGNOSIS OR TREAT-  
42 MENT THAT IS CONTRARY TO THE RELIGIOUS TENETS OF SUCH GROUP OR ENTITY.

43 (B) THE COVERAGE REQUIRED UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH IS  
44 SUBJECT TO THE FOLLOWING CONDITIONS:

45 (I) THE TERMS OF SUCH COVERAGE, INCLUDING, BUT NOT LIMITED TO, CO-PAY-  
46 MENTS, DEDUCTIBLES AND ACCESS TO OUT-OF-NETWORK PROVIDERS, SHALL BE  
47 CONSISTENT WITH THE COVERAGE PROVIDED IN THE POLICY FOR THE SPECIALTY  
48 TREATMENT OF ANY OTHER DISEASE.

49 (II) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTO-  
50 PLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO  
51 DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE  
52 INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

53 (A) THE COVERED INDIVIDUAL HAS BEEN UNABLE TO ATTAIN OR SUSTAIN A  
54 SUCCESSFUL PREGNANCY THROUGH REASONABLE, LESS COSTLY MEDICALLY APPROPRI-  
55 ATE INFERTILITY TREATMENTS FOR WHICH COVERAGE IS AVAILABLE UNDER THE  
56 POLICY, PLAN OR CONTRACT;

1 (B) THE COVERED INDIVIDUAL HAS NOT UNDERGONE FOUR COMPLETED OOCYTE  
2 RETRIEVALS, EACH OF WHICH HAS RESULTED IN AT LEAST ONE COMPLETED EMBRYO  
3 TRANSFER, EXCEPT THAT IF A LIVE BIRTH FOLLOWS A COMPLETED OOCYTE  
4 RETRIEVAL AND EMBRYO TRANSFER, THEN COVERAGE SHALL BE REQUIRED FOR TWO  
5 ADDITIONAL COMPLETED OOCYTE RETRIEVALS EACH OF WHICH RESULTS IN AT LEAST  
6 ONE COMPLETED EMBRYO TRANSFER; AND

7 (C) THE PROCEDURES ARE PERFORMED AT MEDICAL FACILITIES THAT CONFORM TO  
8 THE AMERICAN COLLEGE OF OBSTETRIC AND GYNECOLOGY GUIDELINES FOR IN VITRO  
9 FERTILIZATION CLINICS OR TO THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDI-  
10 CINE MINIMAL STANDARDS FOR PROGRAMS OF IN VITRO FERTILIZATION.

11 (III) FOR PURPOSES OF THIS SECTION, "INFERTILITY" MEANS THE INABILITY  
12 TO CONCEIVE AFTER ONE YEAR OF UNPROTECTED SEXUAL INTERCOURSE OR THE  
13 INABILITY TO SUSTAIN A SUCCESSFUL PREGNANCY OR THE PRESENCE OF A DEMON-  
14 STRATED CONDITION IN THE MALE OR FEMALE PARTNER RECOGNIZED BY A LICENSED  
15 PHYSICIAN AS A CAUSE OF THE INABILITY TO CONCEIVE OR SUSTAIN A PREGNANCY  
16 TO A LIVE BIRTH.

17 S 3. Section 4303 of the insurance law is amended by adding a new  
18 subsection (ff) to read as follows:

19 (FF) (1) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE  
20 WHICH PROVIDES MEDICAL COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN  
21 SERVICES IN A PHYSICIAN'S OFFICE AND EVERY POLICY WHICH PROVIDES MAJOR  
22 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE  
23 FOR THE DIAGNOSIS AND TREATMENT OF INFERTILITY, INCLUDING, BUT NOT  
24 LIMITED TO, DRUG THERAPY, ARTIFICIAL INSEMINATION, IN VITRO FERTILIZA-  
25 TION, INTRACYTOPLASMIC SPERM INJECTION, GAMETE DONATION, EMBRYO  
26 DONATION, ASSISTED HATCHING, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER,  
27 GAMETE INTRAFALLOPIAN TUBE TRANSFER, ZYGOTE INTRAFALLOPIAN TUBE TRANS-  
28 FER, LOW TUBAL OVUM TRANSFER, GAMETE PRESERVATION, EMBRYO PRESERVATION  
29 AND ANY OTHER MEDICALLY OR SURGICALLY INDICATED SERVICE OR PROCEDURE  
30 THAT IS USED TO TREAT INFERTILITY OR INDUCE PREGNANCY, EXCEPT THAT IF  
31 THE GROUP OR ENTITY ON WHOSE BEHALF THE POLICY ISSUED IS, OR IS  
32 CONTROLLED BY, A RELIGIOUS OR DENOMINATIONAL GROUP OR ENTITY, NOTHING IN  
33 THIS SECTION SHALL REQUIRE THE POLICY TO COVER ANY DIAGNOSIS OR TREAT-  
34 MENT THAT IS CONTRARY TO THE RELIGIOUS TENETS OF SUCH GROUP OR ENTITY.

35 (2) THE COVERAGE REQUIRED UNDER PARAGRAPH ONE OF THIS SUBSECTION IS  
36 SUBJECT TO THE FOLLOWING CONDITIONS:

37 (A) THE TERMS OF SUCH COVERAGE, INCLUDING, BUT NOT LIMITED TO, CO-PAY-  
38 MENTS, DEDUCTIBLES AND ACCESS TO OUT-OF-NETWORK PROVIDERS, SHALL BE  
39 CONSISTENT WITH THE COVERAGE PROVIDED IN THE POLICY FOR THE SPECIALITY  
40 TREATMENT OF ANY OTHER DISEASE.

41 (B) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTO-  
42 PLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO  
43 DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE  
44 INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

45 (I) THE COVERED INDIVIDUAL HAS BEEN UNABLE TO ATTAIN OR SUSTAIN A  
46 SUCCESSFUL PREGNANCY THROUGH REASONABLE, LESS COSTLY MEDICALLY APPROPRI-  
47 ATE INFERTILITY TREATMENTS FOR WHICH COVERAGE IS AVAILABLE UNDER THE  
48 POLICY, PLAN OR CONTRACT;

49 (II) THE COVERED INDIVIDUAL HAS NOT UNDERGONE FOUR COMPLETED OOCYTE  
50 RETRIEVALS, EACH OF WHICH HAS RESULTED IN AT LEAST ONE COMPLETED EMBRYO  
51 TRANSFER, EXCEPT THAT IF A LIVE BIRTH FOLLOWS A COMPLETED OOCYTE  
52 RETRIEVAL AND EMBRYO TRANSFER, THEN COVERAGE SHALL BE REQUIRED FOR TWO  
53 ADDITIONAL COMPLETED OOCYTE RETRIEVALS EACH OF WHICH RESULTS IN AT LEAST  
54 ONE COMPLETED EMBRYO TRANSFER; AND

55 (III) THE PROCEDURES ARE PERFORMED AT MEDICAL FACILITIES THAT CONFORM  
56 TO THE AMERICAN COLLEGE OF OBSTETRIC AND GYNECOLOGY GUIDELINES FOR IN

1 VITRO FERTILIZATION CLINICS OR TO THE AMERICAN SOCIETY FOR REPRODUCTIVE  
2 MEDICINE MINIMAL STANDARDS FOR PROGRAMS OF IN VITRO FERTILIZATION.

3 (C) FOR PURPOSES OF THIS SECTION, "INFERTILITY" MEAN THE INABILITY TO  
4 CONCEIVE AFTER ONE YEAR OF UNPROTECTED SEXUAL INTERCOURSE OR THE INABIL-  
5 ITY TO SUSTAIN A SUCCESSFUL PREGNANCY OR THE PRESENCE OF A DEMONSTRATED  
6 CONDITION IN THE MALE OR FEMALE PARTNER RECOGNIZED BY A LICENSED PHYSI-  
7 CIAN AS A CAUSE OF THE INABILITY TO CONCEIVE OR SUSTAIN A PREGNANCY TO A  
8 LIVE BIRTH.

9 S 4. Subparagraph (B) of paragraph 11 of subsection (l) of section  
10 3221 of the insurance law, as amended by chapter 554 of the laws of  
11 2002, is amended to read as follows:

12 (B) Such coverage may NOT be subject to annual deductibles and coinsu-  
13 rance [as may be deemed appropriate by the superintendent and as are  
14 consistent with those established for other benefits within a given  
15 policy].

16 S 5. The closing paragraph of paragraph 1 of subsection (p) of section  
17 4303 of the insurance law, as amended by chapter 554 of the laws of  
18 2002, is amended to read as follows:

19 The coverage required in this paragraph may NOT be subject to annual  
20 deductibles and coinsurance [as may be deemed appropriate by the super-  
21 intendent and as are consistent with those established for other bene-  
22 fits within a given policy].

23 S 6. Subparagraph (C) of paragraph 14 of subsection (l) of section  
24 3221 of the insurance law, as amended by chapter 554 of the laws of  
25 2002, is amended to read as follows:

26 (C) Such coverage may NOT be subject to annual deductibles and coinsu-  
27 rance [as may be deemed appropriate by the superintendent and as are  
28 consistent with those established for other benefits within a given  
29 policy].

30 S 7. Paragraph 1 of subsection (t) of section 4303 of the insurance  
31 law, as amended by chapter 554 of the laws of 2002, is amended to read  
32 as follows:

33 (1) A medical expense indemnity corporation, a hospital service corpo-  
34 ration or a health service corporation which provides coverage for  
35 hospital, surgical, or medical care shall provide coverage for an annual  
36 cervical cytology screening for cervical cancer and its precursor states  
37 for women aged eighteen and older. Such coverage may NOT be subject to  
38 annual deductibles and coinsurance [as may be deemed appropriate by the  
39 superintendent and as are consistent with those established for other  
40 benefits within a given contract].

41 S 8. This act shall take effect on the first of January next succeed-  
42 ing the date on which it shall have become a law and shall apply to all  
43 policies issued, renewed, modified or altered on or after such effective  
44 date.