

# STATE OF NEW YORK

2619--A

2025-2026 Regular Sessions

## IN SENATE

January 21, 2025

Introduced by Sens. SCARCELLA-SPANTON, ADDABBO -- 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 expanded coverage of in vitro fertilization

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

1 Section 1. Item (vii) of subparagraph (C) of paragraph 6 of subsection  
2 (k) of section 3221 of the insurance law, as amended by section 1 of  
3 part L of chapter 57 of the laws of 2019, is amended to read as follows:

4 (vii) Every large group policy delivered or issued for delivery in  
5 this state that provides medical, major medical or similar comprehen-  
6 sive-type coverage shall provide coverage for [~~three cycles of in vitro~~  
7 in vitro fertilization used in the treatment of infertility. Coverage  
8 may be subject to annual deductibles and coinsurance, including copay-  
9 ments, as may be deemed appropriate by the superintendent and as are  
10 consistent with those established for other benefits within a given  
11 policy. [~~For purposes of this item, a "cycle" is defined as either all  
12 treatment that starts when: preparatory medications are administered for  
13 ovarian stimulation for oocyte retrieval with the intent of undergoing  
14 in vitro fertilization using a fresh embryo transfer, or medications are  
15 administered for endometrial preparation with the intent of undergoing  
16 in vitro fertilization using a frozen embryo transfer.]~~

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

20 (G) Every large group contract that provides medical, major medical or  
21 similar comprehensive-type coverage shall provide coverage for [~~three  
22 cycles of in vitro~~] in vitro fertilization used in the treatment of

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

LBD06387-03-6

1 infertility. Coverage may be subject to annual deductibles and coinsu-  
2 rance, including copayments, as may be deemed appropriate by the super-  
3 intendent and as are consistent with those established for other bene-  
4 fits within a given contract. [~~For purposes of this subparagraph, a~~  
5 ~~"cycle" is defined as either all treatment that starts when: preparatory~~  
6 ~~medications are administered for ovarian stimulation for oocyte~~  
7 ~~retrieval with the intent of undergoing in vitro fertilization using a~~  
8 ~~fresh embryo transfer, or medications are administered for endometrial~~  
9 ~~preparation with the intent of undergoing in vitro fertilization using a~~  
10 ~~frozen embryo transfer.~~]

11 § 3. Paragraph 13 of subsection (i) of section 3216 of the insurance  
12 law, as added by chapter 897 of the laws of 1990 and renumbered by chap-  
13 ter 131 of the laws of 1992 and subparagraph (C) as added by section 3  
14 of part L of chapter 57 of the laws of 2019, is amended to read as  
15 follows:

16 (13) (A) Every policy which provides coverage for hospital care shall  
17 not exclude coverage for hospital care for diagnosis and treatment of  
18 correctable medical conditions otherwise covered by the policy solely  
19 because the medical condition results in infertility[~~+~~]; provided,  
20 however that:

21 (i) subject to the provisions of subparagraph (C) of this paragraph,  
22 in no case shall such coverage exclude surgical or medical procedures  
23 provided as part of such hospital care which would correct malformation,  
24 disease or dysfunction resulting in infertility; and

25 (ii) provided, further however, that subject to the provisions of  
26 subparagraph (C) of this paragraph, in no case shall such coverage  
27 exclude diagnostic tests and procedures provided as part of such hospi-  
28 tal care that are necessary to determine infertility or that are neces-  
29 sary in connection with any surgical or medical treatments or  
30 prescription drug coverage provided pursuant to this paragraph, includ-  
31 ing such diagnostic tests and procedures as hysterosalpingogram, hyster-  
32 oscopy, endometrial biopsy, laparoscopy, sono-hysterogram, post coital  
33 tests, testis biopsy, semen analysis, blood tests and ultrasound; and

34 (iii) provided, further however, every such policy which provides  
35 coverage for prescription drugs shall include, within such coverage,  
36 coverage for prescription drugs approved by the federal Food and Drug  
37 Administration for use in the diagnosis and treatment of infertility in  
38 accordance with subparagraph (C) of this paragraph.

39 (B) Every policy which provides coverage for surgical and medical care  
40 shall not exclude coverage for surgical and medical care for diagnosis  
41 and treatment of correctable medical conditions otherwise covered by the  
42 policy solely because the medical condition results in infertility[~~+~~];  
43 provided, however that:

44 (i) subject to the provisions of subparagraph (C) of this paragraph,  
45 in no case shall such coverage exclude surgical or medical procedures  
46 which would correct malformation, disease or dysfunction resulting in  
47 infertility; and

48 (ii) provided, further however, that subject to the provisions of  
49 subparagraph (C) of this paragraph, in no case shall such coverage  
50 exclude diagnostic tests and procedures that are necessary to determine  
51 infertility or that are necessary in connection with any surgical or  
52 medical treatments or prescription drug coverage provided pursuant to  
53 this paragraph, including such diagnostic tests and procedures as  
54 hysterosalpingogram, hysteroscopy, endometrial biopsy, laparoscopy,  
55 sono-hysterogram, post coital tests, testis biopsy, semen analysis,  
56 blood tests and ultrasound; and

1 (iii) provided, further however, every such policy which provides  
2 coverage for prescription drugs shall include, within such coverage,  
3 coverage for prescription drugs approved by the federal Food and Drug  
4 Administration for use in the diagnosis and treatment of infertility in  
5 accordance with subparagraph (C) of this paragraph.

6 ~~(C) [Every policy that provides medical, major medical or similar~~  
7 ~~comprehensive-type coverage shall provide coverage for]~~ Coverage of  
8 diagnostic and treatment procedures, including prescription drugs, used  
9 in the diagnosis and treatment of infertility as required by subpara-  
10 graphs (A) and (B) of this paragraph shall be provided in accordance  
11 with the provisions of this subparagraph.

12 (i) Diagnosis and treatment of infertility shall be prescribed as part  
13 of a physician's overall plan of care and consistent with the guidelines  
14 for coverage as referenced in this subparagraph.

15 (ii) Coverage may be subject to co-payments, coinsurance and deduct-  
16 ibles as may be deemed appropriate by the superintendent and as are  
17 consistent with those established for other benefits within a given  
18 policy.

19 (iii) Except as provided in items (vi) and (vii) of this subparagraph,  
20 coverage shall not be required to include the diagnosis and treatment of  
21 infertility in connection with: (I) in vitro fertilization, gamete  
22 intrafallopian tube transfers or zygote intrafallopian tube transfers;  
23 (II) the reversal of elective sterilizations; (III) sex change proce-  
24 dures; (IV) cloning; or (V) medical or surgical services or procedures  
25 that are deemed to be experimental in accordance with clinical guide-  
26 lines referenced in item (iv) of this subparagraph.

27 (iv) The superintendent, in consultation with the commissioner of  
28 health, shall promulgate regulations which shall stipulate the guide-  
29 lines and standards which shall be used in carrying out the provisions  
30 of this subparagraph, which shall include:

31 (I) The identification of experimental procedures and treatments not  
32 covered for the diagnosis and treatment of infertility determined in  
33 accordance with the standards and guidelines established and adopted by  
34 the American College of Obstetricians and Gynecologists and the American  
35 Society for Reproductive Medicine;

36 (II) The identification of the required training, experience and other  
37 standards for health care providers for the provision of procedures and  
38 treatments for the diagnosis and treatment of infertility determined in  
39 accordance with the standards and guidelines established and adopted by  
40 the American College of Obstetricians and Gynecologists and the American  
41 Society for Reproductive Medicine; and

42 (III) The determination of appropriate medical candidates by the  
43 treating physician in accordance with the standards and guidelines  
44 established and adopted by the American College of Obstetricians and  
45 Gynecologists and/or the American Society for Reproductive Medicine.

46 (v) Coverage shall also include standard fertility preservation  
47 services when a medical treatment may directly or indirectly cause  
48 iatrogenic infertility to an insured. Coverage may be subject to annual  
49 deductibles and coinsurance, including copayments, as may be deemed  
50 appropriate by the superintendent and as are consistent with those  
51 established for other benefits within a given policy.

52 (vi) Every policy which provides coverage for hospital care shall  
53 provide coverage for in vitro fertilization used in the treatment of  
54 infertility. Coverage may be subject to annual deductibles and coinsu-  
55 rance, including copayments, as may be deemed appropriate by the super-

1 intendent and as are consistent with those established for other bene-  
2 fits within a given policy.

3 (vii) (I) For the purposes of this paragraph, "infertility" means a  
4 disease or condition characterized by the incapacity to impregnate  
5 another person or to conceive, defined by the failure to establish a  
6 clinical pregnancy after twelve months of regular, unprotected sexual  
7 intercourse or therapeutic donor insemination, or after six months of  
8 regular, unprotected sexual intercourse or therapeutic donor insemina-  
9 tion for a female thirty-five years of age or older. Earlier evaluation  
10 and treatment may be warranted based on an individual's medical history  
11 or physical findings.

12 [~~(i)~~] (II) For purposes of this [~~subparagraph~~] paragraph, "iatrogenic  
13 infertility" means an impairment of fertility by surgery, radiation,  
14 chemotherapy or other medical treatment affecting reproductive organs or  
15 processes.

16 [~~(ii)~~] (viii) No insurer providing coverage under this paragraph shall  
17 discriminate based on an insured's expected length of life, present or  
18 predicted disability, degree of medical dependency, perceived quality of  
19 life, or other health conditions, nor based on personal characteristics,  
20 including age, sex, sexual orientation, marital status or gender identi-  
21 ty.

22 (D) Every policy that provides coverage for prescription fertility  
23 drugs and requires or permits prescription drugs to be purchased through  
24 a network participating mail order or other non-retail pharmacy shall  
25 provide the same coverage for prescription fertility drugs when such  
26 drugs are purchased from a network participating non-mail order retail  
27 pharmacy provided that the network participating non-mail order retail  
28 pharmacy agrees in advance through a contractual network agreement, to  
29 the same reimbursement amount, as well as the same applicable terms and  
30 conditions, that the insurer has established for a network participating  
31 mail order or other non-retail pharmacy. In such case, the policy shall  
32 not impose any fee, co-payment, co-insurance, deductible or other condi-  
33 tion on any covered person who elects to purchase prescription fertility  
34 drugs through a network participating non-mail order retail pharmacy  
35 that it does not impose on any covered person who purchases prescription  
36 fertility drugs through a network participating mail order or other  
37 non-retail pharmacy; provided, however, that the provisions of this  
38 section shall not supersede the terms of a collective bargaining agree-  
39 ment or apply to a policy that is the result of a collective bargaining  
40 agreement between an employer and a recognized or certified employee  
41 organization.

42 § 4. This act shall take effect on the first of January next succeed-  
43 ing the date on which it shall have become a law and shall apply to  
44 policies and contracts issued, renewed, modified, altered or amended on  
45 or after such date.