

[Second 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 amended by the Senate on December 21, 2023.



(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
 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 fertilization¹, including in vitro fertilization using donor eggs and in
 27 vitro fertilization where the embryo is transferred to a gestational
 28 carrier or surrogate¹; genetic testing; ¹~~embryo transfer;~~¹
 29 artificial 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 ¹~~and~~¹ 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 physician¹; and medical costs of egg or sperm
 36 donors, including office visits, medications, laboratory and
 37 radiological procedures and retrieval, shall be covered until the
 38 donor is released from treatment by the reproductive
 39 endocrinologist¹. The hospital service corporation may provide that
 40 coverage for in vitro fertilization~~], gamete intra fallopian transfer~~
 41 ~~and zygote intra fallopian transfer]~~ shall be limited to a covered
 42 person who~~]:~~ a.] has used all reasonable, less expensive and
 43 medically appropriate treatments , as determined by a licensed

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted December 18, 2023.

²Senate floor amendments adopted December 21, 2023.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. a. A medical service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses, as determined by a physician, incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The medical service corporation contract shall provide coverage for any services related to infertility ¹that is recommended in accordance with American Society for Reproductive Medicine guidelines and as determined¹ by a physician, which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; intrauterine insemination; in vitro fertilization¹, including in vitro fertilization using donor eggs and in vitro fertilization where the embryo is transferred to a gestational carrier or surrogate¹; genetic testing; ¹embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person; ¹and ¹unlimited embryo transfers, in accordance with guidelines from the American Society for Reproductive Medicine, using single embryo transfer when recommended and deemed medically appropriate by a physician¹; and medical costs of egg or sperm donors, including office visits, medications, laboratory and radiological procedures and retrieval, shall be covered until the donor is released from treatment by the reproductive

1 endocrinologist¹. The medical 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 to a live birth~~]; b. has not reached the limit of four~~
8 ~~completed egg retrievals; and c. is 45 years of age or younger]~~.
9 Coverage for infertility services provided to partners of persons
10 who have successfully reversed a voluntary sterilization shall not be
11 excluded. ¹A contract shall not impose any restriction concerning
12 the coverage of infertility services based on age.¹

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

- 22 (1) A male is unable to impregnate a female;
23 (2) A female with a male partner and under 35 years of age is
24 unable to conceive after 12 months of unprotected sexual
25 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
28 intercourse;
29 (4) A female without a male partner and under 35 years of age
30 who is unable to conceive after 12 failed attempts of intrauterine
31 insemination under medical supervision;
32 (5) A female without a male partner and over 35 years of age
33 who is unable to conceive after six failed attempts of intrauterine
34 insemination under medical supervision;
35 (6) Partners are unable to conceive as a result of involuntary
36 medical sterility;
37 (7) A person is unable to carry a pregnancy to live birth; or
38 (8) A previous determination of infertility pursuant to this
39 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
42 patient's medical, sexual, and reproductive history, age, physical
43 findings, 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
46 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 medical service corporation
5 contracts in which the medical service corporation has reserved the
6 right to change the premium.

7 d. The provisions of this section shall not apply to a medical
8 service corporation contract which, pursuant to a contract between
9 the medical 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 medical 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.2)

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

25 3. a. A health 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
30 and Insurance on or after the effective date of this act unless the
31 contract provides coverage for persons covered under the contract
32 for medically necessary expenses, as determined by a physician,
33 incurred in the diagnosis and treatment of infertility as provided
34 pursuant to this section. The health service corporation contract
35 shall provide coverage for any services related to infertility¹ [that is
36 recommended] in accordance with American Society for
37 Reproductive Medicine guidelines and as determined¹ by a
38 physician, which includes, but is not limited to], the following
39 services related to infertility]: diagnosis and diagnostic tests;
40 medications; surgery; intrauterine insemination; in vitro
41 fertilization¹, including in vitro fertilization using donor eggs and in
42 vitro fertilization where the embryo is transferred to a gestational
43 carrier or surrogate¹; genetic testing; ¹[embryo transfer;]¹ artificial
44 insemination; [gamete intra fallopian transfer; zygote intra
45 fallopian transfer;] intracytoplasmic sperm injection; [and] four
46 completed egg retrievals [per lifetime of the covered person];
47 ¹[and]¹ unlimited embryo transfers, in accordance with guidelines

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

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

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

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

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

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

35 (4) A female without a male partner and under 35 years of age
36 who 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
39 who 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
45 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
3 patient's medical, sexual, and reproductive history, age, physical
4 findings, diagnostic testing, or any combination of those factors¹;

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

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

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

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

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
47 contrary to the religious employer's bona fide religious tenets. The

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

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

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

23 ²e. Nothing in this section shall preclude the health service
24 corporation from performing utilization review, including periodic
25 review of the medical necessity of a particular service, provided all
26 utilization review decisions are consistent with American Society
27 for Reproductive Medicine guidelines.²

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

29

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

32 4. a. A group health insurance policy which provides hospital
33 or medical expense benefits for groups with more than 50 persons,
34 which includes pregnancy-related benefits, shall not be delivered,
35 issued, executed or renewed in this State, or approved for issuance
36 or renewal in this State by the Commissioner of Banking and
37 Insurance on or after the effective date of this act unless the policy
38 provides coverage for persons covered under the policy for
39 medically necessary expenses , as determined by a physician,
40 incurred in the diagnosis and treatment of infertility as provided
41 pursuant to this section. The policy shall provide coverage for any
42 services related to infertility ¹【that is recommended】 in accordance
43 with American Society for Reproductive Medicine guidelines and
44 as determined¹ by a physician, which includes, but is not limited
45 to【, the following services related to infertility】: diagnosis and
46 diagnostic tests; medications; surgery; intrauterine insemination; in
47 vitro fertilization¹, including in vitro fertilization using donor eggs

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

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

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

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

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

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

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

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

23 Nothing in this definition shall be used to deny or delay
24 treatment to any individual, regardless of relationship status or
25 sexual orientation¹.

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

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

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

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

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

27 ²e. Nothing in this section shall preclude the insurer from
28 performing utilization review, including periodic review of the
29 medical necessity of a particular service, provided all utilization
30 review decisions are consistent with American Society for
31 Reproductive Medicine guidelines.²

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

33
34 5. Section 5 of P.L.2001²**【.】**,² c.236 (C.26:2J-4.23) is
35 amended to read as follows:

36 5. a. No certificate of authority to establish and operate a health
37 maintenance organization in this State shall be issued or continued
38 on or after the effective date of this act unless the health
39 maintenance organization provides health care services, to groups
40 of more than 50 enrollees, for medically necessary expenses, as
41 determined by a physician, incurred in the diagnosis and treatment
42 of infertility as provided pursuant to this section. A health
43 maintenance organization shall provide enrollee coverage for any
44 services related to infertility ¹**【that is recommended】** in accordance
45 with American Society for Reproductive Medicine guidelines and
46 as determined¹ by a physician, which includes, but is not limited
47 to**【**, the following services related to infertility**】**: diagnosis and

1 diagnostic tests; medications; surgery; intrauterine insemination; in
2 vitro fertilization¹, including in vitro fertilization using donor eggs
3 and in vitro fertilization where the embryo is transferred to a
4 gestational carrier or surrogate¹; genetic testing; ¹[embryo
5 transfer;]¹ artificial insemination; [gamete intra fallopian transfer;
6 zygote intra fallopian transfer;] intracytoplasmic sperm injection;
7 [and] four completed egg retrievals [per lifetime of the covered
8 person]; ¹[and]¹ unlimited embryo transfers, in accordance with
9 guidelines from the American Society for Reproductive Medicine,
10 using single embryo transfer when recommended and deemed
11 medically appropriate by a physician¹; and medical costs of egg or
12 sperm donors, including office visits, medications, laboratory and
13 radiological procedures and retrieval, shall be covered until the
14 donor is released from treatment by the reproductive
15 endocrinologist¹. A health maintenance organization may provide
16 that coverage for in vitro fertilization¹, gamete intra fallopian
17 transfer and zygote intra fallopian transfer¹ shall be limited to a
18 covered person who¹: a. ¹has used all reasonable, less expensive
19 and medically appropriate treatments , as determined by a licensed
20 physician, and is still unable to become pregnant or carry a
21 pregnancy to a live birth¹; b. has not reached the limit of four
22 completed egg retrievals; and c. is 45 years of age or younger¹.
23 Coverage for infertility services provided to partners of persons
24 who have successfully reversed a voluntary sterilization shall not be
25 excluded. ¹A contract shall not impose any restriction concerning
26 the coverage of infertility services based on age.¹

27 [For purposes of] ¹[b.]¹ As used in ¹[this]¹ this section¹,:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 The benefits shall be provided to the same extent as for other
33 **【pregnancy-related procedures】** medical conditions under the
34 contract, except that the services provided for in this section shall
35 be performed at facilities that conform to standards established by
36 the American Society for Reproductive Medicine or the American
37 College of Obstetricians and Gynecologists. The same copayments,
38 deductibles and benefit limits shall apply to the diagnosis and
39 treatment of infertility pursuant to this section as those applied to
40 other medical or surgical benefits under the contract. **【Infertility**
41 **resulting from voluntary sterilization procedures shall be excluded**
42 **under the contract for the coverage required by this section】**
43 Infertility resulting from a voluntary unreversed sterilization
44 procedure may be excluded if the voluntary unreversed sterilization
45 is the sole cause of infertility, provided, however, that coverage for
46 infertility services shall not be excluded if the voluntary
47 sterilization is successfully reversed. ²【A contract shall not impose

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

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

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

32 ²e. Nothing in this section shall preclude the health maintenance
33 organization from performing utilization review, including periodic
34 review of the medical necessity of a particular service, provided all
35 utilization review decisions are consistent with American Society
36 for Reproductive Medicine guidelines.²

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

38
39 ¹【6.(New section) a. Every individual health benefits plan that
40 provides hospital or medical expense benefits and is delivered,
41 issued, executed or renewed in this State pursuant to P.L.1992,
42 c.161 (C.17B:27A-2 et seq.), or approved for issuance or renewal in
43 this State on or after the effective date of this act, shall provide
44 benefits to any person covered thereunder for medically necessary
45 expenses incurred in the diagnosis and treatment of infertility as
46 provided pursuant to this section. The individual health benefits
47 plan shall provide for any services related to infertility that is
48 recommended by a physician, which includes, but is not limited to:

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

15 b. As used in this this section:

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

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

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

22 (3) a 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.

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

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

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

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

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

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

22

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

47 b. As used in this this section:

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

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

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

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

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

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

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

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

47 e. The provisions of this section shall not apply to a small
48 employer health benefits plan contract which, pursuant to a contract

1 between the small employer health benefits plan and the
2 Department of Human Services, provides benefits to persons who
3 are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-
4 1 et seq.), the NJ FamilyCare Program established pursuant to
5 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.】¹

8
9 **【6】¹【8】** §¹. Section 6 of P.L.2017, c.48 **¹【(C.52:14-17.29y)】**
10 **(C.52:14-17.29v)**¹ is amended to read as follows:

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

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

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

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

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

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

17 (4) A female without a male partner and under 35 years of age
18 who 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
21 who 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
27 section**】**

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
30 patient's medical, sexual, and reproductive history, age, physical
31 findings, diagnostic testing, or any combination of those factors¹;

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

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

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

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

22 Nothing in this section shall preclude the carrier from performing
23 utilization review, including periodic review of the medical
24 necessity of a particular service, provided all utilization review
25 decisions are consistent with American Society for Reproductive
26 Medicine guidelines².

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

28
29 **【7】** ¹**【9】** 7¹. Section 7 of P.L.2017, c.48 (C.52:14-17.46.6g) is
30 amended to read as follows:

31 7. The School Employees Health Benefits Commission shall
32 ensure that every contract under the School Employees Health
33 Benefits Program shall provide coverage for medically necessary
34 expenses , as determined by a physician, incurred in the diagnosis
35 and treatment of infertility as provided pursuant to this section. The
36 School Employees Health Benefits Program contract shall provide
37 coverage for any services related to infertility ¹**【that is**
38 **recommended】** in accordance with American Society for
39 Reproductive Medicine guidelines and as determined¹ by a
40 physician, which includes, but is not limited to**【**, the following
41 services related to infertility**】**: diagnosis and diagnostic tests;
42 medications; surgery; intrauterine insemination; in vitro
43 fertilization¹, including in vitro fertilization using donor eggs and in
44 vitro fertilization where the embryo is transferred to a gestational
45 carrier or surrogate¹; genetic testing; ¹**【embryo transfer;】**¹ artificial
46 insemination; **【gamete intra fallopian transfer; zygote intra**

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

22 [For purposes of] '[b.]' 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
25 abnormal function of the reproductive system, as determined
26 pursuant to American Society for Reproductive Medicine practice
27 guidelines by a physician who is Board Certified or Board Eligible
28 in Reproductive Endocrinology and Infertility or in Obstetrics and
29 Gynecology or that the patient has met one of the following
30 conditions:

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

(8) A previous determination of infertility pursuant to this section] (1) the ¹["failure to establish a pregnancy or carry a pregnancy to term"] inability to achieve a successful pregnancy based on a patient's medical, sexual, and reproductive history, age, physical findings, diagnostic testing, or any combination of those factors¹;

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

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

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

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

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

Nothing in this section shall preclude the carrier from performing utilization review, including periodic review of the medical necessity of a particular service, provided all utilization review

1 decisions are consistent with American Society for Reproductive
2 Medicine guidelines².

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

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5 **【8】** ¹**【10.】** 8.¹ This act shall take effect ¹**【immediately】** on the
6 first day of the seventh month next following the date of enactment¹
7 and shall apply to contracts issued or renewed on or after the effective
8 date.