

STATE OF NEW YORK

7891--A

2025-2026 Regular Sessions

IN ASSEMBLY

April 11, 2025

Introduced by M. of A. KELLES -- 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 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
23 infertility. Coverage may be subject to annual deductibles and coinsu-
24 rance, including copayments, as may be deemed appropriate by the super-

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

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1 intendent and as are consistent with those established for other bene-
2 fits within a given contract. [~~For purposes of this subparagraph, a~~
3 ~~"cycle" is defined as either all treatment that starts when: preparatory~~
4 ~~medications are administered for ovarian stimulation for oocyte~~
5 ~~retrieval with the intent of undergoing in-vitro fertilization using a~~
6 ~~fresh embryo transfer, or medications are administered for endometrial~~
7 ~~preparation with the intent of undergoing in-vitro fertilization using a~~
8 ~~frozen embryo transfer.]~~

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

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

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

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

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

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

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

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

55 (iii) provided, further however, every such policy which provides
56 coverage for prescription drugs shall include, within such coverage,

1 coverage for prescription drugs approved by the federal Food and Drug
2 Administration for use in the diagnosis and treatment of infertility in
3 accordance with subparagraph (C) of this paragraph.

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

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

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

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

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

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

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

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

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

50 (vi) Every policy which provides coverage for hospital care shall
51 provide coverage for in vitro fertilization used in the treatment of
52 infertility. Coverage may be subject to annual deductibles and coinsu-
53 rance, including copayments, as may be deemed appropriate by the super-
54 intendent and as are consistent with those established for other bene-
55 fits within a given policy.

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

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

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

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

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