
By: **Senators Pinsky and Sfikas**
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CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - ~~Benefits~~ Coverage for In Vitro Fertilization**

3 FOR the purpose of ~~altering the circumstances under which certain policies,~~
4 ~~contracts, and certificates that provide pregnancy-related benefits may not~~
5 ~~exclude benefits for certain expenses arising from certain in vitro fertilization~~
6 ~~procedures; prohibiting the Maryland Health Care Commission from excluding~~
7 ~~certain coverage for certain in vitro fertilization procedures from the~~
8 ~~Comprehensive Standard Health Benefit Plan under small group market health~~
9 ~~insurance~~ prohibiting certain insurers, nonprofit health service plans, and
10 health maintenance organizations from excluding certain benefits for in vitro
11 fertilization under certain circumstances; providing that the requirement that
12 the patient and the patient's spouse have a history of infertility of a certain
13 duration to be eligible for certain in vitro fertilization health insurance benefits
14 does not apply if the infertility is associated with abnormal male factors
15 contributing to the infertility; requiring that certain benefits be provided to
16 certain extents; decreasing the duration of time for which certain individuals
17 must have a history of infertility in order to be eligible for certain in vitro
18 fertilization health insurance benefits; authorizing certain insurers, nonprofit
19 health service plans, and health maintenance organizations to limit coverage for
20 certain in vitro fertilization benefits; providing for an exclusion from certain
21 required coverage under certain circumstances; providing for the application of
22 this Act; and generally relating to coverage of benefits for in vitro fertilization
23 under health insurance.

24 BY adding to
25 Article - Health - General
26 Section 19-706(nn)
27 Annotated Code of Maryland

1 (1996 Replacement Volume and 1999 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Insurance

4 Section 15-810 ~~and 15-1207~~

5 Annotated Code of Maryland

6 (1997 Volume and 1999 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Health - General**

10 19-706.

11 (NN) THE PROVISIONS OF § 15-810 OF THE INSURANCE ARTICLE APPLY TO
 12 HEALTH MAINTENANCE ORGANIZATIONS.

13 **Article - Insurance**

14 15-810.

15 (a) This section applies to:

16 (1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE
 17 HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN
 18 EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES THAT ARE ISSUED
 19 OR DELIVERED IN THE STATE; AND

20 (2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL,
 21 MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS
 22 THAT ARE ISSUED OR DELIVERED IN THE STATE.

23 ~~(1) Each individual hospital or major medical insurance policy of an~~
 24 ~~insurer that:~~

25 ~~(i) 1. is delivered or issued for delivery in the State; or~~

26 ~~2. covers individuals who reside and work in the State; and~~

27 ~~(ii) is written on an expense incurred basis;~~

28 ~~(2) each group or blanket health insurance policy of an insurer that:~~

29 ~~(i) 1. is issued or delivered in the State; or~~

30 ~~2. covers individuals who reside and work in the State; and~~

31 ~~(ii) is written on an expense incurred basis; and~~

1 ~~(3)~~ each individual or group medical or major medical contract or
2 certificate of a nonprofit health service plan that:

3 (i) is issued or delivered in the State; or

4 (ii) covers individuals who reside and work in the State.

5 (b) (1) ~~A policy, contract, or certificate~~ AN ENTITY subject to this section that
6 provides pregnancy-related benefits may not exclude benefits for all outpatient
7 expenses arising from in vitro fertilization procedures performed on the ~~policyholder,~~
8 ~~subscriber, or certificate holder,~~ POLICYHOLDER OR SUBSCRIBER or dependent
9 spouse of the ~~policyholder, subscriber, or certificate holder~~ POLICYHOLDER OR
10 SUBSCRIBER.

11 (2) The benefits under this subsection shall be ~~provided~~ PROVIDED:

12 (I) FOR INSURERS AND NONPROFIT HEALTH SERVICE PLANS, to
13 the same extent as the benefits provided for other pregnancy-related ~~procedures~~
14 PROCEDURES; AND

15 (II) FOR HEALTH MAINTENANCE ORGANIZATIONS, TO THE SAME
16 EXTENT AS THE BENEFITS PROVIDED FOR OTHER INFERTILITY SERVICES.

17 (c) Subsection (b) of this section applies if:

18 (1) the patient is the ~~policyholder, subscriber, or certificate holder,~~
19 POLICYHOLDER OR SUBSCRIBER or a covered dependent of the ~~policyholder,~~
20 ~~subscriber, or certificate holder~~ POLICYHOLDER OR SUBSCRIBER;

21 ~~{(2) the patient's oocytes are fertilized with the patient's spouse's sperm;}~~

22 ~~{(3)}~~ ~~(2)~~ (i) the patient ~~{and the patient's spouse have}~~ ~~HAS~~ a history
23 of infertility of at least ~~5~~ 2 years' duration; or

24 (ii) the infertility is associated with any of the following medical
25 conditions:

26 1. endometriosis;

27 2. exposure in utero to diethylstilbestrol, commonly known
28 as DES; ~~or~~

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

31 4. ABNORMAL MALE FACTOR, INCLUDING OLIGOSPERMIA,
32 CONTRIBUTING TO THE INFERTILITY;

33 ~~{(4)}~~ ~~(3)~~ the patient has been unable to attain a successful pregnancy
34 through a less costly infertility treatment for which coverage is available under the
35 ~~policy, contract, or certificate~~ POLICY OR CONTRACT; and

1 ~~{(5)}~~ (4) the in vitro fertilization procedures are performed at medical
2 facilities that conform to the American College of Obstetricians and Gynecologists
3 guidelines for in vitro fertilization clinics or to the American Fertility Society minimal
4 standards for programs of in vitro fertilization.

5 (D) AN ENTITY SUBJECT TO THIS SECTION MAY LIMIT COVERAGE OF THE
6 BENEFITS REQUIRED UNDER THIS SECTION TO THREE IN VITRO FERTILIZATION
7 ATTEMPTS PER LIVE BIRTH, NOT TO EXCEED A MAXIMUM LIFETIME BENEFIT OF
8 \$100,000.

9 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF THE
10 COVERAGE REQUIRED UNDER THIS SECTION CONFLICTS WITH THE BONA FIDE
11 RELIGIOUS BELIEFS AND PRACTICES OF A RELIGIOUS ORGANIZATION, ON REQUEST
12 OF THE RELIGIOUS ORGANIZATION, AN ENTITY SUBJECT TO THIS SECTION SHALL
13 EXCLUDE THE COVERAGE OTHERWISE REQUIRED UNDER THIS SECTION IN A POLICY
14 OR CONTRACT WITH THE RELIGIOUS ORGANIZATION.

15 ~~15-1207.~~

16 (a) ~~In accordance with Title 19, Subtitle 1 of the Health—General Article, the~~
17 ~~Commission shall adopt regulations that specify:~~

18 (1) ~~the Comprehensive Standard Health Benefit Plan to apply under this~~
19 ~~subtitle; and~~

20 (2) ~~a modified health benefit plan for medical savings accounts that~~
21 ~~qualify under the federal Health Insurance Portability and Accountability Act of 1996,~~
22 ~~including:~~

23 (i) ~~a waiver of deductibles as permitted under federal law;~~

24 (ii) ~~minimum funding standards for medical savings accounts; and~~

25 (iii) ~~authorization for offering the modified plan only by those~~
26 ~~persons who offer the Comprehensive Standard Health Benefit Plan adopted in~~
27 ~~accordance with item (1) of this subsection.~~

28 (b) ~~The Commission shall require that the minimum benefits allowed to be~~
29 ~~offered in the Standard Plan:~~

30 (1) ~~by a health maintenance organization, shall include at least the~~
31 ~~actuarial equivalent of the minimum benefits required to be offered by a federally~~
32 ~~qualified health maintenance organization; and~~

33 (2) ~~by an insurer or nonprofit health service plan on an~~
34 ~~expense-incurred basis, shall be actuarially equivalent to at least the minimum~~
35 ~~benefits required to be offered under item (1) of this subsection.~~

36 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
37 ~~exclude or limit benefits or adjust cost sharing arrangements in the Standard Plan if~~

1 the average rate for the Standard Plan exceeds 12% of the average annual wage in the
2 State.

3 (2) The Commission annually shall determine the average rate for the
4 Standard Plan by using the average rate submitted by each carrier that offers the
5 Standard Plan.

6 (d) In establishing benefits, the Commission shall judge preventive services,
7 medical treatments, procedures, and related health services based on:

8 (1) their effectiveness in improving the health status of individuals;

9 (2) their impact on maintaining and improving health and on reducing
10 the unnecessary consumption of health care services; and

11 (3) their impact on the affordability of health care coverage.

12 (e) (1) ~~[The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE~~
13 Commission may exclude:

14 ~~[(1)] (I) a health care service, benefit, coverage, or reimbursement for~~
15 ~~covered health care services that is required under this article or the Health-~~
16 ~~General Article to be provided or offered in a health benefit plan that is issued or~~
17 ~~delivered in the State by a carrier; or~~

18 ~~[(2)] (II) reimbursement required by statute, by a health benefit plan for~~
19 ~~a service when that service is performed by a health care provider who is licensed~~
20 ~~under the Health Occupations Article and whose scope of practice includes that~~
21 ~~service.~~

22 (2) ~~THE COMMISSION MAY NOT EXCLUDE COVERAGE FOR IN VITRO~~
23 ~~FERTILIZATION PROCEDURES AS REQUIRED UNDER § 15-810 OF THIS TITLE.~~

24 (f) ~~The Standard Plan shall include uniform deductibles and cost-sharing~~
25 ~~associated with its benefits, as determined by the Commission.~~

26 (g) In establishing cost sharing as part of the Standard Plan, the Commission
27 shall:

28 (1) include cost sharing and other incentives to help prevent consumers
29 from seeking unnecessary services;

30 (2) balance the effect of cost sharing in reducing premiums and in
31 affecting utilization of appropriate services; and

32 (3) limit the total cost sharing that may be incurred by an individual in
33 a year.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply
35 applies to all policies, contracts, and health benefit plans issued, delivered, or
36 renewed in the State on or after October 1, 2000. ~~Any policy, contract, or health~~

1 ~~benefit plan in effect before October 1, 2000, shall comply with the provisions of this~~
2 ~~Act no later than October 1, 2001.~~

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2000.