

[Second Reprint]

ASSEMBLY, No. 5235

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

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District 6 (Burlington and Camden)

Assemblywoman SHAVONDA E. SUMTER

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Co-Sponsored by:

**Assemblyman McKeon, Assemblywomen Park, Haider, Reynolds-Jackson,
Pintor Marin, Murphy, Speight, Swain, Mosquera, Senators Cruz-Perez
and Bramnick**

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 4, 2024,
with amendments.



(Sponsorship Updated As Of: 1/8/2024)

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 fertilization², including in vitro fertilization using donor eggs and in
 27 vitro fertilization where the embryo is transferred to a gestational
 28 carrier or surrogate²; genetic testing; ²~~embryo transfer;~~² artificial
 29 insemination; ~~gamete intra fallopian transfer; zygote intra~~
 30 ~~fallopian transfer;~~ ~~intracytoplasmic sperm injection; and~~ four
 31 completed egg retrievals ~~per lifetime of the covered person~~;
 32 ²~~and~~² unlimited embryo transfers, in accordance with guidelines
 33 from the American Society for Reproductive Medicine, using single
 34 embryo transfer when recommended and deemed medically
 35 appropriate by a physician²; and medical costs of egg or sperm
 36 donors, including office visits, medications, laboratory and
 37 radiological procedures and retrieval, shall be covered until the
 38 donor is released from treatment by the reproductive
 39 endocrinologist². The hospital service corporation may provide that
 40 coverage for in vitro fertilization~~], gamete intra fallopian transfer~~
 41 ~~and zygote intra fallopian transfer~~ shall be limited to a covered
 42 person who~~]: a.]~~ has used all reasonable, less expensive and
 43 medically appropriate treatments , as determined by a licensed

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.

²Assembly AAP committee amendments adopted January 4, 2024.

1 physician, and is still unable to become pregnant or carry a
2 pregnancy [; b. has not reached the limit of four completed egg
3 retrievals; and c. is 45 years of age or younger] to a live birth.
4 Coverage for infertility services provided to partners of persons
5 who have successfully reversed a voluntary sterilization shall not be
6 excluded. ²A contract shall not impose any restriction concerning
7 the coverage of infertility services based on age.²

8 **【For purposes of】 ¹[b.]¹ As used in ¹[this]¹ this section【,】:**

9 "Infertility" means a disease **【or】**, condition **【that results in the**
10 **abnormal function of the reproductive system, as determined**
11 **pursuant to American Society for Reproductive Medicine practice**
12 **guidelines by a physician who is Board Certified or Board Eligible**
13 **in Reproductive Endocrinology and Infertility or in Obstetrics and**
14 **Gynecology or that the patient has met one of the following**
15 **conditions:**

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

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

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

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

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

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

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

32 (8) A previous determination of infertility pursuant to this
33 section **】**, or status characterized by ¹any of the following¹:

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

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

43 (3) ¹**【a physician's recommendation, diagnosis, treatment plan,**
44 **or prescription based on a patient's medical, sexual, and**
45 **reproductive history, age, physical findings or diagnostic testing】 in**
46 **patients having regular, unprotected intercourse and without any**
47 **known etiology for either partner suggestive of impaired**

1 reproductive ability, evaluation should be initiated at 12 months
2 when the female partner is under 35 years of age and at 6 months
3 when the female partner is 35 years of age or older.

4 Nothing in this definition shall be used to deny or delay
5 treatment to any individual, regardless of relationship status or
6 sexual orientation¹.

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

10 The benefits shall be provided to the same extent as for other
11 **【pregnancy-related procedures】** medical conditions under the
12 contract, except that the services provided for in this section shall
13 be performed at facilities that conform to standards established by
14 the American Society for Reproductive Medicine or the American
15 College of Obstetricians and Gynecologists. The same copayments,
16 deductibles and benefit limits shall apply to the diagnosis and
17 treatment of infertility pursuant to this section as those applied to
18 other medical or surgical benefits under the contract. **【Infertility**
19 **resulting from voluntary sterilization procedures shall be excluded**
20 **under the contract for the coverage required by this section】**
21 Infertility resulting from a voluntary unreversed sterilization
22 procedure may be excluded if the voluntary unreversed sterilization
23 is the sole cause of infertility, provided, however, that coverage for
24 infertility services shall not be excluded if the voluntary
25 sterilization is successfully reversed. ²**【A contract shall not impose**
26 any exclusions, limitations, or restrictions on coverage of any
27 fertility services provided by or to a third party.】²

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

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

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

10 ²e. Nothing in this section shall preclude the hospital service
11 corporation from performing utilization review, including periodic
12 review of the medical necessity of a particular service, provided all
13 utilization review decisions are consistent with American Society
14 for Reproductive Medicine guidelines.²

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

16

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

19 2. a. A medical service corporation contract which provides
20 hospital or medical expense benefits for groups with more than 50
21 persons, which includes pregnancy-related benefits, shall not be
22 delivered, issued, executed or renewed in this State, or approved for
23 issuance or renewal in this State by the Commissioner of Banking and
24 Insurance on or after the effective date of this act unless the contract
25 provides coverage for persons covered under the contract for
26 medically necessary expenses, as determined by a physician, incurred
27 in the diagnosis and treatment of infertility as provided pursuant to this
28 section. The medical service corporation contract shall provide
29 coverage for any services related to infertility¹ [that is recommended]
30 in accordance with American Society for Reproductive Medicine
31 guidelines and as determined¹ by a physician, which includes, but is
32 not limited to[, the following services related to infertility]: diagnosis
33 and diagnostic tests; medications; surgery; intrauterine insemination;
34 in vitro fertilization², including in vitro fertilization using donor eggs
35 and in vitro fertilization where the embryo is transferred to a
36 gestational carrier or surrogate²; genetic testing; ²[embryo transfer;]²
37 artificial insemination; [gamete intra fallopian transfer; zygote intra
38 fallopian transfer;] intracytoplasmic sperm injection; [and] four
39 completed egg retrievals [per lifetime of the covered person]; ²[and]²
40 unlimited embryo transfers, in accordance with guidelines from the
41 American Society for Reproductive Medicine, using single embryo
42 transfer when recommended and deemed medically appropriate by a
43 physician²; and medical costs of egg or sperm donors, including office
44 visits, medications, laboratory and radiological procedures and
45 retrieval, shall be covered until the donor is released from treatment by
46 the reproductive endocrinologist². The medical service corporation
47 may provide that coverage for in vitro fertilization[, gamete intra

1 fallopian transfer and zygote intra fallopian transfer] shall be limited
 2 to a covered person who [a.] has used all reasonable, less expensive
 3 and medically appropriate treatments , as determined by a licensed
 4 physician, and is still unable to become pregnant or carry a pregnancy
 5 to a live birth]; b. has not reached the limit of four completed egg
 6 retrievals; and c. is 45 years of age or younger]. Coverage for
 7 infertility services provided to partners of persons who have
 8 successfully reversed a voluntary sterilization shall not be excluded.
 9 ²A contract shall not impose any restriction concerning the coverage of
 10 infertility services based on age.²

11 [For purposes of] ¹[b.]¹ As used in ¹[this]¹this section [.]:

12 "Infertility" means a disease [or], condition, or status
 13 characterized by ¹any of the following¹: [that results in the abnormal
 14 function of the reproductive system, as determined pursuant to
 15 American Society for Reproductive Medicine practice guidelines by a
 16 physician who is Board Certified or Board Eligible in Reproductive
 17 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 18 the patient has met one of the following conditions:

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

34 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
 35 term] inability to achieve a successful pregnancy based on a patient's
 36 medical, sexual, and reproductive history, age, physical findings,
 37 diagnostic testing, or any combination of those factors¹;

38 (2) ¹[a person's inability to reproduce as a single individual or
 39 with a partner of the individual without medical intervention] the need
 40 for medical intervention, including, but not limited to, the use of donor
 41 gametes or donor embryos in order to achieve a successful pregnancy
 42 either as an individual or with a partner¹; or

43 (3) ¹[a physician's recommendation, diagnosis, treatment plan, or
 44 prescription based on a patient's medical, sexual, and reproductive
 45 history, age, physical findings or diagnostic testing] in patients having
 46 regular, unprotected intercourse and without any known etiology for

1 either partner suggestive of impaired reproductive ability, evaluation
2 should be initiated at 12 months when the female partner is under 35
3 years of age and at 6 months when the female partner is 35 years of
4 age or older.

5 Nothing in this definition shall be used to deny or delay treatment
6 to any individual, regardless of relationship status or sexual
7 orientation¹.

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

11 The benefits shall be provided to the same extent as for other
12 **【pregnancy-related procedures】** medical conditions under the contract,
13 except that the services provided for in this section shall be performed
14 at facilities that conform to standards established by the American
15 Society for Reproductive Medicine or the American College of
16 Obstetricians and Gynecologists. The same copayments, deductibles
17 and benefit limits shall apply to the diagnosis and treatment of
18 infertility pursuant to this section as those applied to other medical or
19 surgical benefits under the contract. **【Infertility resulting from**
20 **voluntary sterilization procedures shall be excluded under the contract**
21 **for the coverage required by this section】** Infertility resulting from a
22 voluntary unreversed sterilization procedure may be excluded if the
23 voluntary unreversed sterilization is the sole cause of infertility,
24 provided, however, that coverage for infertility services shall not be
25 excluded if the voluntary sterilization is successfully reversed. ²**【A**
26 **contract shall not impose any exclusions, limitations, or restrictions on**
27 **coverage of any fertility services provided by or to a third party.】**²

28 b. A religious employer may request, and a hospital service
29 corporation shall grant, an exclusion under the contract for the
30 coverage required by this section for in vitro fertilization, embryo
31 transfer, artificial insemination, zygote intra fallopian transfer and
32 intracytoplasmic sperm injection, if the required coverage is contrary
33 to the religious employer's bona fide religious tenets. The hospital
34 service corporation that issues a contract containing such an exclusion
35 shall provide written notice thereof to each prospective subscriber or
36 subscriber, which shall appear in not less than 10 point type, in the
37 contract, application and sales brochure. For the purposes of this
38 subsection, "religious employer" means an employer that is a church,
39 convention or association of churches or any group or entity that is
40 operated, supervised or controlled by or in connection with a church or
41 a convention or association of churches as defined in 26 U.S.C.
42 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
43 26 U.S.C. s.501(c)(3).

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

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

9 ²e. Nothing in this section shall preclude the medical service
10 corporation from performing utilization review, including periodic
11 review of the medical necessity of a particular service, provided all
12 utilization review decisions are consistent with American Society for
13 Reproductive Medicine guidelines.²

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

15
16 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended to
17 read as follows:

18 3. a. A health service corporation contract which provides
19 hospital or medical expense benefits for groups with more than 50
20 persons, which includes pregnancy-related benefits, shall not be
21 delivered, issued, executed or renewed in this State, or approved for
22 issuance or renewal in this State by the Commissioner of Banking and
23 Insurance on or after the effective date of this act unless the contract
24 provides coverage for persons covered under the contract for
25 medically necessary expenses, as determined by a physician, incurred
26 in the diagnosis and treatment of infertility as provided pursuant to this
27 section. The health service corporation contract shall provide
28 coverage for any services related to infertility ¹**【that is recommended】**
29 in accordance with American Society for Reproductive Medicine
30 guidelines and as determined¹ by a physician, which includes, but is
31 not limited to**【**, the following services related to infertility**】**: diagnosis
32 and diagnostic tests; medications; surgery; intrauterine insemination;
33 in vitro fertilization², including in vitro fertilization using donor eggs
34 and in vitro fertilization where the embryo is transferred to a
35 gestational carrier or surrogate²; genetic testing; ²**【embryo transfer;】²**
36 artificial insemination; **【**gamete intra fallopian transfer; zygote intra
37 fallopian transfer;**】** intracytoplasmic sperm injection; **【and】** four
38 completed egg retrievals **【per lifetime of the covered person】**; ²**【and】²**
39 unlimited embryo transfers, in accordance with guidelines from the
40 American Society for Reproductive Medicine, using single embryo
41 transfer when recommended and deemed medically appropriate by a
42 physician²; and medical costs of egg or sperm donors, including office
43 visits, medications, laboratory and radiological procedures and
44 retrieval, shall be covered until the donor is released from treatment by
45 the reproductive endocrinologist². The health service corporation may
46 provide that coverage for in vitro fertilization**【**, gamete intra fallopian
47 transfer and zygote intra fallopian transfer**】** shall be limited to a

1 covered person who: a. has used all reasonable, less expensive and
 2 medically appropriate treatments , as determined ¹by a ¹ licensed
 3 physician, and is still unable to become pregnant or carry a pregnancy
 4 to a live birth; b. has not reached the limit of four completed egg
 5 retrievals; and c. is 45 years of age or younger]. Coverage for
 6 infertility services provided to partners of persons who have
 7 successfully reversed a voluntary sterilization shall not be excluded.
 8 ²A contract shall not impose any restriction concerning the coverage of
 9 infertility services based on age.²

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

11 "Infertility" means a disease [or], condition, or status
 12 characterized by ¹any of the following¹: [that results in the abnormal
 13 function of the reproductive system, as determined pursuant to
 14 American Society for Reproductive Medicine practice guidelines by a
 15 physician who is Board Certified or Board Eligible in Reproductive
 16 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 17 the patient has met one of the following conditions:

- 18 (1) A male is unable to impregnate a female;
 19 (2) A female with a male partner and under 35 years of age is
 20 unable to conceive after 12 months of unprotected sexual intercourse;
 21 (3) A female with a male partner and 35 years of age and over is
 22 unable to conceive after six months of unprotected sexual intercourse;
 23 (4) A female without a male partner and under 35 years of age who
 24 is unable to conceive after 12 failed attempts of intrauterine
 25 insemination under medical supervision;
 26 (5) A female without a male partner and over 35 years of age who
 27 is unable to conceive after six failed attempts of intrauterine
 28 insemination under medical supervision;
 29 (6) Partners are unable to conceive as a result of involuntary
 30 medical sterility;
 31 (7) A person is unable to carry a pregnancy to live birth; or
 32 (8) A previous determination of infertility pursuant to this section]

33 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
 34 term] inability to achieve a successful pregnancy based on a patient's
 35 medical, sexual, and reproductive history, age, physical findings,
 36 diagnostic testing, or any combination of those factors¹;

37 (2) ¹[a person's inability to reproduce as a single individual or
 38 with a partner of the individual without medical intervention] the need
 39 for medical intervention, including, but not limited to, the use of donor
 40 gametes or donor embryos in order to achieve a successful pregnancy
 41 either as an individual or with a partner¹; or

42 (3) ¹[a physician's recommendation, diagnosis, treatment plan, or
 43 prescription based on a patient's medical, sexual, and reproductive
 44 history, age, physical findings or diagnostic testing] in patients having
 45 regular, unprotected intercourse and without any known etiology for
 46 either partner suggestive of impaired reproductive ability, evaluation

1 should be initiated at 12 months when the female partner is under 35
2 years of age and at 6 months when the female partner is 35 years of
3 age or older.

4 Nothing in this definition shall be used to deny or delay treatment
5 to any individual, regardless of relationship status or sexual
6 orientation¹.

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

10 The benefits shall be provided to the same extent as for other
11 **【pregnancy-related procedures】** medical conditions under the contract,
12 except that the services provided for in this section shall be performed
13 at facilities that conform to standards established by the American
14 Society for Reproductive Medicine or the American College of
15 Obstetricians and Gynecologists. The same copayments, deductibles
16 and benefit limits shall apply to the diagnosis and treatment of
17 infertility pursuant to this section as those applied to other medical or
18 surgical benefits under the contract. **【Infertility resulting from**
19 **voluntary sterilization procedures shall be excluded under the contract**
20 **for the coverage required by this section】** Infertility resulting from a
21 voluntary unreversed sterilization procedure may be excluded if the
22 voluntary unreversed sterilization is the sole cause of infertility,
23 provided, however, that coverage for infertility services shall not be
24 excluded if the voluntary sterilization is successfully reversed. ²**【A**
25 **contract shall not impose any exclusions, limitations, or restrictions on**
26 **coverage of any fertility services provided by or to a third party.】**²

27 b. A religious employer may request, and a hospital service
28 corporation shall grant, an exclusion under the contract for the
29 coverage required by this section for in vitro fertilization, embryo
30 transfer, artificial insemination, zygote intra fallopian transfer and
31 intracytoplasmic sperm injection, if the required coverage is contrary
32 to the religious employer's bona fide religious tenets. The hospital
33 service corporation that issues a contract containing such an exclusion
34 shall provide written notice thereof to each prospective subscriber or
35 subscriber, which shall appear in not less than 10 point type, in the
36 contract, application and sales brochure. For the purposes of this
37 subsection, "religious employer" means an employer that is a church,
38 convention or association of churches or any group or entity that is
39 operated, supervised or controlled by or in connection with a church or
40 a convention or association of churches as defined in 26 U.S.C.
41 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
42 26 U.S.C. s.501(c)(3).

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

46 d. The provisions of this section shall not apply to a health service
47 corporation contract which, pursuant to a contract between the health

1 service corporation and the Department of Human Services, provides
2 benefits to persons who are eligible for medical assistance under
3 P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program
4 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other
5 program administered by the Division of Medical Assistance and
6 Health Services in the Department of Human Services.

7 ²e. Nothing in this section shall preclude the health service
8 corporation from performing utilization review, including periodic
9 review of the medical necessity of a particular service, provided all
10 utilization review decisions are consistent with American Society for
11 Reproductive Medicine guidelines.²

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

13
14 4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended to
15 read as follows:

16 4. a. A group health insurance policy which provides hospital or
17 medical expense benefits for groups with more than 50 persons, which
18 includes pregnancy-related benefits, shall not be delivered, issued,
19 executed or renewed in this State, or approved for issuance or renewal
20 in this State by the Commissioner of Banking and Insurance on or after
21 the effective date of this act unless the policy provides coverage for
22 persons covered under the policy for medically necessary expenses , as
23 determined by a physician, incurred in the diagnosis and treatment of
24 infertility as provided pursuant to this section. The policy shall
25 provide coverage for any services related to infertility ¹[that is
26 recommended] in accordance with American Society for Reproductive
27 Medicine guidelines and as determined¹ by a physician, which
28 includes, but is not limited to], the following services related to
29 infertility¹: diagnosis and diagnostic tests; medications; surgery;
30 intrauterine insemination; in vitro fertilization², including in vitro
31 fertilization using donor eggs and in vitro fertilization where the
32 embryo is transferred to a gestational carrier or surrogate²; genetic
33 testing; ²[embryo transfer;]² artificial insemination; [gamete intra
34 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
35 sperm injection; [and] four completed egg retrievals [per lifetime of
36 the covered person]; ²[and]² unlimited embryo transfers, in
37 accordance with guidelines from the American Society for
38 Reproductive Medicine, using single embryo transfer when
39 recommended and deemed medically appropriate by a physician²; and
40 medical costs of egg or sperm donors, including office visits,
41 medications, laboratory and radiological procedures and retrieval, shall
42 be covered until the donor is released from treatment by the
43 reproductive endocrinologist². The policy may provide that coverage
44 for in vitro fertilization¹, gamete intra fallopian transfer and zygote
45 intra fallopian transfer¹ shall be limited to a covered person who¹: a.]
46 has used all reasonable, less expensive and medically appropriate

1 treatments , as determined by a licensed physician, and is still unable
 2 to become pregnant or carry a pregnancy to a live birth]; b. has not
 3 reached the limit of four completed egg retrievals; and c. is 45 years of
 4 age or younger]. Coverage for infertility services provided to partners
 5 of persons who have successfully reversed a voluntary sterilization
 6 shall not be excluded. ²A policy shall not impose any restriction
 7 concerning the coverage of infertility services based on age.²

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

9 "Infertility" means a disease **【or】**, condition, or status
 10 characterized by ¹any of the following¹: **【that results in the abnormal**
 11 **function of the reproductive system, as determined pursuant to**
 12 **American Society for Reproductive Medicine practice guidelines by a**
 13 **physician who is Board Certified or Board Eligible in Reproductive**
 14 **Endocrinology and Infertility or in Obstetrics and Gynecology or that**
 15 **the patient has met one of the following conditions:**

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

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

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

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

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

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

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

30 (8) A previous determination of infertility pursuant to this section **【**

31 ¹**【failure to establish a pregnancy or carry a pregnancy to**
 32 **term】** inability to achieve a successful pregnancy based on a patient's
 33 medical, sexual, and reproductive history, age, physical findings,
 34 diagnostic testing, or any combination of those factors¹;

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

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

1 years of age and at 6 months when the female partner is 35 years of
2 age or older.

3 Nothing in this definition shall be used to deny or delay treatment
4 to any individual, regardless of relationship status or sexual
5 orientation¹.

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

9 The benefits shall be provided to the same extent as for other
10 **【pregnancy-related procedures】** medical conditions under the policy,
11 except that the services provided for in this section shall be performed
12 at facilities that conform to standards established by the American
13 Society for Reproductive Medicine or the American College of
14 Obstetricians and Gynecologists. The same copayments, deductibles
15 and benefit limits shall apply to the diagnosis and treatment of
16 infertility pursuant to this section as those applied to other medical or
17 surgical benefits under the contract. **【Infertility resulting from**
18 **voluntary sterilization procedures shall be excluded under the contract**
19 **for the coverage required by this section】** Infertility resulting from a
20 voluntary unreversed sterilization procedure may be excluded if the
21 voluntary unreversed sterilization is the sole cause of infertility,
22 provided, however, that coverage for infertility services shall not be
23 excluded if the voluntary sterilization is successfully reversed. ²**【A**
24 **policy shall not impose any exclusions, limitations, or restrictions on**
25 **coverage of any fertility services provided by or to a third party.】²**

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

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

44 d. The provisions of this section shall not apply to a group health
45 insurance policy which, pursuant to a contract between the insurer and
46 the Department of Human Services, provides benefits to persons who
47 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et

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

5 ²e. Nothing in this section shall preclude the insurer from
 6 performing utilization review, including periodic review of the
 7 medical necessity of a particular service, provided all utilization
 8 review decisions are consistent with American Society for
 9 Reproductive Medicine guidelines.²

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

11

12 5. Section 5 of P.L.2001²~~].~~² c.236 (C.26:2J-4.23) is amended
 13 to read as follows:

14 5. a. No certificate of authority to establish and operate a health
 15 maintenance organization in this State shall be issued or continued on
 16 or after the effective date of this act unless the health maintenance
 17 organization provides health care services, to groups of more than 50
 18 enrollees, for medically necessary expenses, as determined by a
 19 physician, incurred in the diagnosis and treatment of infertility as
 20 provided pursuant to this section. A health maintenance organization
 21 shall provide enrollee coverage for any services related to infertility
 22 ¹[that is recommended] in accordance with American Society for
 23 Reproductive Medicine guidelines and as determined¹ by a physician,
 24 which includes, but is not limited to~~],~~ the following services related to
 25 infertility~~]:~~ diagnosis and diagnostic tests; medications; surgery;
 26 intrauterine insemination; in vitro fertilization², including in vitro
 27 fertilization using donor eggs and in vitro fertilization where the
 28 embryo is transferred to a gestational carrier or surrogate²; genetic
 29 testing; ²[embryo transfer;]² artificial insemination; [gamete intra
 30 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
 31 sperm injection; [and] four completed egg retrievals [per lifetime of
 32 the covered person]; ²[and]² unlimited embryo transfers, in
 33 accordance with guidelines from the American Society for
 34 Reproductive Medicine, using single embryo transfer when
 35 recommended and deemed medically appropriate by a physician²; and
 36 medical costs of egg or sperm donors, including office visits,
 37 medications, laboratory and radiological procedures and retrieval, shall
 38 be covered until the donor is released from treatment by the
 39 reproductive endocrinologist². A health maintenance organization
 40 may provide that coverage for in vitro fertilization~~],~~ gamete intra
 41 fallopian transfer and zygote intra fallopian transfer] shall be limited
 42 to a covered person who~~]:~~ a.] has used all reasonable, less expensive
 43 and medically appropriate treatments , as determined by a licensed
 44 physician, and is still unable to become pregnant or carry a pregnancy
 45 to a live birth~~];~~ b. has not reached the limit of four completed egg
 46 retrievals; and c. is 45 years of age or younger]. Coverage for

1 infertility services provided to partners of persons who have
 2 successfully reversed a voluntary sterilization shall not be excluded.

3 ²A contract shall not impose any restriction concerning the coverage of
 4 infertility services based on age.²

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

6 "Infertility" means a disease **【or】**, condition, or status
 7 characterized by ¹any of the following¹: **【that results in the abnormal**
 8 **function of the reproductive system, as determined pursuant to**
 9 **American Society for Reproductive Medicine practice guidelines by a**
 10 **physician who is Board Certified or Board Eligible in Reproductive**
 11 **Endocrinology and Infertility or in Obstetrics and Gynecology or that**
 12 **the patient has met one of the following conditions:**

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

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

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

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

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

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

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

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

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

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

37 ¹**【(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】 in patients having**
 40 **regular, unprotected intercourse and without any known etiology for**
 41 **either partner suggestive of impaired reproductive ability, evaluation**
 42 **should be initiated at 12 months when the female partner is under 35**
 43 **years of age and at 6 months when the female partner is 35 years of**
 44 **age or older.**

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

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

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

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

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

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

3 ²e. Nothing in this section shall preclude the health maintenance
4 organization from performing utilization review, including periodic
5 review of the medical necessity of a particular service, provided all
6 utilization review decisions are consistent with American Society for
7 Reproductive Medicine guidelines.²

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

9

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

34 b. As used in this this section:

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

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

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

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

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

47 The benefits shall be provided to the same extent as for other
48 medical conditions under the health benefits plan, except that the

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

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

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

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

41

42 ¹【7. (New section) a. Every small employer health benefits plan
43 that provides hospital or medical expense benefits and is delivered,
44 issued, executed or renewed in this State pursuant to P.L.1992,
45 c.162 (C.17B:27A-17 et seq.), or approved for issuance or renewal
46 in this State on or after the effective date of this act, shall provide to
47 any person covered thereunder for medically necessary expenses
48 incurred in the diagnosis and treatment of infertility as provided

1 pursuant to this section. The health benefits plan shall provide for
2 any services related to infertility that is recommended by a
3 physician, which includes, but is not limited to: diagnosis and
4 diagnostic tests; medications; surgery; intrauterine insemination; in
5 vitro fertilization; genetic testing; embryo transfer; artificial
6 insemination; intracytoplasmic sperm injection; four completed egg
7 retrievals; and unlimited embryo transfers, in accordance with
8 guidelines from the American Society for Reproductive Medicine,
9 using single embryo transfer when recommended and deemed
10 medically appropriate by a physician. The health benefits plan may
11 provide that coverage for in vitro fertilization shall be limited to a
12 covered person who has used all reasonable, less expensive and
13 medically appropriate treatments, as determined by a licensed
14 physician, and is still unable to become pregnant or carry a
15 pregnancy to a live birth. Coverage for infertility services provided
16 to partners of persons who have successfully reversed a voluntary
17 sterilization shall not be excluded.

18 b. As used in this this section:

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

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

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

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

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

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

46 c. A religious employer may request, and a health maintenance
47 organization shall grant, an exclusion under the contract for the
48 coverage required by this section for in vitro fertilization, embryo

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

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

17 e. The provisions of this section shall not apply to a small
 18 employer health benefits plan contract which, pursuant to a contract
 19 between the small employer health benefits plan and the
 20 Department of Human Services, provides benefits to persons who
 21 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-
 22 1 et seq.), the NJ FamilyCare Program established pursuant to
 23 P.L.2005, c.156 (C.30:4J-8 et al.), or any other program
 24 administered by the Division of Medical Assistance and Health
 25 Services in the Department of Human Services. ¹

26

27 **[6] ¹[8] 6¹. Section 6 of P.L.2017, c.48 ²[(C.52:14-17.29y)]**
 28 **(C.52:14-17.29v)²** is amended to read as follows:

29 6. The State Health Benefits Commission shall ensure that every
 30 contract under the State Health Benefits Program shall provide
 31 coverage for medically necessary expenses , as determined by a
 32 physician, incurred in the diagnosis and treatment of infertility as
 33 provided pursuant to this section. The State Health Benefits Program
 34 shall provide coverage for any services related to infertility ¹**[that is**
 35 **recommended]** in accordance with American Society for Reproductive
 36 Medicine guidelines and as determined¹ by a physician, which
 37 includes, but is not limited to**[**, the following services related to
 38 infertility**]**: diagnosis and diagnostic tests; medications; surgery;
 39 intrauterine insemination; in vitro fertilization², including in vitro
 40 fertilization using donor eggs and in vitro fertilization where the
 41 embryo is transferred to a gestational carrier or surrogate²; genetic
 42 testing; ²[embryo transfer;]² artificial insemination; [gamete intra
 43 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
 44 sperm injection; **[and]** four completed egg retrievals **[per lifetime of**
 45 **the covered person]; ²[and]² unlimited embryo transfers, in**
 46 **accordance with guidelines from the American Society for**
 47 **Reproductive Medicine, using single embryo transfer when**

1 recommended and deemed medically appropriate by a physician²; and
 2 medical costs of egg or sperm donors, including office visits,
 3 medications, laboratory and radiological procedures and retrieval, shall
 4 be covered until the donor is released from treatment by the
 5 reproductive endocrinologist². The State Health Benefits Commission
 6 may provide that coverage for in vitro fertilization[, gamete intra
 7 fallopian transfer and zygote intra fallopian transfer] shall be limited
 8 to a covered person who[: a.] has used all reasonable, less expensive
 9 and medically appropriate treatments , as determined by a licensed
 10 physician, and is still unable to become pregnant or carry a pregnancy
 11 to a live birth[: b. has not reached the limit of four completed egg
 12 retrievals; and c. is 45 years of age or younger]. Coverage for
 13 infertility services provided to partners of persons who have
 14 successfully reversed a voluntary sterilization shall not be excluded.
 15 ²A contract shall not impose any restriction concerning the coverage of
 16 infertility services based on age.²

17 **[For purposes of] ¹[b.]¹ As used in ¹[this]¹ this section[.]:**

18 "Infertility" means a disease [or], condition, or status
 19 characterized by ¹any of the following¹: [that results in the abnormal
 20 function of the reproductive system, as determined pursuant to
 21 American Society for Reproductive Medicine practice guidelines by a
 22 physician who is Board Certified or Board Eligible in Reproductive
 23 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 24 the patient has met one of the following conditions:

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

40 **(1) the ¹[failure to establish a pregnancy or carry a pregnancy to**
 41 **term] inability to achieve a successful pregnancy based on a patient's**
 42 **medical, sexual, and reproductive history, age, physical findings,**
 43 **diagnostic testing, or any combination of those factors¹;**

44 **(2) ¹[a person's inability to reproduce as a single individual or**
 45 **with a partner of the individual without medical intervention] the need**
 46 **for medical intervention, including, but not limited to, the use of donor**

1 gametes or donor embryos in order to achieve a successful pregnancy
2 either as an individual or with a partner¹; or

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

11 Nothing in this definition shall be used to deny or delay treatment
12 to any individual, regardless of relationship status or sexual
13 orientation¹.

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

17 The benefits shall be provided to the same extent as for other
18 **[pregnancy-related procedures]** medical conditions under the contract,
19 except that the services provided for in this section shall be performed
20 at facilities that conform to standards established by the American
21 Society for Reproductive Medicine or the American College of
22 Obstetricians and Gynecologists. The same copayments, deductibles
23 and benefit limits shall apply to the diagnosis and treatment of
24 infertility pursuant to this section as those applied to other medical or
25 surgical benefits under the contract. **[Infertility resulting from**
26 **voluntary sterilization procedures shall be excluded under the contract**
27 **for the coverage required by this section]** Infertility resulting from a
28 voluntary unreversed sterilization procedure may be excluded if the
29 voluntary unreversed sterilization is the sole cause of infertility,
30 provided, however, that coverage for infertility services shall not be
31 excluded if the voluntary sterilization is successfully reversed. ²[A
32 contract shall not impose any exclusions, limitations, or restrictions on
33 coverage of any fertility services provided by or to a third party]

34 Nothing in this section shall preclude the carrier from performing
35 utilization review, including periodic review of the medical necessity
36 of a particular service, provided all utilization review decisions are
37 consistent with American Society for Reproductive Medicine
38 guidelines².

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

40

41 **[7] ¹[9] 7¹.** Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
42 amended to read as follows:

43 7. The School Employees Health Benefits Commission shall
44 ensure that every contract under the School Employees Health
45 Benefits Program shall provide coverage for medically necessary
46 expenses , as determined by a physician, incurred in the diagnosis and
47 treatment of infertility as provided pursuant to this section. The

1 School Employees Health Benefits Program contract shall provide
 2 coverage for any services related to infertility ¹**[that is recommended]**
 3 in accordance with American Society for Reproductive Medicine
 4 guidelines and as determined¹ by a physician, which includes, but is
 5 not limited to**[**, the following services related to infertility**]**: diagnosis
 6 and diagnostic tests; medications; surgery; intrauterine insemination;
 7 in vitro fertilization², including in vitro fertilization using donor eggs
 8 and in vitro fertilization where the embryo is transferred to a
 9 gestational carrier or surrogate²; genetic testing; ²**[embryo transfer;]**²
 10 artificial insemination; **[**gamete intra fallopian transfer; zygote intra
 11 fallopian transfer;**]** intracytoplasmic sperm injection; **[and]** four
 12 completed egg retrievals **[**per lifetime of the covered person**]**; ²**[and]**²
 13 unlimited embryo transfers, in accordance with guidelines from the
 14 American Society for Reproductive Medicine, using single embryo
 15 transfer when recommended and deemed medically appropriate by a
 16 physician²; and medical costs of egg or sperm donors, including office
 17 visits, medications, laboratory and radiological procedures and
 18 retrieval, shall be covered until the donor is released from treatment by
 19 the reproductive endocrinologist². The School Employees Health
 20 Benefits Commission may provide that coverage for in vitro
 21 fertilization**[**, gamete intra fallopian transfer and zygote intra fallopian
 22 transfer**]** shall be limited to a covered person who**[**: a.**]** has used all
 23 reasonable, less expensive and medically appropriate treatments , as
 24 determined by a licensed physician, and is still unable to become
 25 pregnant or carry a pregnancy to a live birth**[**; b. has not reached the
 26 limit of four completed egg retrievals; and c. is 45 years of age or
 27 younger**]**. Coverage for infertility services provided to partners of
 28 persons who have successfully reversed a voluntary sterilization shall
 29 not be excluded. ²A contract shall not impose any restriction
 30 concerning the coverage of infertility services based on age.²

31 **[**For purposes of ¹**[b.]**¹ As used in ¹**[this]**¹ this section**[**,**]**
 32 "Infertility" means a disease **[**or**]**, condition, or status
 33 characterized by ¹any of the following¹: **[**that results in the abnormal
 34 function of the reproductive system, as determined pursuant to
 35 American Society for Reproductive Medicine practice guidelines by a
 36 physician who is Board Certified or Board Eligible in Reproductive
 37 Endocrinology and Infertility or in Obstetrics and Gynecology or that
 38 the patient has met one of the following conditions:
 39 (1) A male is unable to impregnate a female;
 40 (2) A female with a male partner and under 35 years of age is
 41 unable to conceive after 12 months of unprotected sexual intercourse;
 42 (3) A female with a male partner and 35 years of age and over is
 43 unable to conceive after six months of unprotected sexual intercourse;
 44 (4) A female without a male partner and under 35 years of age who
 45 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 who
2 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 section¹
8 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
9 term] inability to achieve a successful pregnancy based on a patient's
10 medical, sexual, and reproductive history, age, physical findings,
11 diagnostic testing, or any combination of those factors¹;
- 12 (2) ¹[a person's inability to reproduce as a single individual or
13 with a partner of the individual without medical intervention] the need
14 for medical intervention, including, but not limited to, the use of donor
15 gametes or donor embryos in order to achieve a successful pregnancy
16 either as an individual or with a partner¹; or
- 17 (3) ¹[a physician's recommendation, diagnosis, treatment plan, or
18 prescription based on a patient's medical, sexual, and reproductive
19 history, age, physical findings or diagnostic testing] in patients having
20 regular, unprotected intercourse and without any known etiology for
21 either partner suggestive of impaired reproductive ability, evaluation
22 should be initiated at 12 months when the female partner is under 35
23 years of age and at 6 months when the female partner is 35 years of
24 age or older.
- 25 Nothing in this definition shall be used to deny or delay treatment
26 to any individual, regardless of relationship status or sexual
27 orientation¹.
- 28 "Treatment of infertility" means the recommended treatment plan
29 or prescribed procedures, services, and medications directed by a
30 licensed physician for infertility as defined in this section.
- 31 The benefits shall be provided to the same extent as for other
32 **[pregnancy-related procedures]** medical conditions under the contract,
33 except that the services provided for in this section shall be performed
34 at facilities that conform to standards established by the American
35 Society for Reproductive Medicine or the American College of
36 Obstetricians and Gynecologists. The same copayments, deductibles
37 and benefit limits shall apply to the diagnosis and treatment of
38 infertility pursuant to this section as those applied to other medical or
39 surgical benefits under the contract. **[Infertility resulting from
40 voluntary sterilization procedures shall be excluded under the contract
41 for the coverage required by this section]** Infertility resulting from a
42 voluntary unreversed sterilization procedure may be excluded under
43 the contract if the voluntary unreversed sterilization is the sole cause
44 of infertility, provided, however, that coverage for infertility services
45 shall not be excluded if the voluntary sterilization is successfully
46 reversed. ²[A contract shall not impose any exclusions, limitations, or

1 restrictions on coverage of any fertility services provided by or to a
2 third party】

3 Nothing in this section shall preclude the carrier from performing
4 utilization review, including periodic review of the medical necessity
5 of a particular service, provided all utilization review decisions are
6 consistent with American Society for Reproductive Medicine
7 guidelines².

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

9

10 **【8】¹【10.】 8.¹** This act shall take effect **2【immediately】** on the
11 first day of the seventh month next following the date of enactment²
12 and shall apply to contracts issued or renewed on or after the
13 effective date.