ASSEMBLY, No. 5235



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman McKeon and Assemblywoman Park

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning health insurance coverage requirements for infertility treatment and amending and supplementing various parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to read as follows:

1. a. A hospital service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses , as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The hospital service corporation contract shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The hospital service corporation may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy **[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]** to a live birth. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]** b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice

guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** , or status characterized by:

(1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications as directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

b. A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a hospital service corporation contract which, pursuant to a contract between the hospital service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2017, c.48, s.1)

2. Section 2 of P.L.2001, c.236 (C.17:48A-7w) is amended to read as follows:

2. a. A medical service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses, as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The medical service corporation contract shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The medical service corporation may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]**b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications as directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

b. A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a medical service corporation contract which, pursuant to a contract between the medical service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2017, c.48, s.2)

3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended to read as follows:

3. a. A health service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses, as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The health service corporation contract shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The health service corporation may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined bya licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]**b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications as directed by a licensed physician for fertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

b. A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those health service corporation contracts in which the health service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a health service corporation contract which, pursuant to a contract between the health service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2017, c.48, s.3)

4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended to read as follows:

4. a. A group health insurance policy which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the policy provides coverage for persons covered under the policy for medically necessary expenses , as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The policy shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The policy may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]**b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the policy, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A policy shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

b. A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those insurance policies in which the insurer has reserved the right to change the premium.

d. The provisions of this section shall not apply to a group health insurance policy which, pursuant to a contract between the insurer and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2017, c.48, s.4)

5. Section 5 of P.L.2001. c.236 (C.26:2J-4.23) is amended to read as follows:

5. a. No certificate of authority to establish and operate a health maintenance organization in this State shall be issued or continued on or after the effective date of this act unless the health maintenance organization provides health care services, to groups of more than 50 enrollees, for medically necessary expenses, as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. A health maintenance organization shall provide enrollee coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. A health maintenance organization may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]** b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

b. A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. The provisions of this section shall apply to those contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

d. The provisions of this section shall not apply to a contract for health care services by a health maintenance organization which, pursuant to a contract between the health maintenance organization and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2017, c.48, s.5)

6. (New section) a. Every individual health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in this State on or after the effective date of this act, shall provide benefits to any person covered thereunder for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The individual health benefits plan shall provide for any services related to infertility that is recommended by a physician, which includes, but is not limited to: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; intracytoplasmic sperm injection; four completed egg retrievals; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The plan may provide that coverage for in vitro fertilizationshall be limited to a covered person who has used all reasonable, less expensive and medically appropriate treatments, as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

b. As used in this this section:

"Infertility" means a disease, condition, or status characterized by:

(1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other medical conditions under the health benefits plan, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the plan. Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A plan shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

c. A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

d. This section shall apply to all individual health benefit plans in which the carrier has reserved the right to change the premium.

e. The provisions of this section shall not apply to an individual health benefit plan contract which, pursuant to a contract between the individual health benefit plan and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

7. (New section) a. Every small employer health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal in this State on or after the effective date of this act, shall provide to any person covered thereunder for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The health benefits plan shall provide for any services related to infertility that is recommended by a physician, which includes, but is not limited to: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; intracytoplasmic sperm injection; four completed egg retrievals; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The health benefits plan may provide that coverage for in vitro fertilizationshall be limited to a covered person who has used all reasonable, less expensive and medically appropriate treatments, as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

b. As used in this this section:

"Infertility" means a disease, condition, or status characterized by:

(1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other medical conditions under the health benefits plan, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the plan. Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A plan shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

c. A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

d. The provisions of this section shall apply to all health benefit plans in which the carrier has reserved the right to change the premium.

e. The provisions of this section shall not apply to a small employer health benefits plan contract which, pursuant to a contract between the small employer health benefits plan and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

**[**6**]** 8. Section 6 of P.L.2017, c.48 (C.52:14-17.29y) is amended to read as follows:

6. The State Health Benefits Commission shall ensure that every contract under the State Health Benefits Program shall provide coverage for medically necessary expenses , as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The State Health Benefits Program shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The State Health Benefits Commission may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]** b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

(cf: P.L.2017, c.48, s.6)

**[**7**]** 9. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is amended to read as follows:

7. The School Employees Health Benefits Commission shall ensure that every contract under the School Employees Health Benefits Program shall provide coverage for medically necessary expenses , as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The School Employees Health Benefits Program contract shall provide coverage for any services related to infertility that is recommended by a physician, which includes, but is not limited to**[**, the following services related to infertility**]**: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization; genetic testing; embryo transfer; artificial insemination; **[**gamete intra fallopian transfer; zygote intra fallopian transfer;**]** intracytoplasmic sperm injection; **[**and**]** four completed egg retrievals **[**per lifetime of the covered person**]**; and unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician. The School Employees Health Benefits Commission may provide that coverage for in vitro fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian transfer**]** shall be limited to a covered person who**[**: a.**]** has used all reasonable, less expensive and medically appropriate treatments , as determined by a licensed physician, and is still unable to become pregnant or carry a pregnancy to a live birth**[**; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger**]**. Coverage for infertility services provided to partners of persons who have successfully reversed a voluntary sterilization shall not be excluded.

**[**For purposes of**]** b. As used in this this section**[**,**]**:

"Infertility" means a disease **[**or**]**, condition, or status characterized by: **[**that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section**]** (1) the failure to establish a pregnancy or carry a pregnancy to term;

(2) a person’s inability to reproduce as a single individual or with a partner of the individual without medical intervention; or

(3) a physician’s recommendation, diagnosis, treatment plan, or prescription based on a patient’s medical, sexual, and reproductive history, age, physical findings or diagnostic testing.

“Treatment of infertility” means the recommended treatment plan or prescribed procedures, services, and medications directed by a licensed physician for infertility as defined in this section.

The benefits shall be provided to the same extent as for other **[**pregnancy-related procedures**]** medical conditions under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. **[**Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section**]** Infertility resulting from a voluntary unreversed sterilization procedure may be excluded under the contract if the voluntary unreversed sterilization is the sole cause of infertility, provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed. A contract shall not impose any exclusions, limitations, or restrictions on coverage of any fertility services provided by or to a third party.

(cf: P.L.2017, c.48, s.7)

**[**8**]** 10. This act shall take effect immediately and shall apply to contracts issued or renewed on or after the effective date.

STATEMENT

This bill updates current law on health insurance coverage of infertility by requiring health insurance carriers (which include hospital service corporations, medical service corporations, health service corporations, health maintenance organizations authorized to issue health benefits plans in New Jersey, individual and small employer health benefits plans, and any entities contracted to administer health benefits in connection with the State Health Benefits Program and School Employees’ Health Benefits Program) to cover infertility services for a partner of a person who has successfully reversed a voluntary sterilization. The bill also requires health insurance carriers to cover certain infertility services including intrauterine insemination, genetic testing, unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, and any other services related to infertility recommended by a physician. Additionally, the bill revises the current statutory definition of “infertility” and adds a definition of “treatment of infertility.”

Finally, the bill excludes coverage for infertility services if an individual’s infertility resulted solely from a voluntary unreversed sterilization; provided, however, that coverage for infertility services shall not be excluded if the voluntary sterilization is successfully reversed.