

HOUSE BILL 52

C3

6lr0975

(PRE-FILED)

By: **Delegate Wivell**

Requested: October 27, 2015

Introduced and read first time: January 13, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – In Vitro Fertilization, Pregnancy, and Childbirth Services –**
3 **Surrogate Benefits**

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 in vitro fertilization procedures performed on a certain surrogate; establishing
7 certain conditions that must be met for the required benefits for a certain surrogate
8 to apply; requiring certain insurers, nonprofit health service plans, and health
9 maintenance organizations that provide benefits for pregnancy and childbirth to
10 provide the benefits to a certain surrogate; requiring benefits for pregnancy and
11 childbirth for a certain surrogate to be provided under a certain essential health
12 benefit; providing for the application of this Act; providing for a delayed effective
13 date; and generally relating to health insurance benefits for surrogates.

14 BY repealing and reenacting, without amendments,
15 Article – Insurance
16 Section 15–810(a)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Insurance
21 Section 15–810(c) and (d)
22 Annotated Code of Maryland
23 (2011 Replacement Volume and 2015 Supplement)

24 BY adding to
25 Article – Insurance
26 Section 15–850
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2011 Replacement Volume and 2015 Supplement)

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

Article – Insurance

15–810.

(a) This section applies to:

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

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

(c) (1) This subsection does not apply to insurers, nonprofit health service plans, and health maintenance organizations that provide hospital, medical, or surgical benefits under health insurance policies or contracts:

(i) that are issued or delivered to a small employer in the State; and

(ii) for which the Administration has determined that in vitro fertilization procedures are not essential health benefits, as determined under § 31–116 of this article.

(2) An entity subject to this section that provides pregnancy–related benefits may not exclude benefits for all outpatient expenses arising from in vitro fertilization procedures performed on:

(I) a policyholder or subscriber; [or on]

(II) the dependent spouse of a policyholder or subscriber; **OR**

(III) A SURROGATE OF A POLICYHOLDER OR SUBSCRIBER OR THE DEPENDENT SPOUSE OF A POLICYHOLDER OR SUBSCRIBER.

(3) The benefits under this subsection shall be provided:

(i) for insurers and nonprofit health service plans, to the same extent as the benefits provided for other pregnancy–related procedures; and

1 (ii) for health maintenance organizations, to the same extent as the
2 benefits provided for other infertility services.

3 (d) Subsection (c) of this section applies if:

4 (1) (I) 1. the patient is the policyholder or subscriber or a covered
5 dependent of the policyholder or subscriber;

6 [(2)] 2. for a patient whose spouse is of the opposite sex, the
7 patient's oocytes are fertilized with the patient's spouse's sperm;

8 [(3) (i)] 3. A. the patient and the patient's spouse have a history
9 of involuntary infertility, which may be demonstrated by a history of:

10 [1.] I. if the patient and the patient's spouse are of
11 opposite sexes, intercourse of at least 2 years' duration failing to result in pregnancy; or

12 [2.] II. if the patient and the patient's spouse are of the
13 same sex, six attempts of artificial insemination over the course of 2 years failing to result
14 in pregnancy; or

15 [(ii)] B. the infertility is associated with any of the following
16 medical conditions:

17 [1.] I. endometriosis;

18 [2.] II. exposure in utero to diethylstilbestrol, commonly
19 known as DES;

20 [3.] III. blockage of, or surgical removal of, one or both
21 fallopian tubes (lateral or bilateral salpingectomy); or

22 [4.] IV. abnormal male factors, including oligospermia,
23 contributing to the infertility; AND

24 [(4)] 4. the patient has been unable to attain a successful
25 pregnancy through a less costly infertility treatment for which coverage is available under
26 the policy or contract; OR

27 (II) 1. THE PATIENT IS THE SURROGATE OF THE
28 POLICYHOLDER OR SUBSCRIBER OR A COVERED DEPENDENT OF THE
29 POLICYHOLDER OR SUBSCRIBER; AND

30 2. THE POLICYHOLDER OR SUBSCRIBER OR A COVERED
31 DEPENDENT OF THE POLICYHOLDER OR SUBSCRIBER FOR WHOM THE PATIENT IS

1 THE SURROGATE MEETS THE CONDITIONS UNDER ITEM (1)(I)3 AND 4 OF THIS
2 SUBSECTION; and

3 [(5)] (2) the in vitro fertilization procedures are performed at medical
4 facilities that conform to applicable guidelines or minimum standards issued by the
5 American College of Obstetricians and Gynecologists or the American Society for
6 Reproductive Medicine.

7 15-850.

8 (A) THIS SECTION APPLIES TO:

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

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

16 (B) AN ENTITY SUBJECT TO THIS SECTION THAT PROVIDES BENEFITS FOR
17 PREGNANCY AND CHILDBIRTH SHALL PROVIDE THE BENEFITS TO A SURROGATE OF
18 A POLICYHOLDER OR SUBSCRIBER OR A SURROGATE OF A COVERED DEPENDENT OF
19 A POLICYHOLDER OR SUBSCRIBER TO THE SAME EXTENT THAT THE ENTITY
20 PROVIDES THE BENEFITS TO THE POLICYHOLDER OR SUBSCRIBER OR THE COVERED
21 DEPENDENT OF A POLICYHOLDER OR SUBSCRIBER.

22 (C) A POLICY OR CONTRACT ISSUED OR DELIVERED BY AN ENTITY SUBJECT
23 TO THIS SECTION THAT IS SUBJECT TO THE ESSENTIAL HEALTH BENEFITS
24 REQUIREMENT UNDER § 1302(A) OF THE AFFORDABLE CARE ACT SHALL PROVIDE
25 THE BENEFIT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION UNDER THE
26 ESSENTIAL HEALTH BENEFIT REQUIRED FOR PREGNANCY, MATERNITY, AND
27 NEWBORN CARE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
29 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or
30 after January 1, 2017.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 January 1, 2017.