
A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that infertility is a
2 disease of the reproductive system that impairs and
3 substantially limits an individual's major life activity of
4 reproduction. In the United States, infertility affects
5 approximately seven million women and their partners, and
6 approximately twelve per cent of women of childbearing age have
7 used an infertility service. Since 1978, in vitro fertilization
8 has provided a necessary solution for many diagnosed with
9 infertility who desire to have a child and be a parent.

10 The legislature further finds that since 1987, Hawaii has
11 required insurance coverage for the treatment of infertility
12 through in vitro fertilization. The current law only provides
13 for a one-time benefit; applies only to the insured or insured's
14 spouse; requires fertilization with the sperm from the patient's
15 spouse; requires a history of infertility for at least five
16 years; requires previous attempts at pregnancy through other
17 applicable infertility treatments for which coverage is



1 available; and applies only to a limited number of medical
2 conditions associated with infertility.

3 The purpose of this Act is to provide in vitro
4 fertilization insurance coverage equality for women who are
5 diagnosed with infertility by requiring non-discriminatory
6 coverage and ensuring quality of care in the diagnosis and
7 treatment of infertility. It is the intent of the legislature
8 to exempt religious institutions and organizations that believe
9 the covered procedures violate their religious and moral
10 teachings and beliefs.

11 SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,
12 is amended to read as follows:

13 "**§431:10A-116.5 In vitro fertilization procedure coverage.**

14 (a) All individual and group accident and health or sickness
15 insurance policies which provide pregnancy-related benefits
16 shall include in addition to any other benefits for treating
17 infertility, a [~~one-time-only~~] lifetime benefit of three in
18 vitro fertilization cycles or a live birth for all outpatient
19 expenses arising from in vitro fertilization procedures
20 performed on the insured or the insured's dependent [~~spouse~~];
21 provided that:



- 1 (1) Benefits under this section shall be provided to the
2 same extent as the benefits provided for other
3 pregnancy-related benefits;
- 4 (2) The patient is the insured or covered dependent of the
5 insured;
- 6 ~~[(3) The patient's oocytes are fertilized with the
7 patient's spouse's sperm;~~
- 8 ~~+(4) The+]~~
- 9 (3) (A) ~~[Patient and the patient's spouse have]~~ The
10 patient has a history of infertility of [at least
11 five years' duration; or] one year if thirty-five
12 years or younger or six months if thirty-six
13 years or older; and
- 14 (B) Infertility is associated with one or more of the
15 following medical conditions:
- 16 (i) Endometriosis;
- 17 (ii) ~~[Exposure in utero to diethylstilbestrol,~~
18 ~~commonly known as DES;]~~ Uterine Factor;
- 19 (iii) ~~[Blockage of, or surgical removal of, one or~~
20 ~~both fallopian tubes (lateral or bilateral~~
21 ~~salpingectomy); or]~~ Tubal factor;



1 (iv) [~~Abnormal male factors contributing to the~~
2 ~~infertility;~~] Male factor;

3 (v) Ovulatory dysfunction; or

4 (vi) Diminished ovarian reserve;

5 [~~+5~~] (4) The patient has been unable to attain a
6 successful pregnancy through other applicable
7 infertility treatments for which coverage [~~is~~] shall
8 be available under the insurance contract[+], unless
9 the individual's physician determines that those
10 treatments are likely to be unsuccessful; and

11 [~~+6~~] (5) The in vitro fertilization procedures are
12 performed at medical facilities that conform to the
13 American College of Obstetricians and Gynecologists
14 guidelines for in vitro fertilization clinics or to
15 the American Society for Reproductive Medicine minimal
16 standards for programs of in vitro fertilization.

17 (b) For the purposes of this section, the term [~~"spouse"~~
18 ~~means a person who is lawfully married to the patient under the~~
19 ~~laws of the State.~~] "infertility" means a disease, defined by
20 the failure to achieve a successful pregnancy after twelve
21 months or more of appropriate, timed unprotected intercourse or



1 therapeutic donor insemination for women thirty-five years or
2 younger or six months for women over thirty-five years.

3 (c) The requirements of this section shall apply to all
4 new policies delivered or issued for delivery in this State
5 after June 26, 1987."

6 SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§432:1-604 In vitro fertilization procedure coverage.**

9 (a) All individual and group hospital or medical service plan
10 contracts which provide pregnancy-related benefits shall include
11 in addition to any other benefits for treating infertility, a
12 [one-time-only] lifetime benefit of three in vitro fertilization
13 cycles or a live birth for all outpatient expenses arising from
14 in vitro fertilization procedures performed on the subscriber or
15 member or the subscriber's or member's dependent [~~spouse~~];
16 provided that:

17 (1) Benefits under this section shall be provided to the
18 same extent as the benefits provided for other
19 pregnancy-related benefits;

20 (2) The patient is a subscriber or member or covered
21 dependent of the subscriber or member;



- 1 ~~[(3) The patient's oocytes are fertilized with the~~
2 ~~patient's spouse's sperm;~~
- 3 ~~(4) The:]~~
- 4 (3) (A) ~~[Patient and the patient's spouse have]~~ The
5 patient has a history of infertility of [at least
6 ~~five years' duration; or]~~ one year if thirty-five
7 years or younger or six months if thirty-six
8 years or older; and
- 9 (B) Infertility is associated with one or more of the
10 following medical conditions:
- 11 (i) Endometriosis;
- 12 (ii) ~~[Exposure in utero to diethylstilbestrol,~~
13 ~~commonly known as DES;]~~ Uterine factor;
- 14 (iii) ~~[Blockage of, or surgical removal of, one or~~
15 ~~both fallopian tubes (lateral or bilateral~~
16 ~~salpingectomy); or]~~ Tubal factor;
- 17 (iv) ~~[Abnormal male factors contributing to the~~
18 ~~infertility;]~~ Male factor;
- 19 (v) Ovulatory dysfunction; or
- 20 (vi) Diminished ovarian reserve;
- 21 ~~[(5)]~~ (4) The patient has been unable to attain a
22 successful pregnancy through other applicable



1 infertility treatments for which coverage [~~is~~] shall
2 be available under the contract[+], unless the
3 individual's physician determines that those
4 treatments are likely to be unsuccessful; and

5 [+6+] (5) The in vitro fertilization procedures are
6 performed at medical facilities that conform to the
7 American College of Obstetricians and Gynecologists
8 guidelines for in vitro fertilization clinics or to
9 the American Society for Reproductive Medicine minimal
10 standards for programs of in vitro fertilization.

11 (b) For the purposes of this section, the term ["spouse"
12 ~~means a person who is lawfully married to the patient under the~~
13 ~~laws of the State.]~~ "infertility" means a disease, defined by
14 the failure to achieve a successful pregnancy after twelve
15 months or more of appropriate, timed unprotected intercourse or
16 therapeutic donor insemination for women thirty-five years or
17 younger or six months for women over thirty-five years.

18 (c) The requirements of this section shall apply to all
19 hospital or medical service plan contracts delivered or issued
20 for delivery in this State after June 26, 1987."

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2014.

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INTRODUCED BY:

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JAN 21 2014



H.B. NO. 2355

Report Title:

In Vitro Fertilization Procedure Coverage; Infertility
Disability

Description:

Provides insurance coverage equality for women who are diagnosed with infertility by making available to them expanded treatment options, ensuring adequate and affordable health care services.

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