STATE OF NEW YORK

6118--A

2023-2024 Regular Sessions

IN SENATE

March 30, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

(v)(I) For the purposes of this paragraph, "infertility" means a disease or condition characterized by the incapacity to impregnate another person or to conceive, defined by **(a)** the failure to establish a clinical pregnancy after twelve months of regular, unprotected sexual intercourse or therapeutic donor insemination, or after six months of regular, unprotected sexual intercourse or therapeutic donor insemination for a female thirty-five years of age or older**; (b) a person's inability to reproduce either as a single individual or with their partner without medical intervention; or (c) a licensed physician's or osteopathic physician's findings based on a patient's medical, sexual, or reproductive history, age, physical findings, or diagnostic testing**. Earlier evaluation and treatment may be warranted based on an individual's medical**, sexual, or reproductive** history [~~or~~]**, age,** physical findings**, or diagnostic testing**.

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

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

(vii) Every large group policy delivered or issued for delivery in this state that provides medical, major medical or similar comprehensive-type coverage shall provide coverage for three [~~cycles of~~] completed oocyte retrievals and in-vitro fertilization [~~used in the treatment of infertility~~] with unlimited embryo transfers from fresh or frozen oocytes or embryos from a covered retrieval, in accordance with the guidelines of the American Society for Reproductive Medicine, using single embryo transfer (SET) when recommended and medically appropriate for the treatment of infertility. Coverage (I) shall not be denied based on a covered individual's participation in fertility services provided by or to a third party, and (II) may be subject to annual deductibles and coinsurance, including copayments, as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy. [~~For purposes of this item, a "cycle" is defined as either all treatment that starts when: preparatory medications are administered for ovarian stimulation for oocyte retrieval with the intent of undergoing in-vitro fertilization using a fresh embryo transfer; or medications are administered for endometrial preparation with the intent of undergoing in-vitro fertilization using a frozen embryo transfer.~~]

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

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

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

(G) Every large group contract that provides medical, major medical or similar comprehensive-type coverage shall provide coverage for three [~~cycles of~~] completed oocyte retrievals and in-vitro fertilization [~~used in the treatment of infertility~~] with unlimited embryo transfers from fresh or frozen oocytes or embryos from a covered retrieval, in accordance with the guidelines of the American Society for Reproductive Medicine, using single embryo transfer (SET) when recommended and medically appropriate for the treatment of infertility. Coverage (i) shall not be denied based on a covered individual's participation in fertility services provided by or to a third party, and (ii) may be subject to annual deductibles and coinsurance, including copayments, as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given contract. [~~For purposes of this subparagraph, a "cycle" is defined as either all treat-~~

~~ment that starts when: preparatory medications are administered for ovarian stimulation for oocyte retrieval with the intent of undergoing in-vitro fertilization using a fresh embryo transfer; or medications are administered for endometrial preparation with the intent of undergoing in-vitro fertilization using a frozen embryo transfer.~~]

§ 4. This act shall take effect immediately.