

HOUSE BILL 838

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5lr2633
CF SB 416

By: Delegates Hill, Atterbeary, Barkley, Barron, Carter, Davis, Dumais, Ebersole, Fennell, Fraser-Hidalgo, Gaines, Lam, Lisanti, Luedtke, Morales, Oaks, and B. Robinson

Introduced and read first time: February 13, 2015
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2015

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – ~~Mandated Benefits – In Vitro Fertilization and Artificial~~**
3 **~~Insemination Procedures~~ Coverage for Infertility Services**

4 FOR the purpose of prohibiting certain insurers, nonprofit health service plans, and health
5 maintenance organizations from ~~excluding benefits for certain expenses arising from~~
6 ~~artificial insemination procedures performed on certain individuals; requiring a~~
7 ~~policyholder or subscriber, whose expenses for certain in vitro fertilization or~~
8 ~~artificial insemination procedures are covered under certain benefits, to be married;~~
9 requiring certain conditions of coverage for certain infertility benefits for a patient
10 who is married to an individual of the same sex; providing that certain provisions of
11 law relating to health insurance coverage of in vitro fertilization do not apply to
12 insurers, nonprofit health service plans, and health maintenance organizations that
13 provide certain benefits under certain health insurance policies or contracts;
14 applying a certain condition of providing benefits for certain expenses arising from
15 in vitro fertilization or artificial insemination procedures only to a patient whose
16 spouse is capable of producing sperm; of the opposite sex; specifying that a history of
17 infertility required as a condition of coverage be involuntary; specifying how the
18 history of involuntary infertility may be demonstrated; ~~requiring certain benefits to~~
19 ~~be provided when the patient and the patient's spouse are of the same sex;~~ altering
20 the guidelines and standards to which medical facilities performing certain covered
21 procedures must conform; providing that certain insurers, nonprofit health service
22 plans, and health maintenance organizations are not responsible for certain costs;
23 providing that a denial of coverage for certain in vitro fertilization benefits

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 constitutes an adverse decision under a certain provision of law; prohibiting this Act
 2 from being construed to require the provision of certain coverage; making certain
 3 technical corrections; providing for the application of this Act; and generally relating
 4 to ~~mandated health insurance benefits for in vitro fertilization and artificial~~
 5 ~~insemination procedures~~ health insurance coverage for infertility services.

6 BY repealing and reenacting, with amendments,
 7 Article – Insurance
 8 Section 15–810
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume and 2014 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 12 That the Laws of Maryland read as follows:

13 **Article – Insurance**

14 15–810.

15 (a) This section applies to:

16 (1) insurers and nonprofit health service plans that provide hospital,
 17 medical, or surgical benefits to individuals or groups on an expense–incurred basis under
 18 health insurance policies that are issued or delivered in the State; and

19 (2) health maintenance organizations that provide hospital, medical, or
 20 surgical benefits to individuals or groups under contracts that are issued or delivered in
 21 the State.

22 **(B) AN ENTITY SUBJECT TO THIS SECTION THAT PROVIDES COVERAGE FOR**
 23 **INFERTILITY BENEFITS OTHER THAN IN VITRO FERTILIZATION MAY NOT REQUIRE**
 24 **AS A CONDITION OF THAT COVERAGE, FOR A PATIENT WHO IS MARRIED TO AN**
 25 **INDIVIDUAL OF THE SAME SEX:**

26 **(1) THAT THE PATIENT’S SPOUSE’S SPERM BE USED IN THE COVERED**
 27 **TREATMENTS OR PROCEDURES; OR**

28 **(2) THAT THE PATIENT DEMONSTRATE INFERTILITY EXCLUSIVELY BY**
 29 **MEANS OF A HISTORY OF UNSUCCESSFUL HETEROSEXUAL INTERCOURSE.**

30 ~~(C)~~ **(1) THIS SUBSECTION DOES NOT APPLY TO INSURERS,**
 31 **NONPROFIT HEALTH SERVICE PLANS, AND HEALTH MAINTENANCE ORGANIZATIONS**
 32 **THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER HEALTH**
 33 **INSURANCE POLICIES OR CONTRACTS:**

1 2. exposure in utero to diethylstilbestrol, commonly known
2 as DES;

3 3. blockage of, or surgical removal of, one or both fallopian
4 tubes (lateral or bilateral salpingectomy); or

5 4. abnormal male factors, including oligospermia,
6 contributing to the infertility; ~~OR~~

7 ~~(III) THE PATIENT AND THE PATIENT'S SPOUSE ARE OF THE~~
8 ~~SAME SEX;~~

9 (4) ~~FOR IN VITRO FERTILIZATION BENEFITS,~~ the patient has been
10 unable to attain a successful pregnancy through a less costly infertility treatment for which
11 coverage is available under the policy or contract; and

12 (5) the ~~[in vitro fertilization] COVERED~~ procedures are performed at
13 medical facilities that conform to **APPLICABLE GUIDELINES OR MINIMUM STANDARDS**
14 **ISSUED BY** the American College of Obstetricians and Gynecologists [guidelines for in vitro
15 fertilization clinics or to the American Fertility Society minimal standards for programs of
16 in vitro fertilization] **OR THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE.**

17 ~~(d)~~ **(E)** An entity subject to this section may limit coverage of the benefits **FOR**
18 **IN VITRO FERTILIZATION** required under this section to three in vitro fertilization
19 attempts per live birth, not to exceed a maximum lifetime benefit of \$100,000.

20 **(F) AN ENTITY SUBJECT TO THIS SECTION IS NOT RESPONSIBLE FOR ANY**
21 **COSTS INCURRED BY A POLICYHOLDER OR SUBSCRIBER OR A DEPENDENT OF A**
22 **POLICYHOLDER OR SUBSCRIBER IN OBTAINING DONOR SPERM.**

23 **(G) A DENIAL OF COVERAGE FOR IN VITRO FERTILIZATION BENEFITS**
24 **REQUIRED UNDER THIS SECTION BY AN ENTITY SUBJECT TO THIS SECTION**
25 **CONSTITUTES AN ADVERSE DECISION UNDER SUBTITLE 10A OF THIS TITLE.**

26 **(H) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN ENTITY**
27 **SUBJECT TO THIS SECTION TO PROVIDE COVERAGE FOR A TREATMENT OR A**
28 **PROCEDURE THAT WOULD NOT TREAT A DIAGNOSED MEDICAL CONDITION OF A**
29 **PATIENT.**

30 ~~(e)~~ **(I)** Notwithstanding any other provision of this section, if the coverage required
31 under this section conflicts with the bona fide religious beliefs and practices of a religious
32 organization, on request of the religious organization, an entity subject to this section shall
33 exclude the coverage otherwise required under this section in a policy or contract with the
34 religious organization.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
2 policies, contracts, and health benefit plans issued, delivered, ~~or~~ renewed, or in force in the
3 State on or after ~~October~~ July 1, 2015.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 ~~October~~ July 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.