

Model Legislation for Infertility Coverage

Section 1. Short Title

This Act shall be known as, "The Building Families Act."

Section 2. Summary

This Act shall provide coverage for the diagnosis of and treatment for infertility, as well as for standard fertility preservation services. According to the Centers for Disease Control and Prevention (CDC), over 12 percent of women of reproductive age in the United States have difficulty getting pregnant or staying pregnant. Infertility is evenly divided between women and men, and approximately one-third of cases involves both partners being diagnosed, or is unexplained (American Society For Reproductive Medicine). Increasing accessibility for infertility treatment will expand the State/Commonwealth's health services and improve the short and long-term health outcomes for the resulting children and mothers, which may also reduce health care costs by reducing adverse outcomes. By providing these services, the State/Commonwealth will retain existing young families and attract potential new residents.

Section 3. Definitions

For the purpose of this Act

- (a) “Infertility” means a disease, condition or status characterized by
 - (i) the failure to establish a pregnancy or to carry a pregnancy to live birth after regular, unprotected sexual intercourse, or
 - (ii) a person’s inability to reproduce either as a single individual or with their partner without medical intervention, or
 - (iii) a licensed physician’s findings based on a patient’s medical, sexual and reproductive history, age, physical findings and/or diagnostic testing.
- (b) “Diagnosis of and treatment for infertility” means the recommended procedures and medications from the direction of a licensed physician that are consistent with established, published, or approved medical practices or professional guidelines from The American College of Obstetricians and Gynecologists (ACOG) or The American Society for Reproductive Medicine (ASRM).
- (c) “Standard fertility preservation services” means procedures that are consistent with established medical practices or professional guidelines published by ASRM or the American Society of Clinical Oncology (ASCO) for a person who has a medical condition or is expected to undergo medication therapy, surgery, radiation, chemotherapy, or other medical

40 treatment that is recognized by medical professionals to cause a risk of impairment to
41 fertility.

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43 **Section 4. Coverage Provided**

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45 (a) All small group, large group, and individual health insurance policies, contracts, or
46 certificates that are delivered, issued for delivery, renewed, extended, or modified in this
47 State/Commonwealth and that provide for medical or hospital expenses shall include
48 coverage for diagnosis of infertility, treatment for infertility, and standard fertility
49 preservation services, as defined in Section 3. Such benefits must be provided to covered
50 individuals, including covered spouses and covered non-spouse dependents.

51 (b) A policy, contract, or certificate may not impose any exclusions, limitations, or other
52 restrictions on coverage of fertility medications that are different from those imposed on
53 any other prescription medications, nor may it impose any exclusions, limitations, or
54 other restrictions on coverage of any fertility services based on a covered individual's
55 participation in fertility services provided by or to a third party, nor may it impose
56 deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other
57 limitations on coverage for the diagnosis of infertility, treatment for infertility, and
58 standard fertility preservation services, except as provided herein, that are different from
59 those imposed upon benefits for services not related to infertility.

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61 **Section 5. Implementation**

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63 (a) The Secretary of Health and Human Services shall adopt necessary rules not different or
64 more burdensome and consistent with the content of this act. Until such rules are adopted,
65 health insurance carriers shall fulfill their obligations under this act by conforming to the
66 standards of ASRM.

67 (b) If any provision of this act or the application thereof to any person or circumstances is
68 held invalid, the invalidity does not affect other provisions or applications of the chapter
69 which can be given effect without the invalid provisions or applications, and to this end
70 the provisions of this chapter are severable.

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72 **Section 6. Effective Date**

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74 This Act shall take effect on [DATE] and shall apply to all policies, contracts, and health benefit
75 plans issued, delivered, amended, or renewed in the State/Commonwealth on or after [DATE].