

P.L. 2023, CHAPTER 258, *approved January 12, 2024*
Assembly, No. 5235 (*Second Reprint*)

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

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 endocrinologist². The hospital service corporation may provide that
 2 coverage for in vitro fertilization~~], gamete intra fallopian transfer~~
 3 ~~and zygote intra fallopian transfer]~~ shall be limited to a covered
 4 person who~~]: a.]~~ has used all reasonable, less expensive and
 5 medically appropriate treatments , as determined by a licensed
 6 physician, and is still unable to become pregnant or carry a
 7 pregnancy ~~]; b. has not reached the limit of four completed egg~~
 8 ~~retrievals; and c. is 45 years of age or younger]~~ to a live birth.
 9 Coverage for infertility services provided to partners of persons
 10 who have successfully reversed a voluntary sterilization shall not be
 11 excluded. ²A contract shall not impose any restriction concerning
 12 the coverage of infertility services based on age.²

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

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

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

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

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

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

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

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

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

37 (8) A previous determination of infertility pursuant to this
 38 section] , or status characterized by ¹any of the following¹:

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

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

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

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

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

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

35 b. A religious employer may request, and a hospital service
36 corporation shall grant, an exclusion under the contract for the
37 coverage required by this section for in vitro fertilization, embryo
38 transfer, artificial insemination, zygote intra fallopian transfer and
39 intracytoplasmic sperm injection, if the required coverage is
40 contrary to the religious employer's bona fide religious tenets. The
41 hospital service corporation that issues a contract containing such
42 an exclusion shall provide written notice thereof to each prospective
43 subscriber or subscriber, which shall appear in not less than 10
44 point type, in the contract, application and sales brochure. For the
45 purposes of this subsection, "religious employer" means an
46 employer that is a church, convention or association of churches or
47 any group or entity that is operated, supervised or controlled by or

1 in connection with a church or a convention or association of
2 churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies
3 as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

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

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

16 ²e. Nothing in this section shall preclude the hospital service
17 corporation from performing utilization review, including periodic
18 review of the medical necessity of a particular service, provided all
19 utilization review decisions are consistent with American Society
20 for Reproductive Medicine guidelines.²

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

22

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

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

1 transfer when recommended and deemed medically appropriate by a
 2 physician²; and medical costs of egg or sperm donors, including office
 3 visits, medications, laboratory and radiological procedures and
 4 retrieval, shall be covered until the donor is released from treatment by
 5 the reproductive endocrinologist². The medical service corporation
 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]¹this 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 as 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.]²

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

1 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
2 26 U.S.C. s.501(c)(3).

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

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

14 ²e. Nothing in this section shall preclude the medical service
15 corporation from performing utilization review, including periodic
16 review of the medical necessity of a particular service, provided all
17 utilization review decisions are consistent with American Society for
18 Reproductive Medicine guidelines.²
19 (cf: P.L.2017, c.48, s.2)

20
21 3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended to
22 read as follows:

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

1 visits, medications, laboratory and radiological procedures and
 2 retrieval, shall be covered until the donor is released from treatment by
 3 the reproductive endocrinologist². The health service corporation may
 4 provide that coverage for in vitro fertilization[, gamete intra fallopian
 5 transfer and zygote intra fallopian transfer] shall be limited to a
 6 covered person who[: a.] has used all reasonable, less expensive and
 7 medically appropriate treatments , as determined ¹[bya] by a¹ licensed
 8 physician, and is still unable to become pregnant or carry a pregnancy
 9 to a live birth[: b. has not reached the limit of four completed egg
 10 retrievals; and c. is 45 years of age or younger]. Coverage for
 11 infertility services provided to partners of persons who have
 12 successfully reversed a voluntary sterilization shall not be excluded.
 13 ²A contract shall not impose any restriction concerning the coverage of
 14 infertility services based on age.²

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

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

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

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

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

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

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

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

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

32 b. A religious employer may request, and a hospital service
33 corporation shall grant, an exclusion under the contract for the
34 coverage required by this section for in vitro fertilization, embryo
35 transfer, artificial insemination, zygote intra fallopian transfer and
36 intracytoplasmic sperm injection, if the required coverage is contrary
37 to the religious employer's bona fide religious tenets. The hospital
38 service corporation that issues a contract containing such an exclusion
39 shall provide written notice thereof to each prospective subscriber or
40 subscriber, which shall appear in not less than 10 point type, in the
41 contract, application and sales brochure. For the purposes of this
42 subsection, "religious employer" means an employer that is a church,
43 convention or association of churches or any group or entity that is
44 operated, supervised or controlled by or in connection with a church or
45 a convention or association of churches as defined in 26 U.S.C.
46 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
47 26 U.S.C. s.501(c)(3).

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

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

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

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

18

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

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

1 reproductive endocrinologist². The policy may provide that coverage
 2 for in vitro fertilization~~], gamete intra fallopian transfer and zygote~~
 3 ~~intra fallopian transfer]~~ shall be limited to a covered person who~~]: a.]~~
 4 has used all reasonable, less expensive and medically appropriate
 5 treatments , as determined by a licensed physician, and is still unable
 6 to become pregnant or carry a pregnancy to a live birth~~]; b. has not~~
 7 reached the limit of four completed egg retrievals; and c. is 45 years of
 8 age or younger~~]. Coverage for infertility services provided to partners~~
 9 of persons who have successfully reversed a voluntary sterilization
 10 shall not be excluded. ²A policy shall not impose any restriction
 11 concerning the coverage of infertility services based on age.²

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

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

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

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

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

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

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

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

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

34 (8) A previous determination of infertility pursuant to this section~~]~~

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

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

44 ¹~~(3)~~ ¹[a physician's recommendation, diagnosis, treatment plan, or
 45 prescription based on a patient's medical, sexual, and reproductive
 46 history, age, physical findings or diagnostic testing] in patients having

1 regular, unprotected intercourse and without any known etiology for
2 either partner suggestive of impaired reproductive ability, evaluation
3 should be initiated at 12 months when the female partner is under 35
4 years of age and at 6 months when the female partner is 35 years of
5 age or older.

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

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

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

29 b. A religious employer may request, and a hospital service
30 corporation shall grant, an exclusion under the contract for the
31 coverage required by this section for in vitro fertilization, embryo
32 transfer, artificial insemination, zygote intra fallopian transfer and
33 intracytoplasmic sperm injection, if the required coverage is contrary
34 to the religious employer's bona fide religious tenets. The hospital
35 service corporation that issues a contract containing such an exclusion
36 shall provide written notice thereof to each prospective subscriber or
37 subscriber, which shall appear in not less than 10 point type, in the
38 contract, application and sales brochure. For the purposes of this
39 subsection, "religious employer" means an employer that is a church,
40 convention or association of churches or any group or entity that is
41 operated, supervised or controlled by or in connection with a church or
42 a convention or association of churches as defined in 26 U.S.C.
43 s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under
44 26 U.S.C. s.501(c)(3).

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

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

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

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

15
 16 5. Section 5 of P.L.2001²~~1~~² c.236 (C.26:2J-4.23) is amended
 17 to read as follows:

18 5. a. No certificate of authority to establish and operate a health
 19 maintenance organization in this State shall be issued or continued on
 20 or after the effective date of this act unless the health maintenance
 21 organization provides health care services, to groups of more than 50
 22 enrollees, for medically necessary expenses, as determined by a
 23 physician, incurred in the diagnosis and treatment of infertility as
 24 provided pursuant to this section. A health maintenance organization
 25 shall provide enrollee coverage for any services related to infertility
 26 ¹[that is recommended] in accordance with American Society for
 27 Reproductive Medicine guidelines and as determined¹ by a physician,
 28 which includes, but is not limited to~~],~~ the following services related to
 29 infertility~~]:~~ 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. A health maintenance organization
 44 may provide that coverage for in vitro fertilization~~],~~ gamete intra
 45 fallopian transfer and zygote intra fallopian transfer~~]~~ shall be limited
 46 to a covered person who~~]:~~ a.] has used all reasonable, less expensive

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (3) ¹**【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】** in patients having
44 regular, unprotected intercourse and without any known etiology for
45 either partner suggestive of impaired reproductive ability, evaluation
46 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 contract,
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 **contract 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 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 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. The provisions of this section shall apply to those contracts for
43 health care services by health maintenance organizations under which
44 the right to change the schedule of charges for enrollee coverage is
45 reserved.

46 d. The provisions of this section shall not apply to a contract for
47 health care services by a health maintenance organization which,

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

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

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

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

39 b. As used in this this section:

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

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

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

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

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

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

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

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

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

46
47 ¹【7. (New section) a. Every small employer health benefits plan
48 that provides hospital or medical expense benefits and is delivered,

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

23 b. As used in this this section:

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

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

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

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

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

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

1 not impose any exclusions, limitations, or restrictions on coverage
2 of any fertility services provided by or to a third party.

3 c. A religious employer may request, and a health maintenance
4 organization 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 d. The provisions of this section shall apply to all health
20 benefit plans in which the carrier has reserved the right to change
21 the premium.

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

31

32 **[6] ¹[8] 6¹. Section 6 of P.L.2017, c.48 ²[(C.52:14-17.29y)]**
33 **(C.52:14-17.29v)²** is amended to read as follows:

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

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

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

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

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

45 (1) the ¹[failure to establish a pregnancy or carry a pregnancy to
 46 term] inability to achieve a successful pregnancy based on a patient's

1 medical, sexual, and reproductive history, age, physical findings,
2 diagnostic testing, or any combination of those factors¹;

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

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

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

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

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

39 Nothing in this section shall preclude the carrier from performing
40 utilization review, including periodic review of the medical necessity
41 of a particular service, provided all utilization review decisions are
42 consistent with American Society for Reproductive Medicine
43 guidelines².

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

36 **[For purposes of]** ¹**[b.]**¹ As used in ¹**[this]**¹ this section**[,]**:
 37 "Infertility" means a disease **[or]**, condition, or status
 38 characterized by ¹any of the following¹: **[that results in the abnormal**
 39 **function of the reproductive system, as determined pursuant to**
 40 **American Society for Reproductive Medicine practice guidelines by a**
 41 **physician who is Board Certified or Board Eligible in Reproductive**
 42 **Endocrinology and Infertility or in Obstetrics and Gynecology or that**
 43 **the patient has met one of the following conditions:**
 44 (1) A male is unable to impregnate a female;
 45 (2) A female with a male partner and under 35 years of age is
 46 unable to conceive after 12 months of unprotected sexual intercourse;

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

1 the contract if the voluntary unreversed sterilization is the sole cause
2 of infertility, provided, however, that coverage for infertility services
3 shall not be excluded if the voluntary sterilization is successfully
4 reversed. ²**[A contract shall not impose any exclusions, limitations, or**
5 **restrictions on coverage of any fertility services provided by or to a**
6 **third party]**

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

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

13

14 **[8]** ¹**[10.]** 8.¹ This act shall take effect ²**[immediately]** on the
15 first day of the seventh month next following the date of enactment²
16 and shall apply to contracts issued or renewed on or after the
17 effective date.

18

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22 Revises health insurance coverage requirements for treatment of
23 infertility.