

[First Reprint]

SENATE, No. 3627

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Senators Cruz-Perez and Bramnick

SYNOPSIS

Revises health insurance coverage requirements for treatment of infertility.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on December 18, 2023,
with amendments.



(Sponsorship Updated As Of: 12/21/2023)

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 read
 9 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 and
 15 Insurance on or after the effective date of this act unless the contract
 16 provides coverage for persons covered under the contract for
 17 medically necessary expenses , as determined by a physician, incurred
 18 in the diagnosis and treatment of infertility as provided pursuant to this
 19 section. The hospital service corporation contract shall provide
 20 coverage for any services related to infertility ¹["that is recommended"]¹
 21 in accordance with American Society for Reproductive Medicine
 22 guidelines and as determined¹ by a physician, which includes, but is
 23 not limited to["the following services related to infertility"]: diagnosis
 24 and diagnostic tests; medications; surgery; intrauterine insemination;
 25 in vitro fertilization¹, including in vitro fertilization using donor eggs
 26 and in vitro fertilization where the embryo is transferred to a
 27 gestational carrier or surrogate¹; genetic testing; ¹["embryo transfer;"]¹
 28 artificial insemination; ["gamete intra fallopian transfer; zygote intra
 29 fallopian transfer;"] intracytoplasmic sperm injection; ["and"]¹
 30 completed egg retrievals ["per lifetime of the covered person;"]¹ ["and"]¹
 31 unlimited embryo transfers, in accordance with guidelines from the
 32 American Society for Reproductive Medicine, using single embryo
 33 transfer when recommended and deemed medically appropriate by a
 34 physician¹; and medical costs of egg or sperm donors, including office
 35 visits, medications, laboratory and radiological procedures and
 36 retrieval, shall be covered until the donor is released from treatment by
 37 the reproductive endocrinologist¹. The hospital service corporation
 38 may provide that coverage for in vitro fertilization["gamete intra
 39 fallopian transfer and zygote intra fallopian transfer"] shall be limited
 40 to a covered person who["a."] has used all reasonable, less expensive
 41 and medically appropriate treatments , as determined by a licensed
 42 physician, and is still unable to become pregnant or carry a pregnancy
 43 ["b. has not reached the limit of four completed egg retrievals; and c.
 44 is 45 years of age or younger"] to a live birth. Coverage for infertility

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:

¹Senate SCM committee amendments adopted December 18, 2023.

1 services provided to partners of persons who have successfully
2 reversed a voluntary sterilization shall not be excluded. ¹A contract
3 shall not impose any restriction concerning the coverage of infertility
4 services based on age.¹

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

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

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

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

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

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

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

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

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

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

28 (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 factors¹;

32 (2) ¹【a person's inability to reproduce as a single individual or
33 ¹【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 partner¹; or

37 (3) ¹【a physician's recommendation, diagnosis, treatment plan, or
38 ¹【prescription based on a patient's medical, sexual, and reproductive
39 ¹【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 as 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. 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.

21 b. A religious employer may request, and a hospital service
22 corporation 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. This section shall apply to those hospital service corporation
38 contracts in which the hospital service corporation has reserved the
39 right to change the premium.

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

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

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

3 2. a. A medical service corporation contract which provides
4 hospital or medical expense benefits for groups with more than 50
5 persons, which includes pregnancy-related benefits, shall not be
6 delivered, issued, executed or renewed in this State, or approved for
7 issuance or renewal in this State by the Commissioner of Banking and
8 Insurance on or after the effective date of this act unless the contract
9 provides coverage for persons covered under the contract for
10 medically necessary expenses, as determined by a physician, incurred
11 in the diagnosis and treatment of infertility as provided pursuant to this
12 section. The medical service corporation contract shall provide
13 coverage for any services related to infertility ¹**[that is recommended]**
14 in accordance with American Society for Reproductive Medicine
15 guidelines and as determined¹ by a physician, which includes, but is
16 not limited to**[**, the following services related to infertility**]**: diagnosis
17 and diagnostic tests; medications; surgery; intrauterine insemination;
18 in vitro fertilization¹, including in vitro fertilization using donor eggs
19 and in vitro fertilization where the embryo is transferred to a
20 gestational carrier or surrogate¹; genetic testing; ¹**[embryo transfer;]**¹
21 artificial insemination; **[gamete intra fallopian transfer; zygote intra**
22 **fallopian transfer;]** intracytoplasmic sperm injection; **[and]** four
23 completed egg retrievals **[per lifetime of the covered person;]** ¹**[and]**¹
24 unlimited embryo transfers, in accordance with guidelines from the
25 American Society for Reproductive Medicine, using single embryo
26 transfer when recommended and deemed medically appropriate by a
27 physician¹; and medical costs of egg or sperm donors, including office
28 visits, medications, laboratory and radiological procedures and
29 retrieval, shall be covered until the donor is released from treatment by
30 the reproductive endocrinologist¹. The medical service corporation
31 may provide that coverage for in vitro fertilization**[**, gamete intra
32 fallopian transfer and zygote intra fallopian transfer**]** shall be limited
33 to a covered person who**[**: a.**]** has used all reasonable, less expensive
34 and medically appropriate treatments , as determined by a licensed
35 physician, and is still unable to become pregnant or carry a pregnancy
36 to a live birth**[**; b. has not reached the limit of four completed egg
37 retrievals; and c. is 45 years of age or younger**]**. Coverage for
38 infertility services provided to partners of persons who have
39 successfully reversed a voluntary sterilization shall not be excluded.
40 ¹A contract shall not impose any restriction concerning the coverage
41 of infertility services based on age.¹

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40

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

43 3. a. A health service corporation contract which provides
44 hospital or medical expense benefits for groups with more than 50
45 persons, which includes pregnancy-related benefits, shall not be
46 delivered, issued, executed or renewed in this State, or approved for
47 issuance or renewal in this State by the Commissioner of Banking and
48 Insurance on or after the effective date of this act unless the contract

1 provides coverage for persons covered under the contract for
 2 medically necessary expenses, as determined by a physician, incurred
 3 in the diagnosis and treatment of infertility as provided pursuant to this
 4 section. The health service corporation contract shall provide
 5 coverage for any services related to infertility ¹**["that is recommended"]**
 6 in accordance with American Society for Reproductive Medicine
 7 guidelines and as determined¹ by a physician, which includes, but is
 8 not limited to**["**, the following services related to infertility**"]**: diagnosis
 9 and diagnostic tests; medications; surgery; intrauterine insemination;
 10 in vitro fertilization¹, including in vitro fertilization using donor eggs
 11 and in vitro fertilization where the embryo is transferred to a
 12 gestational carrier or surrogate¹; genetic testing; ¹**["embryo transfer;"]**¹
 13 artificial insemination; **["gamete intra fallopian transfer; zygote intra**
 14 **fallopian transfer;"]** intracytoplasmic sperm injection; **["and"]** four
 15 completed egg retrievals **["per lifetime of the covered person;"]** ¹**["and"]**¹
 16 unlimited embryo transfers, in accordance with guidelines from the
 17 American Society for Reproductive Medicine, using single embryo
 18 transfer when recommended and deemed medically appropriate by a
 19 physician¹; and medical costs of egg or sperm donors, including office
 20 visits, medications, laboratory and radiological procedures and
 21 retrieval, shall be covered until the donor is released from treatment by
 22 the reproductive endocrinologist¹. The health service corporation may
 23 provide that coverage for in vitro fertilization**["**, gamete intra fallopian
 24 transfer and zygote intra fallopian transfer**"]** shall be limited to a
 25 covered person who**["**: a**."]** has used all reasonable, less expensive and
 26 medically appropriate treatments , as determined ¹**["by"]** by a¹ licensed
 27 physician, and is still unable to become pregnant or carry a pregnancy
 28 to a live birth**["**; b. has not reached the limit of four completed egg
 29 retrievals; and c. is 45 years of age or younger**"]**. Coverage for
 30 infertility services provided to partners of persons who have
 31 successfully reversed a voluntary sterilization shall not be excluded.
 32 ¹A contract shall not impose any restriction concerning the coverage
 33 of infertility services based on age.¹

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

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

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

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

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

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

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

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

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

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

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

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

1 excluded if the voluntary sterilization is successfully reversed. A
2 contract shall not impose any exclusions, limitations, or restrictions on
3 coverage of any fertility services provided by or to a third party.

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

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

23 d. The provisions of this section shall not apply to a health service
24 corporation contract which, pursuant to a contract between the health
25 service corporation and the Department of Human Services, provides
26 benefits to persons who are eligible for medical assistance under
27 P.L.1968, c.413 (C.30:4D-1 et seq.), the NJ FamilyCare Program
28 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other
29 program administered by the Division of Medical Assistance and
30 Health Services in the Department of Human Services.
31 (cf: P.L.2017, c.48, s.3)

32
33 4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended to
34 read as follows:

35 4. a. A group health insurance policy which provides hospital or
36 medical expense benefits for groups with more than 50 persons, which
37 includes pregnancy-related benefits, shall not be delivered, issued,
38 executed or renewed in this State, or approved for issuance or renewal
39 in this State by the Commissioner of Banking and Insurance on or after
40 the effective date of this act unless the policy provides coverage for
41 persons covered under the policy for medically necessary expenses ,as
42 determined by a physician, incurred in the diagnosis and treatment of
43 infertility as provided pursuant to this section. The policy shall
44 provide coverage for any services related to infertility ¹[that is
45 recommended] in accordance with American Society for Reproductive
46 Medicine guidelines and as determined¹ by a physician, which
47 includes, but is not limited to¹, the following services related to
48 infertility¹: diagnosis and diagnostic tests; medications; surgery;

1 intrauterine insemination; in vitro fertilization¹, including in vitro
 2 fertilization using donor eggs and in vitro fertilization where the
 3 embryo is transferred to a gestational carrier or surrogate¹; genetic
 4 testing; ¹["embryo transfer;"]¹ artificial insemination; ["gamete intra
 5 fallopian transfer; zygote intra fallopian transfer;"] intracytoplasmic
 6 sperm injection; ["and"] four completed egg retrievals ["per lifetime of
 7 the covered person]; ¹["and"]¹ unlimited embryo transfers, in
 8 accordance with guidelines from the American Society for
 9 Reproductive Medicine, using single embryo transfer when
 10 recommended and deemed medically appropriate by a physician¹; and
 11 medical costs of egg or sperm donors, including office visits,
 12 medications, laboratory and radiological procedures and retrieval, shall
 13 be covered until the donor is released from treatment by the
 14 reproductive endocrinologist¹. The policy may provide that coverage
 15 for in vitro fertilization["], gamete intra fallopian transfer and zygote
 16 intra fallopian transfer"] shall be limited to a covered person who[: a.]
 17 has used all reasonable, less expensive and medically appropriate
 18 treatments , as determined by a licensed physician, and is still unable
 19 to become pregnant or carry a pregnancy to a live birth["]; b. has not
 20 reached the limit of four completed egg retrievals; and c. is 45 years of
 21 age or younger"]. Coverage for infertility services provided to partners
 22 of persons who have successfully reversed a voluntary sterilization
 23 shall not be excluded. ¹A policy shall not impose any restriction
 24 concerning the coverage of infertility services based on age.¹

25 **["For purposes of"] ¹["b."] ¹As used in ¹["this"]¹ this section[,]:**

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

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

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

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

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

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

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

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

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

42 b. A religious employer may request, and a hospital service
43 corporation shall grant, an exclusion under the contract for the
44 coverage required by this section for in vitro fertilization, embryo
45 transfer, artificial insemination, zygote intra fallopian transfer and
46 intracytoplasmic sperm injection, if the required coverage is contrary
47 to the religious employer's bona fide religious tenets. The hospital

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

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

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

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

22

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

25 5. a. No certificate of authority to establish and operate a health
26 maintenance organization in this State shall be issued or continued on
27 or after the effective date of this act unless the health maintenance
28 organization provides health care services, to groups of more than 50
29 enrollees, for medically necessary expenses, as determined by a
30 physician, incurred in the diagnosis and treatment of infertility as
31 provided pursuant to this section. A health maintenance organization
32 shall provide enrollee coverage for any services related to infertility
33 ¹that is recommended in accordance with American Society for
34 Reproductive Medicine guidelines and as determined¹ by a physician,
35 which includes, but is not limited to, the following services related to
36 infertility: diagnosis and diagnostic tests; medications; surgery;
37 intrauterine insemination; in vitro fertilization¹, including in vitro
38 fertilization using donor eggs and in vitro fertilization where the
39 embryo is transferred to a gestational carrier or surrogate¹; genetic
40 testing; ¹embryo transfer; artificial insemination; gamete intra
41 fallopian transfer; zygote intra fallopian transfer; intracytoplasmic
42 sperm injection; and four completed egg retrievals per lifetime of
43 the covered person; and unlimited embryo transfers, in
44 accordance with guidelines from the American Society for
45 Reproductive Medicine, using single embryo transfer when
46 recommended and deemed medically appropriate by a physician¹; and
47 medical costs of egg or sperm donors, including office visits,

1 medications, laboratory and radiological procedures and retrieval, shall
 2 be covered until the donor is released from treatment by the
 3 reproductive endocrinologist¹. A health maintenance organization
 4 may provide that coverage for in vitro fertilization[, gamete intra
 5 fallopian transfer and zygote intra fallopian transfer] shall be limited
 6 to a covered person who[: a.] has used all reasonable, less expensive
 7 and medically appropriate treatments , as determined by a 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 ¹A contract shall not impose any restriction concerning the coverage
 14 of infertility services based on age.¹

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 directed by a
14 licensed physician for infertility 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. 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.

32 b. A religious employer may request, and a health maintenance
33 organization 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. The provisions of this section shall apply to those contracts for
2 health care services by health maintenance organizations under which
3 the right to change the schedule of charges for enrollee coverage is
4 reserved.

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

14 (cf: P.L.2017, c.48, s.5)
15

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

40 b. As used in this this section:

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

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

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

1 (3) 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.

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

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

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

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

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

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

25 b. As used in this this section:

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

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

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

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

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

38 The benefits shall be provided to the same extent as for other
39 medical conditions under the health benefits plan, except that the
40 services provided for in this section shall be performed at facilities
41 that conform to standards established by the American Society for
42 Reproductive Medicine or the American College of Obstetricians
43 and Gynecologists. The same copayments, deductibles and benefit
44 limits shall apply to the diagnosis and treatment of infertility
45 pursuant to this section as those applied to other medical or surgical
46 benefits under the plan. Infertility resulting from a voluntary
47 unreversed sterilization procedure may be excluded if the voluntary
48 unreversed sterilization is the sole cause of infertility, provided,

1 however, that coverage for infertility services shall not be excluded
 2 if the voluntary sterilization is successfully reversed. A plan shall
 3 not impose any exclusions, limitations, or restrictions on coverage
 4 of any fertility services provided by or to a third party.

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

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

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

33
 34 **【6】¹【8】** 6¹. Section 6 of P.L.2017, c.48 ¹**【(C.52:14-17.29y)】**
 35 **(C.52:14-17.29v)**¹ is amended to read as follows:

36 6. The State Health Benefits Commission shall ensure that every
 37 contract under the State Health Benefits Program shall provide
 38 coverage for medically necessary expenses , as determined by a
 39 physician, incurred in the diagnosis and treatment of infertility as
 40 provided pursuant to this section. The State Health Benefits Program
 41 shall provide coverage for any services related to infertility ¹**【that is**
 42 **recommended】** in accordance with American Society for Reproductive
 43 Medicine guidelines and as determined¹ by a physician, which
 44 includes, but is not limited to**【**, the following services related to
 45 infertility**】**: diagnosis and diagnostic tests; medications; surgery;
 46 intrauterine insemination; in vitro fertilization¹, including in vitro
 47 fertilization using donor eggs and in vitro fertilization where the

1 embryo is transferred to a gestational carrier or surrogate¹; genetic
 2 testing; ¹["embryo transfer;"]¹ artificial insemination; [gamete intra
 3 fallopian transfer; zygote intra fallopian transfer;] intracytoplasmic
 4 sperm injection; [and] four completed egg retrievals [per lifetime of
 5 the covered person]; ¹["and"]¹ unlimited embryo transfers, in
 6 accordance with guidelines from the American Society for
 7 Reproductive Medicine, using single embryo transfer when
 8 recommended and deemed medically appropriate by a physician¹; and
 9 medical costs of egg or sperm donors, including office visits,
 10 medications, laboratory and radiological procedures and retrieval, shall
 11 be covered until the donor is released from treatment by the
 12 reproductive endocrinologist¹. The State Health Benefits Commission
 13 may provide that coverage for in vitro fertilization[, gamete intra
 14 fallopian transfer and zygote intra fallopian transfer] shall be limited
 15 to a covered person who[: a.] has used all reasonable, less expensive
 16 and medically appropriate treatments , as determined by a licensed
 17 physician, and is still unable to become pregnant or carry a pregnancy
 18 to a live birth[; b. has not reached the limit of four completed egg
 19 retrievals; and c. is 45 years of age or younger]. Coverage for
 20 infertility services provided to partners of persons who have
 21 successfully reversed a voluntary sterilization shall not be excluded.
 22 ¹A contract shall not impose any restriction concerning the coverage
 23 of infertility services based on age.¹

24 **[For purposes of] ¹["b."]¹ As used in ¹["this"]¹ this section[.];**

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

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

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

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

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

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

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

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

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

42
43 **[7] ¹[9] 7¹.** Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
44 amended to read as follows:

45 7. The School Employees Health Benefits Commission shall
46 ensure that every contract under the School Employees Health
47 Benefits Program shall provide coverage for medically necessary

1 expenses , as determined by a physician, incurred in the diagnosis and
 2 treatment of infertility as provided pursuant to this section. The
 3 School Employees Health Benefits Program contract shall provide
 4 coverage for any services related to infertility ¹~~that is recommended~~
 5 in accordance with American Society for Reproductive Medicine
 6 guidelines and as determined¹ by a physician, which includes, but is
 7 not limited to~~], the following services related to infertility~~: diagnosis
 8 and diagnostic tests; medications; surgery; intrauterine insemination;
 9 in vitro fertilization¹, including in vitro fertilization using donor eggs
 10 and in vitro fertilization where the embryo is transferred to a
 11 gestational carrier or surrogate¹; genetic testing; ¹~~embryo transfer;~~¹
 12 artificial insemination; ~~gamete intra fallopian transfer; zygote intra~~
 13 ~~fallopian transfer;~~ intracytoplasmic sperm injection; ~~and~~ four
 14 completed egg retrievals ~~per lifetime of the covered person~~; ¹~~and~~¹
 15 unlimited embryo transfers, in accordance with guidelines from the
 16 American Society for Reproductive Medicine, using single embryo
 17 transfer when recommended and deemed medically appropriate by a
 18 physician¹; and medical costs of egg or sperm donors, including office
 19 visits, medications, laboratory and radiological procedures and
 20 retrieval, shall be covered until the donor is released from treatment by
 21 the reproductive endocrinologist¹. The School Employees Health
 22 Benefits Commission may provide that coverage for in vitro
 23 fertilization~~], gamete intra fallopian transfer and zygote intra fallopian~~
 24 ~~transfer~~ shall be limited to a covered person who~~]: a.]~~ has used all
 25 reasonable, less expensive and medically appropriate treatments , as
 26 determined by a licensed physician, and is still unable to become
 27 pregnant or carry a pregnancy to a live birth~~]; b. has not reached the~~
 28 ~~limit of four completed egg retrievals; and c. is 45 years of age or~~
 29 ~~younger~~. Coverage for infertility services provided to partners of
 30 persons who have successfully reversed a voluntary sterilization shall
 31 not be excluded. ¹A contract shall not impose any restriction
 32 concerning the coverage of infertility services based on age.¹

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

34 "Infertility" means a disease ~~or], condition, or status~~
 35 characterized by ¹any of the following¹: ~~that results in the abnormal~~
 36 ~~function of the reproductive system, as determined pursuant to~~
 37 ~~American Society for Reproductive Medicine practice guidelines by a~~
 38 ~~physician who is Board Certified or Board Eligible in Reproductive~~
 39 ~~Endocrinology and Infertility or in Obstetrics and Gynecology or that~~
 40 ~~the patient has met one of the following conditions:~~

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

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

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

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

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

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

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

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

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

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

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

34 The benefits shall be provided to the same extent as for other
35 【pregnancy-related procedures】 medical conditions under the contract,
36 except that the services provided for in this section shall be performed
37 at facilities that conform to standards established by the American
38 Society for Reproductive Medicine or the American College of
39 Obstetricians and Gynecologists. The same copayments, deductibles
40 and benefit limits shall apply to the diagnosis and treatment of
41 infertility pursuant to this section as those applied to other medical or
42 surgical benefits under the contract. 【Infertility resulting from
43 voluntary sterilization procedures shall be excluded under the contract
44 for the coverage required by this section】 Infertility resulting from a
45 voluntary unreversed sterilization procedure may be excluded under
46 the contract if the voluntary unreversed sterilization is the sole cause
47 of infertility, provided, however, that coverage for infertility services

1 shall not be excluded if the voluntary sterilization is successfully
2 reversed. A contract shall not impose any exclusions, limitations, or
3 restrictions on coverage of any fertility services provided by or to a
4 third party.
5 (cf: P.L.2017, c.48, s.7)
6
7 **[8] '10.] 8.**¹ This act shall take effect **1[immediately]** on the
8 first day of the seventh month next following the date of enactment¹
9 and shall apply to contracts issued or renewed on or after the effective
10 date.