

HOUSE BILL 142

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(PRE-FILED)

By: **Delegate Amprey**

Requested: October 20, 2021

Introduced and read first time: January 12, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Coverage of In Vitro Fertilization – Revisions**

3 FOR the purpose of expanding the benefits for expenses arising from in vitro fertilization
4 procedures that certain insurers, nonprofit health service plans, and health
5 maintenance organizations are prohibited from excluding from coverage; prohibiting
6 certain carriers from denying coverage of benefits for expenses arising from in vitro
7 fertilization procedures because a policyholder or subscriber or dependent spouse of
8 a policyholder or subscriber is a genetic carrier; repealing a provision of law
9 exempting religious organizations from providing certain benefits for in vitro
10 fertilization; altering the circumstances under which certain insurers, nonprofit
11 health service plans, and health maintenance organizations are prohibited from
12 excluding benefits for expenses arising from in vitro fertilization; and generally
13 relating to health insurance coverage for in vitro fertilization.

14 BY repealing and reenacting, with amendments,
15 Article – Insurance
16 Section 15–810
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2021 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Insurance**

22 15–810.

23 (a) This section applies to:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) insurers and nonprofit health service plans that provide hospital,
2 medical, or surgical benefits to individuals or groups on an expense-incurred basis under
3 health insurance policies that are issued or delivered in the State; and

4 (2) health maintenance organizations that provide hospital, medical, or
5 surgical benefits to individuals or groups under contracts that are issued or delivered in
6 the State.

7 (b) An entity subject to this section that provides coverage for infertility benefits
8 other than in vitro fertilization may not require as a condition of that coverage, for a patient
9 who is married to an individual of the same sex:

10 (1) that the patient's spouse's sperm be used in the covered treatments or
11 procedures; or

12 (2) that the patient demonstrate infertility exclusively by means of a
13 history of unsuccessful heterosexual intercourse.

14 (c) (1) This subsection does not apply to insurers, nonprofit health service
15 plans, and health maintenance organizations that provide hospital, medical, or surgical
16 benefits under health insurance policies or contracts:

17 (i) that are issued or delivered to a small employer in the State; and

18 (ii) for which the Administration has determined that in vitro
19 fertilization procedures are not essential health benefits, as determined under § 31-116 of
20 this article.

21 (2) An entity subject to this section that provides pregnancy-related
22 benefits may not exclude benefits for all [outpatient] expenses arising from in vitro
23 fertilization procedures performed on a policyholder or subscriber or on the dependent
24 spouse of a policyholder or subscriber, **INCLUDING EXPENSES FROM RELATED:**

25 **(I) OUTPATIENT SERVICES;**

26 **(II) PRE OR POST IN VITRO FERTILIZATION PROCEDURES;**

27 **(III) PRE-IMPLANTATION GENETIC TESTING; AND**

28 **(IV) MEDICATIONS.**

29 (3) The benefits under this subsection shall be provided:

30 (i) for insurers and nonprofit health service plans, to the same
31 extent as the benefits provided for other pregnancy-related procedures; and

1 (ii) for health maintenance organizations, to the same extent as the
2 benefits provided for other infertility services.

3 (4) AN ENTITY SUBJECT TO THIS SECTION MAY NOT DENY COVERAGE
4 OF THE BENEFITS PROVIDED UNDER THIS SUBSECTION BECAUSE THE
5 POLICYHOLDER OR SUBSCRIBER OR DEPENDENT SPOUSE OF THE POLICYHOLDER
6 OR SUBSCRIBER IS A GENETIC CARRIER.

7 (d) [Subsection (c)] SUBJECT TO SUBSECTION (I) OF THIS SECTION,
8 SUBSECTION (C) of this section applies if:

9 (1) the patient is the policyholder or subscriber or a covered dependent of
10 the policyholder or subscriber;

11 (2) for a married patient whose spouse is of the opposite sex, the patient's
12 oocytes are fertilized with the patient's spouse's sperm, unless:

13 (i) the patient's spouse is unable to produce and deliver functional
14 sperm; and

15 (ii) the inability to produce and deliver functional sperm does not
16 result from:

17 1. a vasectomy; or

18 2. another method of voluntary sterilization;

19 (3) (i) for a married patient, the patient and the patient's spouse have
20 a history of involuntary infertility, which may be demonstrated by a history of:

21 1. if the patient and the patient's spouse are of opposite
22 sexes, intercourse of at least 1 year's duration failing to result in pregnancy; or

23 2. if the patient and the patient's spouse are of the same sex,
24 three attempts of artificial insemination over the course of 1 year failing to result in
25 pregnancy; or

26 (ii) the infertility of the patient or the patient's spouse is associated
27 with any of the following medical conditions:

28 1. endometriosis;

29 2. exposure in utero to diethylstilbestrol, commonly known
30 as DES;

1 3. blockage of, or surgical removal of, one or both fallopian
2 tubes (lateral or bilateral salpingectomy); or

3 4. abnormal male factors, including oligospermia,
4 contributing to the infertility;

5 (4) for an unmarried patient:

6 (i) the patient has had three attempts of artificial insemination over
7 the course of 1 year failing to result in pregnancy; or

8 (ii) the infertility is associated with any of the following medical
9 conditions of the patient:

10 1. endometriosis;

11 2. exposure in utero to diethylstilbestrol, commonly known
12 as DES;

13 3. blockage of, or surgical removal of, one or both fallopian
14 tubes (lateral or bilateral salpingectomy); or

15 4. abnormal male factors, including oligospermia,
16 contributing to the infertility;

17 (5) the patient has been unable to attain a successful pregnancy through a
18 less costly infertility treatment for which coverage is available under the policy or contract;
19 and

20 (6) the in vitro fertilization procedures are performed at medical facilities
21 that conform to applicable guidelines or minimum standards issued by the American
22 College of Obstetricians and Gynecologists or the American Society for Reproductive
23 Medicine.

24 (e) An entity subject to this section may limit coverage of the benefits for in vitro
25 fertilization required under this section to three in vitro fertilization attempts per live birth,
26 not to exceed a maximum lifetime benefit of \$100,000.

27 (f) An entity subject to this section is not responsible for any costs incurred by a
28 policyholder or subscriber or a dependent of a policyholder or subscriber in obtaining donor
29 sperm.

30 (g) A denial of coverage for in vitro fertilization benefits required under this
31 section by an entity subject to this section constitutes an adverse decision under Subtitle
32 10A of this title.

1 (h) This section may not be construed to require an entity subject to this section
2 to provide coverage for a treatment or a procedure that would not treat a diagnosed medical
3 condition of a patient.

4 [(i) Notwithstanding any other provision of this section, if the coverage required
5 under this section conflicts with the bona fide religious beliefs and practices of a religious
6 organization, on request of the religious organization, an entity subject to this section shall
7 exclude the coverage otherwise required under this section in a policy or contract with the
8 religious organization.]

9 (I) NOTWITHSTANDING SUBSECTION (D)(2) THROUGH (5) OF THIS
10 SECTION, THE BENEFITS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION
11 SHALL BE COVERED IF AN APPROPRIATE HEALTH CARE PROVIDER DETERMINES
12 THAT:

13 (1) INFERTILITY OF THE PATIENT IS IMMINENT;

14 (2) THE PATIENT AND THE PATIENT'S SPOUSE HAVE BEEN
15 IDENTIFIED AS GENETIC CARRIERS AND AT RISK FOR FETAL ANOMALY THROUGH
16 NATURAL CONCEPTION;

17 (3) DELAYING IN VITRO FERTILIZATION IS DETRIMENTAL TO THE
18 PATIENT'S MENTAL HEALTH; OR

19 (4) DELAYING IN VITRO FERTILIZATION IS OTHERWISE NOT IN THE
20 BEST INTEREST OF THE PATIENT.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
22 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or
23 after January 1, 2023.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 January 1, 2023.