S T A T E O F N E W Y O R K

446

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:

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

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

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

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

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

LBD03607-01-9

(II) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

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

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

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

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

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

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

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

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

(II) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

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

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

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

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

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

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

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

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

(B) COVERAGE FOR PROCEDURES FOR IN VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, ASSISTED HATCHING, GAMETE DONATION, EMBRYO DONATION, EMBRYO TRANSFER, GAMETE INTRAFALLOPIAN TUBE TRANSFER OR ZYGOTE INTRAFALLOPIAN TUBE TRANSFER SHALL BE REQUIRED ONLY IF:

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

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

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

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

(C) FOR PURPOSES OF THIS SECTION, "INFERTILITY" MEAN THE INABILITY TO CONCEIVE AFTER ONE YEAR OF UNPROTECTED SEXUAL INTERCOURSE OR THE INABILITY TO SUSTAIN A SUCCESSFUL PREGNANCY OR THE PRESENCE OF A DEMONSTRATED CONDITION IN THE MALE OR FEMALE PARTNER RECOGNIZED BY A LICENSED PHYSICIAN AS A CAUSE OF THE INABILITY TO CONCEIVE OR SUSTAIN A PREGNANCY TO A LIVE BIRTH.

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

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

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

The coverage required in this paragraph may NOT be subject to annual deductibles and coinsurance [as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy].

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

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

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

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

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