

[First Reprint]

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

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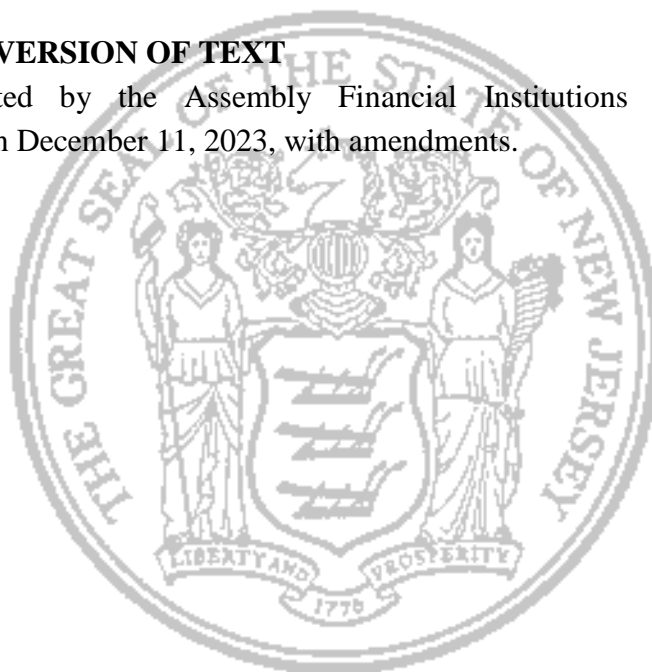
Assemblyman McKeon, Assemblywomen Park, Haider and Reynolds-Jackson

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on December 11, 2023, with amendments.



(Sponsorship Updated As Of: 1/4/2024)

1 AN ACT concerning health insurance coverage requirements for
2 infertility treatment and amending ¹["and supplementing"]¹
3 various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to
9 read as follows:

10 1. a. A hospital service corporation contract which provides
11 hospital or medical expense benefits for groups with more than 50
12 persons, which includes pregnancy-related benefits, shall not be
13 delivered, issued, executed or renewed in this State, or approved for
14 issuance or renewal in this State by the Commissioner of Banking
15 and Insurance on or after the effective date of this act unless the
16 contract provides coverage for persons covered under the contract
17 for medically necessary expenses , as determined by a physician,
18 incurred in the diagnosis and treatment of infertility as provided
19 pursuant to this section. The hospital service corporation contract
20 shall provide coverage for any services related to infertility ¹["that is
21 recommended"] in accordance with American Society for
22 Reproductive Medicine guidelines and as determined¹ by a
23 physician, which includes, but is not limited to["], the following
24 services related to infertility"]: diagnosis and diagnostic tests;
25 medications; surgery; intrauterine insemination; in vitro
26 fertilization; genetic testing; embryo transfer; artificial
27 insemination; ["gamete intra fallopian transfer; zygote intra
28 fallopian transfer;"] intracytoplasmic sperm injection; ["and"] four
29 completed egg retrievals ["per lifetime of the covered person"]; and
30 unlimited embryo transfers, in accordance with guidelines from the
31 American Society for Reproductive Medicine, using single embryo
32 transfer when recommended and deemed medically appropriate by a
33 physician. The hospital service corporation may provide that
34 coverage for in vitro fertilization["], gamete intra fallopian transfer
35 and zygote intra fallopian transfer"] shall be limited to a covered
36 person who[": a.] has used all reasonable, less expensive and
37 medically appropriate treatments , as determined by a licensed
38 physician, and is still unable to become pregnant or carry a
39 pregnancy ["; b. has not reached the limit of four completed egg
40 retrievals; and c. is 45 years of age or younger"] to a live birth.
41 Coverage for infertility services provided to partners of persons
42 who have successfully reversed a voluntary sterilization shall not be
43 excluded.

EXPLANATION – Matter enclosed in bold-faced brackets ["thus"] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted December 11, 2023.

1 **【For purposes of】** ¹**【b.】** As used in ¹**【this】**¹ this section**【,】**;

2 "Infertility" means a disease **【or】**, condition **【that results in the**
3 abnormal function of the reproductive system, as determined
4 pursuant to American Society for Reproductive Medicine practice
5 guidelines by a physician who is Board Certified or Board Eligible
6 in Reproductive Endocrinology and Infertility or in Obstetrics and
7 Gynecology or that the patient has met one of the following
8 conditions:

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

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

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

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

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

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

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

25 (8) A previous determination of infertility pursuant to this
26 section**】**, or status characterized by ¹any of the following¹;

27 (1) the ¹**【failure to establish a pregnancy or carry a pregnancy to**
28 **term】** inability to achieve a successful pregnancy based on a
29 patient's medical, sexual, and reproductive history, age, physical
30 findings, diagnostic testing, or any combination of those factors¹;

31 (2) ¹**【a person's inability to reproduce as a single individual or**
32 **with a partner of the individual without medical intervention】** the
33 need for medical intervention, including, but not limited to, the use
34 of donor gametes or donor embryos in order to achieve a successful
35 pregnancy either as an individual or with a partner¹; or

36 (3) ¹**【a physician's recommendation, diagnosis, treatment plan,**
37 **or prescription based on a patient's medical, sexual, and**
38 **reproductive history, age, physical findings or diagnostic testing】** in
39 patients having regular, unprotected intercourse and without any
40 known etiology for either partner suggestive of impaired
41 reproductive ability, evaluation should be initiated at 12 months
42 when the female partner is under 35 years of age and at 6 months
43 when the female partner is 35 years of age or older.

44 Nothing in this definition shall be used to deny or delay
45 treatment to any individual, regardless of relationship status or
46 sexual orientation¹.

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

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

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

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

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

1 Division of Medical Assistance and Health Services in the
2 Department of Human Services.

3 (cf: P.L.2017, c.48, s.1)
4

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

7 2. a. A medical service corporation contract which provides
8 hospital or medical expense benefits for groups with more than 50
9 persons, which includes pregnancy-related benefits, shall not be
10 delivered, issued, executed or renewed in this State, or approved for
11 issuance or renewal in this State by the Commissioner of Banking
12 and Insurance on or after the effective date of this act unless the
13 contract provides coverage for persons covered under the contract
14 for medically necessary expenses, as determined by a physician,
15 incurred in the diagnosis and treatment of infertility as provided
16 pursuant to this section. The medical service corporation contract
17 shall provide coverage for any services related to infertility ¹that is
18 recommended in accordance with American Society for
19 Reproductive Medicine guidelines and as determined¹ by a
20 physician, which includes, but is not limited to¹, the following
21 services related to infertility¹: diagnosis and diagnostic tests;
22 medications; surgery; intrauterine insemination; in vitro
23 fertilization; genetic testing; embryo transfer; artificial
24 insemination; ¹gamete intra fallopian transfer; zygote intra
25 fallopian transfer; ¹intracytoplasmic sperm injection; and four
26 completed egg retrievals ¹per lifetime of the covered person; and
27 unlimited embryo transfers, in accordance with guidelines from the
28 American Society for Reproductive Medicine, using single embryo
29 transfer when recommended and deemed medically appropriate by a
30 physician. The medical service corporation may provide that
31 coverage for in vitro fertilization¹, gamete intra fallopian transfer
32 and zygote intra fallopian transfer¹ shall be limited to a covered
33 person who¹: a. ¹has used all reasonable, less expensive and
34 medically appropriate treatments , as determined by a licensed
35 physician, and is still unable to become pregnant or carry a
36 pregnancy to a live birth¹; b. has not reached the limit of four
37 completed egg retrievals; and c. is 45 years of age or younger¹.
38 Coverage for infertility services provided to partners of persons
39 who have successfully reversed a voluntary sterilization shall not be
40 excluded.

41 ¹For purposes of ¹[b.] ¹As used in ¹[this] ¹this section ¹,

42 "Infertility" means a disease ¹[or], condition, or status
43 characterized by ¹any of the following¹: ¹that results in the
44 abnormal function of the reproductive system, as determined
45 pursuant to American Society for Reproductive Medicine practice
46 guidelines by a physician who is Board Certified or Board Eligible

1 in Reproductive Endocrinology and Infertility or in Obstetrics and
2 Gynecology or that the patient has met one of the following
3 conditions:

- 4 (1) A male is unable to impregnate a female;
5 (2) A female with a male partner and under 35 years of age is
6 unable to conceive after 12 months of unprotected sexual
7 intercourse;
8 (3) A female with a male partner and 35 years of age and over is
9 unable to conceive after six months of unprotected sexual
10 intercourse;
11 (4) A female without a male partner and under 35 years of age
12 who is unable to conceive after 12 failed attempts of intrauterine
13 insemination under medical supervision;
14 (5) A female without a male partner and over 35 years of age
15 who is unable to conceive after six failed attempts of intrauterine
16 insemination under medical supervision;
17 (6) Partners are unable to conceive as a result of involuntary
18 medical sterility;
19 (7) A person is unable to carry a pregnancy to live birth; or
20 (8) A previous determination of infertility pursuant to this
21 section】

22 (1) the ¹【failure to establish a pregnancy or carry a pregnancy to
23 term】 inability to achieve a successful pregnancy based on a
24 patient’s medical, sexual, and reproductive history, age, physical
25 findings, diagnostic testing, or any combination of those factors¹;

26 (2) ¹【a person’s inability to reproduce as a single individual or
27 with a partner of the individual without medical intervention】 the
28 need for medical intervention, including, but not limited to, the use
29 of donor gametes or donor embryos in order to achieve a successful
30 pregnancy either as an individual or with a partner¹; or

31 (3) ¹【a physician’s recommendation, diagnosis, treatment plan,
32 or prescription based on a patient’s medical, sexual, and
33 reproductive history, age, physical findings or diagnostic testing】 in
34 patients having regular, unprotected intercourse and without any
35 known etiology for either partner suggestive of impaired
36 reproductive ability, evaluation should be initiated at 12 months
37 when the female partner is under 35 years of age and at 6 months
38 when the female partner is 35 years of age or older.

39 Nothing in this definition shall be used to deny or delay
40 treatment to any individual, regardless of relationship status or
41 sexual orientation¹.

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

45 The benefits shall be provided to the same extent as for other
46 **【pregnancy-related procedures】** medical conditions under the
47 contract, except that the services provided for in this section shall

1 be performed at facilities that conform to standards established by
2 the American Society for Reproductive Medicine or the American
3 College of Obstetricians and Gynecologists. The same copayments,
4 deductibles and benefit limits shall apply to the diagnosis and
5 treatment of infertility pursuant to this section as those applied to
6 other medical or surgical benefits under the contract. **[Infertility**
7 **resulting from voluntary sterilization procedures shall be excluded**
8 **under the contract for the coverage required by this section]**
9 Infertility resulting from a voluntary unreversed sterilization
10 procedure may be excluded if the voluntary unreversed sterilization
11 is the sole cause of infertility, provided, however, that coverage for
12 infertility services shall not be excluded if the voluntary
13 sterilization is successfully reversed. A contract shall not impose
14 any exclusions, limitations, or restrictions on coverage of any
15 fertility services provided by or to a third party.

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

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

35 d. The provisions of this section shall not apply to a medical
36 service corporation contract which, pursuant to a contract between
37 the medical service corporation and the Department of Human
38 Services, provides benefits to persons who are eligible for medical
39 assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ
40 FamilyCare Program established pursuant to P.L.2005, c.156
41 (C.30:4J-8 et al.), or any other program administered by the
42 Division of Medical Assistance and Health Services in the
43 Department of Human Services.
44 (cf: P.L.2017, c.48, s.2)

45
46 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended
47 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 ¹that is recommended in accordance with American Society for Reproductive Medicine guidelines and as determined¹ 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 ¹by a ¹licensed 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] ¹[b.] ¹As used in ¹[this] this section¹:

"Infertility" means a disease [or], condition, or status characterized by ¹any of the following¹: 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;

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

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

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

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

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

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

16 (8) A previous determination of infertility pursuant to this
17 section】

18 (1) the ¹【failure to establish a pregnancy or carry a pregnancy to
19 term】 inability to achieve a successful pregnancy based on a
20 patient’s medical, sexual, and reproductive history, age, physical
21 findings, diagnostic testing, or any combination of those factors¹;

22 (2) ¹【a person’s inability to reproduce as a single individual or
23 with a partner of the individual without medical intervention】 the
24 need for medical intervention, including, but not limited to, the use
25 of donor gametes or donor embryos in order to achieve a successful
26 pregnancy either as an individual or with a partner¹; or

27 (3) ¹【a physician’s recommendation, diagnosis, treatment plan,
28 or prescription based on a patient’s medical, sexual, and
29 reproductive history, age, physical findings or diagnostic testing】 in
30 patients having regular, unprotected intercourse and without any
31 known etiology for either partner suggestive of impaired
32 reproductive ability, evaluation should be initiated at 12 months
33 when the female partner is under 35 years of age and at 6 months
34 when the female partner is 35 years of age or older.

35 Nothing in this definition shall be used to deny or delay
36 treatment to any individual, regardless of relationship status or
37 sexual orientation¹.

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

41 The benefits shall be provided to the same extent as for other
42 **【pregnancy-related procedures】** medical conditions under the
43 contract, except that the services provided for in this section shall
44 be performed at facilities that conform to standards established by
45 the American Society for Reproductive Medicine or the American
46 College of Obstetricians and Gynecologists. The same copayments,
47 deductibles and benefit limits shall apply to the diagnosis and

1 treatment of infertility pursuant to this section as those applied to
2 other medical or surgical benefits under the contract. **【Infertility**
3 **resulting from voluntary sterilization procedures shall be excluded**
4 **under the contract for the coverage required by this section】**
5 Infertility resulting from a voluntary unreversed sterilization
6 procedure may be excluded if the voluntary unreversed sterilization
7 is the sole cause of infertility, provided, however, that coverage for
8 infertility services shall not be excluded if the voluntary
9 sterilization is successfully reversed. A contract shall not impose
10 any exclusions, limitations, or restrictions on coverage of any
11 fertility services provided by or to a third party.

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

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

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

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

41

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

44 4. a. A group health insurance policy which provides hospital
45 or medical expense benefits for groups with more than 50 persons,
46 which includes pregnancy-related benefits, shall not be delivered,
47 issued, executed or renewed in this State, or approved for issuance
48 or renewal in this State by the Commissioner of Banking and

1 Insurance on or after the effective date of this act unless the policy
2 provides coverage for persons covered under the policy for
3 medically necessary expenses , as determined by a physician,
4 incurred in the diagnosis and treatment of infertility as provided
5 pursuant to this section. The policy shall provide coverage for any
6 services related to infertility ¹**["that is recommended"]** in accordance
7 with American Society for Reproductive Medicine guidelines and
8 as determined¹ by a physician, which includes, but is not limited
9 to**["**, the following services related to infertility**"]**: diagnosis and
10 diagnostic tests; medications; surgery; intrauterine insemination; in
11 vitro fertilization; genetic testing; embryo transfer; artificial
12 insemination; **["gamete intra fallopian transfer; zygote intra**
13 **fallopian transfer;"]** intracytoplasmic sperm injection; **["and"]** four
14 completed egg retrievals **["per lifetime of the covered person"]**; and
15 unlimited embryo transfers, in accordance with guidelines from the
16 American Society for Reproductive Medicine, using single embryo
17 transfer when recommended and deemed medically appropriate by a
18 physician. The policy may provide that coverage for in vitro
19 fertilization**["**, gamete intra fallopian transfer and zygote intra
20 fallopian transfer**"]** shall be limited to a covered person who**["**: a.**"]**
21 has used all reasonable, less expensive and medically appropriate
22 treatments , as determined by a licensed physician, and is still
23 unable to become pregnant or carry a pregnancy to a live birth**["**; b.
24 has not reached the limit of four completed egg retrievals; and c. is
25 45 years of age or younger**"]**. Coverage for infertility services
26 provided to partners of persons who have successfully reversed a
27 voluntary sterilization shall not be excluded.

28 **["For purposes of"]** ¹**["b."]** As used in ¹**["this"]** ¹this section**["**;]
29 "Infertility" means a disease **["or"]**, condition, or status
30 characterized by ¹any of the following¹; **["that results in the**
31 **abnormal function of the reproductive system, as determined**
32 **pursuant to American Society for Reproductive Medicine practice**
33 **guidelines by a physician who is Board Certified or Board Eligible**
34 **in Reproductive Endocrinology and Infertility or in Obstetrics and**
35 **Gynecology or that the patient has met one of the following**
36 **conditions:**

- 37 (1) A male is unable to impregnate a female;
38 (2) A female with a male partner and under 35 years of age is
39 unable to conceive after 12 months of unprotected sexual
40 intercourse;
41 (3) A female with a male partner and 35 years of age and over is
42 unable to conceive after six months of unprotected sexual
43 intercourse;
44 (4) A female without a male partner and under 35 years of age
45 who is unable to conceive after 12 failed attempts of intrauterine
46 insemination under medical supervision;

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

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

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

7 (8) A previous determination of infertility pursuant to this
8 section】

9 (1) the ¹【failure to establish a pregnancy or carry a pregnancy to
10 term】 inability to achieve a successful pregnancy based on a
11 patient’s medical, sexual, and reproductive history, age, physical
12 findings, diagnostic testing, or any combination of those factors¹;

13 (2) ‘【a person’s inability to reproduce as a single individual or
14 with a partner of the individual without medical intervention】 the
15 need for medical intervention, including, but not limited to, the use
16 of donor gametes or donor embryos in order to achieve a successful
17 pregnancy either as an individual or with a partner¹; or

18 (3) ‘【a physician’s recommendation, diagnosis, treatment plan,
19 or prescription based on a patient’s medical, sexual, and
20 reproductive history, age, physical findings or diagnostic testing】 in
21 patients having regular, unprotected intercourse and without any
22 known etiology for either partner suggestive of impaired
23 reproductive ability, evaluation should be initiated at 12 months
24 when the female partner is under 35 years of age and at 6 months
25 when the female partner is 35 years of age or older.

26 Nothing in this definition shall be used to deny or delay
27 treatment to any individual, regardless of relationship status or
28 sexual orientation¹.

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

32 The benefits shall be provided to the same extent as for other
33 **【pregnancy-related procedures】** medical conditions under the
34 policy, except that the services provided for in this section shall be
35 performed at facilities that conform to standards established by the
36 American Society for Reproductive Medicine or the American
37 College of Obstetricians and Gynecologists. The same copayments,
38 deductibles and benefit limits shall apply to the diagnosis and
39 treatment of infertility pursuant to this section as those applied to
40 other medical or surgical benefits under the contract. **【Infertility**
41 **resulting from voluntary sterilization procedures shall be excluded**
42 **under the contract for the coverage required by this section】**
43 Infertility resulting from a voluntary unreversed sterilization
44 procedure may be excluded if the voluntary unreversed sterilization
45 is the sole cause of infertility, provided, however, that coverage for
46 infertility services shall not be excluded if the voluntary
47 sterilization is successfully reversed. A policy shall not impose any

1 exclusions, limitations, or restrictions on coverage of any fertility
2 services provided by or to a third party.

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

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

21 d. The provisions of this section shall not apply to a group
22 health insurance policy which, pursuant to a contract between the
23 insurer and the Department of Human Services, provides benefits to
24 persons who are eligible for medical assistance under P.L.1968,
25 c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program established
26 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
27 administered by the Division of Medical Assistance and Health
28 Services in the Department of Human Services.
29 (cf: P.L.2017, c.48, s.4)

30
31 5. Section 5 of P.L.2001. c.236 (C.26:2J-4.23) is amended to
32 read as follows:

33 5. a. No certificate of authority to establish and operate a health
34 maintenance organization in this State shall be issued or continued
35 on or after the effective date of this act unless the health
36 maintenance organization provides health care services, to groups
37 of more than 50 enrollees, for medically necessary expenses, as
38 determined by a physician, incurred in the diagnosis and treatment
39 of infertility as provided pursuant to this section. A health
40 maintenance organization shall provide enrollee coverage for any
41 services related to infertility **1**that is recommended **in accordance**
42 **with American Society for Reproductive Medicine guidelines and**
43 **as determined¹ by a physician**, which includes, but is not limited
44 to**the following services related to infertility**: diagnosis and
45 diagnostic tests; medications; surgery; intrauterine insemination; in
46 vitro fertilization; genetic testing; embryo transfer; artificial
47 insemination; **gamete intra fallopian transfer**; zygote intra

1 fallopian transfer;] intracytoplasmic sperm injection; [and] four
2 completed egg retrievals [per lifetime of the covered person]; and
3 unlimited embryo transfers, in accordance with guidelines from the
4 American Society for Reproductive Medicine, using single embryo
5 transfer when recommended and deemed medically appropriate by a
6 physician. A health maintenance organization may provide that
7 coverage for in vitro fertilization[, gamete intra fallopian transfer
8 and zygote intra fallopian transfer] shall be limited to a covered
9 person who[: a.] has used all reasonable, less expensive and
10 medically appropriate treatments , as determined by a licensed
11 physician, and is still unable to become pregnant or carry a
12 pregnancy to a live birth]; b. has not reached the limit of four
13 completed egg retrievals; and c. is 45 years of age or younger].
14 Coverage for infertility services provided to partners of persons
15 who have successfully reversed a voluntary sterilization shall not be
16 excluded.

17 [For purposes of] '1[b.]' As used in '1[this]' this section[,];
18 "Infertility" means a disease [or], condition, or status
19 characterized by 'any of the following'¹; [that results in the
20 abnormal function of the reproductive system, as determined
21 pursuant to American Society for Reproductive Medicine practice
22 guidelines by a physician who is Board Certified or Board Eligible
23 in Reproductive Endocrinology and Infertility or in Obstetrics and
24 Gynecology or that the patient has met one of the following
25 conditions:

- 26 (1) A male is unable to impregnate a female;
27 (2) A female with a male partner and under 35 years of age is
28 unable to conceive after 12 months of unprotected sexual
29 intercourse;
30 (3) A female with a male partner and 35 years of age and over is
31 unable to conceive after six months of unprotected sexual
32 intercourse;
33 (4) A female without a male partner and under 35 years of age
34 who is unable to conceive after 12 failed attempts of intrauterine
35 insemination under medical supervision;
36 (5) A female without a male partner and over 35 years of age
37 who is unable to conceive after six failed attempts of intrauterine
38 insemination under medical supervision;
39 (6) Partners are unable to conceive as a result of involuntary
40 medical sterility;
41 (7) A person is unable to carry a pregnancy to live birth; or
42 (8) A previous determination of infertility pursuant to this
43 section]

44 (1) the '1[failure to establish a pregnancy or carry a pregnancy to
45 term] inability to achieve a successful pregnancy based on a
46 patient's medical, sexual, and reproductive history, age, physical
47 findings, diagnostic testing, or any combination of those factors'¹;

1 (2) ¹“[a person’s inability to reproduce as a single individual or
2 with a partner of the individual without medical intervention] the
3 need for medical intervention, including, but not limited to, the use
4 of donor gametes or donor embryos in order to achieve a successful
5 pregnancy either as an individual or with a partner¹; or

6 (3) ¹“[a physician’s recommendation, diagnosis, treatment plan,
7 or prescription based on a patient’s medical, sexual, and
8 reproductive history, age, physical findings or diagnostic testing] in
9 patients having regular, unprotected intercourse and without any
10 known etiology for either partner suggestive of impaired
11 reproductive ability, evaluation should be initiated at 12 months
12 when the female partner is under 35 years of age and at 6 months
13 when the female partner is 35 years of age or older.

14 Nothing in this definition shall be used to deny or delay
15 treatment to any individual, regardless of relationship status or
16 sexual orientation¹.

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

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

38 b. A religious employer may request, and a health maintenance
39 organization shall grant, an exclusion under the contract for the
40 coverage required by this section for in vitro fertilization, embryo
41 transfer, artificial insemination, zygote intra fallopian transfer and
42 intracytoplasmic sperm injection, if the required coverage is
43 contrary to the religious employer's bona fide religious tenets. The
44 hospital service corporation that issues a contract containing such
45 an exclusion shall provide written notice thereof to each prospective
46 subscriber or subscriber, which shall appear in not less than 10
47 point type, in the contract, application and sales brochure. For the

1 purposes of this subsection, "religious employer" means an
2 employer that is a church, convention or association of churches or
3 any group or entity that is operated, supervised or controlled by or
4 in connection with a church or a convention or association of
5 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
6 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

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

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

21
22 ¹6. (New section) a. Every individual health benefits plan that
23 provides hospital or medical expense benefits and is delivered,
24 issued, executed or renewed in this State pursuant to P.L.1992,
25 c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in
26 this State on or after the effective date of this act, shall provide
27 benefits to any person covered thereunder for medically necessary
28 expenses incurred in the diagnosis and treatment of infertility as
29 provided pursuant to this section. The individual health benefits
30 plan shall provide for any services related to infertility that is
31 recommended by a physician, which includes, but is not limited to:
32 diagnosis and diagnostic tests; medications; surgery; intrauterine
33 insemination; in vitro fertilization; genetic testing; embryo transfer;
34 artificial insemination; intracytoplasmic sperm injection; four
35 completed egg retrievals; and unlimited embryo transfers, in
36 accordance with guidelines from the American Society for
37 Reproductive Medicine, using single embryo transfer when
38 recommended and deemed medically appropriate by a physician.
39 The plan may provide that coverage for in vitro fertilization shall be
40 limited to a covered person who has used all reasonable, less
41 expensive and medically appropriate treatments, as determined by a
42 licensed physician, and is still unable to become pregnant or carry a
43 pregnancy to a live birth. Coverage for infertility services provided
44 to partners of persons who have successfully reversed a voluntary
45 sterilization shall not be excluded.

46 b. As used in this this section:

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

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

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

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

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

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

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

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

44 e. The provisions of this section shall not apply to an
45 individual health benefit plan contract which, pursuant to a contract
46 between the individual health benefit plan and the Department of
47 Human Services, provides benefits to persons who are eligible for
48 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), the

1 NJ FamilyCare Program established pursuant to P.L.2005, c.156
2 (C.30:4J-8 et al.), or any other program administered by the
3 Division of Medical Assistance and Health Services in the
4 Department of Human Services.】¹

5
6 ¹【7. (New section) a. Every small employer health benefits plan
7 that provides hospital or medical expense benefits and is delivered,
8 issued, executed or renewed in this State pursuant to P.L.1992,
9 c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal
10 in this State on or after the effective date of this act, shall provide to
11 any person covered thereunder for medically necessary expenses
12 incurred in the diagnosis and treatment of infertility as provided
13 pursuant to this section. The health benefits plan shall provide for
14 any services related to infertility that is recommended by a
15 physician, which includes, but is not limited to: diagnosis and
16 diagnostic tests; medications; surgery; intrauterine insemination; in
17 vitro fertilization; genetic testing; embryo transfer; artificial
18 insemination; intracytoplasmic sperm injection; four completed egg
19 retrievals; and unlimited embryo transfers, in accordance with
20 guidelines from the American Society for Reproductive Medicine,
21 using single embryo transfer when recommended and deemed
22 medically appropriate by a physician. The health benefits plan may
23 provide that coverage for in vitro fertilization shall be limited to a
24 covered person who has used all reasonable, less expensive and
25 medically appropriate treatments, as determined by a licensed
26 physician, and is still unable to become pregnant or carry a
27 pregnancy to a live birth. Coverage for infertility services provided
28 to partners of persons who have successfully reversed a voluntary
29 sterilization shall not be excluded.

30 b. As used in this this section:

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

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

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

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

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

43 The benefits shall be provided to the same extent as for other
44 medical conditions under the health benefits plan, except that the
45 services provided for in this section shall be performed at facilities
46 that conform to standards established by the American Society for
47 Reproductive Medicine or the American College of Obstetricians
48 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.¹

[6] ¹[8] 6¹. 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 ¹**[that is recommended]** in accordance with American Society for Reproductive Medicine guidelines and as determined¹

1 by a physician, which includes, but is not limited to~~],~~ the following
 2 services related to infertility~~]~~: diagnosis and diagnostic tests;
 3 medications; surgery; intrauterine insemination; in vitro
 4 fertilization; genetic testing; embryo transfer; artificial
 5 insemination; ~~],~~ gamete intra fallopian transfer; zygote intra
 6 fallopian transfer~~]~~; intracytoplasmic sperm injection; ~~],~~ and four
 7 completed egg retrievals ~~],~~ per lifetime of the covered person~~]~~; and
 8 unlimited embryo transfers, in accordance with guidelines from the
 9 American Society for Reproductive Medicine, using single embryo
 10 transfer when recommended and deemed medically appropriate by a
 11 physician. The State Health Benefits Commission may provide that
 12 coverage for in vitro fertilization~~],~~ gamete intra fallopian transfer
 13 and zygote intra fallopian transfer~~]~~ shall be limited to a covered
 14 person who~~]~~: a. ~~]~~ has used all reasonable, less expensive and
 15 medically appropriate treatments , as determined by a licensed
 16 physician, and is still unable to become pregnant or carry a
 17 pregnancy to a live birth~~]~~; b. has not reached the limit of four
 18 completed egg retrievals; and c. is 45 years of age or younger~~]~~.
 19 Coverage for infertility services provided to partners of persons
 20 who have successfully reversed a voluntary sterilization shall not be
 21 excluded.

22 ~~For purposes of~~ ~~]~~ '[b.]' As used in '[this]' this section~~],~~
 23 "Infertility" means a disease ~~]~~ [or], condition, or status
 24 characterized by 'any of the following'~~]~~: ~~]~~ that results in the
 25 abnormal function of the reproductive system, as determined
 26 pursuant to American Society for Reproductive Medicine practice
 27 guidelines by a physician who is Board Certified or Board Eligible
 28 in Reproductive Endocrinology and Infertility or in Obstetrics and
 29 Gynecology or that the patient has met one of the following
 30 conditions:

- 31 (1) A male is unable to impregnate a female;
- 32 (2) A female with a male partner and under 35 years of age is
 33 unable to conceive after 12 months of unprotected sexual
 34 intercourse;
- 35 (3) A female with a male partner and 35 years of age and over is
 36 unable to conceive after six months of unprotected sexual
 37 intercourse;
- 38 (4) A female without a male partner and under 35 years of age
 39 who is unable to conceive after 12 failed attempts of intrauterine
 40 insemination under medical supervision;
- 41 (5) A female without a male partner and over 35 years of age
 42 who is unable to conceive after six failed attempts of intrauterine
 43 insemination under medical supervision;
- 44 (6) Partners are unable to conceive as a result of involuntary
 45 medical sterility;
- 46 (7) A person is unable to carry a pregnancy to live birth; or

1 (8) A previous determination of infertility pursuant to this
2 section】

3 (1) the ¹【failure to establish a pregnancy or carry a pregnancy to
4 term】 inability to achieve a successful pregnancy based on a
5 patient’s medical, sexual, and reproductive history, age, physical
6 findings, diagnostic testing, or any combination of those factors¹;

7 (2) ¹【a person’s inability to reproduce as a single individual or
8 with a partner of the individual without medical intervention】 the
9 need for medical intervention, including, but not limited to, the use
10 of donor gametes or donor embryos in order to achieve a successful
11 pregnancy either as an individual or with a partner¹; or

12 (3) ¹【a physician’s recommendation, diagnosis, treatment plan,
13 or prescription based on a patient’s medical, sexual, and
14 reproductive history, age, physical findings or diagnostic testing】 in
15 patients having regular, unprotected intercourse and without any
16 known etiology for either partner suggestive of impaired
17 reproductive ability, evaluation should be initiated at 12 months
18 when the female partner is under 35 years of age and at 6 months
19 when the female partner is 35 years of age or older.

20 Nothing in this definition shall be used to deny or delay
21 treatment to any individual, regardless of relationship status or
22 sexual orientation¹.

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

26 The benefits shall be provided to the same extent as for other
27 【pregnancy-related procedures】 medical conditions under the
28 contract, except that the services provided for in this section shall
29 be performed at facilities that conform to standards established by
30 the American Society for Reproductive Medicine or the American
31 College of Obstetricians and Gynecologists. The same copayments,
32 deductibles and benefit limits shall apply to the diagnosis and
33 treatment of infertility pursuant to this section as those applied to
34 other medical or surgical benefits under the contract. 【Infertility
35 resulting from voluntary sterilization procedures shall be excluded
36 under the contract for the coverage required by this section】
37 Infertility resulting from a voluntary unreversed sterilization
38 procedure may be excluded if the voluntary unreversed sterilization
39 is the sole cause of infertility, provided, however, that coverage for
40 infertility services shall not be excluded if the voluntary
41 sterilization is successfully reversed. A contract shall not impose
42 any exclusions, limitations, or restrictions on coverage of any
43 fertility services provided by or to a third party.

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

45

46 【7】 ¹【9】 7¹. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
47 amended to read as follows:

1 7. The School Employees Health Benefits Commission shall
2 ensure that every contract under the School Employees Health
3 Benefits Program shall provide coverage for medically necessary
4 expenses , as determined by a physician, incurred in the diagnosis
5 and treatment of infertility as provided pursuant to this section. The
6 School Employees Health Benefits Program contract shall provide
7 coverage for any services related to infertility ¹[that is
8 recommended] in accordance with American Society for
9 Reproductive Medicine guidelines and as determined¹ by a
10 physician, which includes, but is not limited to[, the following
11 services related to infertility]: diagnosis and diagnostic tests;
12 medications; surgery; intrauterine insemination; in vitro
13 fertilization; genetic testing; embryo transfer; artificial
14 insemination; [gamete intra fallopian transfer; zygote intra
15 fallopian transfer;] intracytoplasmic sperm injection; [and] four
16 completed egg retrievals [per lifetime of the covered person]; and
17 unlimited embryo transfers, in accordance with guidelines from the
18 American Society for Reproductive Medicine, using single embryo
19 transfer when recommended and deemed medically appropriate by a
20 physician. The School Employees Health Benefits Commission
21 may provide that coverage for in vitro fertilization[, gamete intra
22 fallopian transfer and zygote intra fallopian transfer] shall be
23 limited to a covered person who[: a.] has used all reasonable, less
24 expensive and medically appropriate treatments , as determined by a
25 licensed physician, and is still unable to become pregnant or carry a
26 pregnancy to a live birth[: b. has not reached the limit of four
27 completed egg retrievals; and c. is 45 years of age or younger].
28 Coverage for infertility services provided to partners of persons
29 who have successfully reversed a voluntary sterilization shall not be
30 excluded.

31 [For purposes of] ¹[b.] As used in ¹[this] this section[,]:
32 "Infertility" means a disease [or], condition, or status
33 characterized by ¹any of the following: [that results in the
34 abnormal function of the reproductive system, as determined
35 pursuant to American Society for Reproductive Medicine practice
36 guidelines by a physician who is Board Certified or Board Eligible
37 in Reproductive Endocrinology and Infertility or in Obstetrics and
38 Gynecology or that the patient has met one of the following
39 conditions:

- 40 (1) A male is unable to impregnate a female;
41 (2) A female with a male partner and under 35 years of age is
42 unable to conceive after 12 months of unprotected sexual
43 intercourse;
44 (3) A female with a male partner and 35 years of age and over is
45 unable to conceive after six months of unprotected sexual
46 intercourse;

- 1 (4) A female without a male partner and under 35 years of age
2 who is unable to conceive after 12 failed attempts of intrauterine
3 insemination under medical supervision;
- 4 (5) A female without a male partner and over 35 years of age
5 who is unable to conceive after six failed attempts of intrauterine
6 insemination under medical supervision;
- 7 (6) Partners are unable to conceive as a result of involuntary
8 medical sterility;
- 9 (7) A person is unable to carry a pregnancy to live birth; or
- 10 (8) A previous determination of infertility pursuant to this
11 section] (1) the ¹[failure to establish a pregnancy or carry
12 a pregnancy to term] inability to achieve a successful pregnancy
13 based on a patient's medical, sexual, and reproductive history, age,
14 physical findings, diagnostic testing, or any combination of those
15 factors¹;
- 16 (2) ¹[a person's inability to reproduce as a single individual or
17 with a partner of the individual without medical intervention] the
18 need for medical intervention, including, but not limited to, the use
19 of donor gametes or donor embryos in order to achieve a successful
20 pregnancy either as an individual or with a partner¹; or
- 21 (3) ¹[a physician's recommendation, diagnosis, treatment plan,
22 or prescription based on a patient's medical, sexual, and
23 reproductive history, age, physical findings or diagnostic testing] in
24 patients having regular, unprotected intercourse and without any
25 known etiology for either partner suggestive of impaired
26 reproductive ability, evaluation should be initiated at 12 months
27 when the female partner is under 35 years of age and at 6 months
28 when the female partner is 35 years of age or older.
- 29 Nothing in this definition shall be used to deny or delay
30 treatment to any individual, regardless of relationship status or
31 sexual orientation¹.
- 32 "Treatment of infertility" means the recommended treatment
33 plan or prescribed procedures, services, and medications directed by
34 a licensed physician for infertility as defined in this section.
- 35 The benefits shall be provided to the same extent as for other
36 **[pregnancy-related procedures]** medical conditions under the
37 contract, except that the services provided for in this section shall
38 be performed at facilities that conform to standards established by
39 the American Society for Reproductive Medicine or the American
40 College of Obstetricians and Gynecologists. The same copayments,
41 deductibles and benefit limits shall apply to the diagnosis and
42 treatment of infertility pursuant to this section as those applied to
43 other medical or surgical benefits under the contract. **[Infertility**
44 **resulting from voluntary sterilization procedures shall be excluded**
45 **under the contract for the coverage required by this section]**
46 Infertility resulting from a voluntary unreversed sterilization
47 procedure may be excluded under the contract if the voluntary

1 unreversed sterilization is the sole cause of infertility, provided,
2 however, that coverage for infertility services shall not be excluded
3 if the voluntary sterilization is successfully reversed. A contract
4 shall not impose any exclusions, limitations, or restrictions on
5 coverage of any fertility services provided by or to a third party.
6 (cf: P.L.2017, c.48, s.7)

7

8 **【8】**¹**【10.】** 8.¹ This act shall take effect immediately and shall
9 apply to contracts issued or renewed on or after the effective date.