

STATE OF NEW YORK

6177--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. PAULIN, BURDICK, DINOWITZ, GONZALEZ-ROJAS, SEAWRIGHT, SILLITTI, SIMONE, SIMON -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the definition of infertility and health insurance coverage for in-vitro fertilization

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "The Equity in
2 Fertility Treatment Act".

3 § 2. Items (v) and (vii) of subparagraph (C) of paragraph 6 of
4 subsection (k) of section 3221 of the insurance law, as amended by
5 section 1 of part L of chapter 57 of the laws of 2019, are amended to
6 read as follows:

7 (v)(I) For the purposes of this paragraph, "infertility" means a
8 disease or condition characterized by the incapacity to impregnate
9 another person or to conceive, defined by (a) the failure to establish a
10 clinical pregnancy after twelve months of regular, unprotected sexual
11 intercourse or therapeutic donor insemination, or after six months of
12 regular, unprotected sexual intercourse or therapeutic donor insemina-
13 tion for a female thirty-five years of age or older; (b) a person's
14 inability to reproduce either as a single individual or with their part-
15 ner without medical intervention; or (c) a licensed physician's or
16 osteopathic physician's findings based on a patient's medical, sexual,
17 or reproductive history, age, physical findings, or diagnostic testing.
18 Earlier evaluation and treatment may be warranted based on an individ-
19 ual's medical, sexual, or reproductive history [~~ex~~], age, physical find-
20 ings, or diagnostic testing.

21 (II) For purposes of this paragraph, "iatrogenic infertility" means an
22 impairment of fertility by surgery, radiation, chemotherapy or other
23 medical treatment affecting reproductive organs or processes.

24 (vii) Every large group policy delivered or issued for delivery in
25 this state that provides medical, major medical or similar comprehen-
26 sive-type coverage shall provide coverage for three [~~eyeles—of~~]

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

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1 ~~completed oocyte retrievals and~~ in-vitro fertilization [~~used in the~~
2 ~~treatment of infertility~~] with unlimited embryo transfers from fresh or
3 frozen oocytes or embryos from a covered retrieval, in accordance with
4 the guidelines of the American Society for Reproductive Medicine, using
5 single embryo transfer (SET) when recommended and medically appropriate
6 for the treatment of infertility. Coverage (I) shall not be denied based
7 on a covered individual's participation in fertility services provided
8 by or to a third party, and (II) may be subject to annual deductibles
9 and coinsurance, including copayments, as may be deemed appropriate by
10 the superintendent and as are consistent with those established for
11 other benefits within a given policy. [~~For purposes of this item, a~~
12 ~~"cycle" is defined as either all treatment that starts when: preparatory~~
13 ~~medications are administered for ovarian stimulation for oocyte~~
14 ~~retrieval with the intent of undergoing in-vitro fertilization using a~~
15 ~~fresh embryo transfer; or medications are administered for endometrial~~
16 ~~preparation with the intent of undergoing in-vitro fertilization using a~~
17 ~~frozen embryo transfer.~~]

18 § 3. Subparagraphs (E) and (G) of paragraph 3 of subsection (s) of
19 section 4303 of the insurance law, as amended by section 2 of part L of
20 chapter 57 of the laws of 2019, are amended to read as follows:

21 (E)(i) For the purposes of this subsection, "infertility" means a
22 disease or condition characterized by the incapacity to impregnate
23 another person or to conceive, defined by (a) the failure to establish a
24 clinical pregnancy after twelve months of regular, unprotected sexual
25 intercourse or therapeutic donor insemination, or after six months of
26 regular, unprotected sexual intercourse or therapeutic donor insemina-
27 tion for a female thirty-five years of age or older; (b) a person's
28 inability to reproduce either as a single individual or with their part-
29 ner without medical intervention; or (c) a licensed physician's or
30 osteopathic physician's findings based on a patient's medical, sexual,
31 or reproductive history, age, physical findings, or diagnostic testing.
32 Earlier evaluation and treatment may be warranted based on an individ-
33 ual's medical history or physical findings.

34 (ii) For purposes of this subsection, "iatrogenic infertility" means
35 an impairment of fertility by surgery, radiation, chemotherapy or other
36 medical treatment affecting reproductive organs or processes.

37 (G) Every large group contract that provides medical, major medical or
38 similar comprehensive-type coverage shall provide coverage for three
39 [~~cycles of~~] completed oocyte retrievals and in-vitro fertilization [~~used~~
40 ~~in the treatment of infertility~~] with unlimited embryo transfers from
41 fresh or frozen oocytes or embryos from a covered retrieval, in accord-
42 ance with the guidelines of the American Society for Reproductive Medi-
43 cine, using single embryo transfer (SET) when recommended and medically
44 appropriate for the treatment of infertility. Coverage (i) shall not be
45 denied based on a covered individual's participation in fertility
46 services provided by or to a third party, and (ii) may be subject to
47 annual deductibles and coinsurance, including copayments, as may be
48 deemed appropriate by the superintendent and as are consistent with
49 those established for other benefits within a given contract. [~~For~~
50 ~~purposes of this subparagraph, a "cycle" is defined as either all treat-~~
51 ~~ment that starts when: preparatory medications are administered for~~
52 ~~ovarian stimulation for oocyte retrieval with the intent of undergoing~~
53 ~~in-vitro fertilization using a fresh embryo transfer; or medications are~~
54 ~~administered for endometrial preparation with the intent of undergoing~~
55 ~~in-vitro fertilization using a frozen embryo transfer.~~]

56 § 4. This act shall take effect immediately.