

HOUSE BILL 1727

C3

8lr3834

By: **Delegate A. Miller**

Introduced and read first time: February 19, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Infertility Treatment and In Vitro Fertilization – Coverage**

3 FOR the purpose of prohibiting certain insurers, nonprofit health service plans, and health
4 maintenance organizations from requiring as a condition of coverage for certain
5 infertility treatments that the patient be married or in a relationship with another
6 individual; prohibiting certain insurers, nonprofit health service plans, and health
7 maintenance organizations from requiring as a condition of coverage for certain
8 infertility treatments that any patient, rather than only patients who are married to
9 individuals of the same sex, demonstrate infertility exclusively by certain means;
10 prohibiting certain insurers, nonprofit health service plans, and health maintenance
11 organizations from excluding benefits for certain expenses arising from in vitro
12 fertilization procedures performed on any dependent, rather than only a dependent
13 spouse, of a policyholder or subscriber; altering the circumstances under which
14 certain insurers, nonprofit health service plans, and health maintenance
15 organizations are prohibited from excluding benefits for certain expenses arising
16 from in vitro fertilization procedures; providing for the application of this Act;
17 providing for a delayed effective date; and generally relating to health insurance
18 coverage for in vitro fertilization procedures.

19 BY repealing and reenacting, with amendments,

20 Article – Insurance

21 Section 15–810

22 Annotated Code of Maryland

23 (2017 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

25 That the Laws of Maryland read as follows:

26 **Article – Insurance**

27 15–810.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This section applies to:

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

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

8 (b) An entity subject to this section that provides coverage for infertility benefits
9 other than in vitro fertilization may not require as a condition of that coverage[,]:

10 **(1) THAT THE PATIENT BE MARRIED OR IN A RELATIONSHIP WITH**
11 **ANOTHER INDIVIDUAL;**

12 **(2)** for a patient who is married to an individual of the same sex[:

13 **(1)],** that the patient's spouse's sperm be used in the covered treatments or
14 procedures; or

15 **[(2)] (3)** that the patient demonstrate infertility exclusively by means of
16 a history of unsuccessful heterosexual intercourse.

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

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

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

24 (2) An entity subject to this section that provides pregnancy-related
25 benefits may not exclude benefits for all outpatient expenses arising from in vitro
26 fertilization procedures performed on a policyholder or subscriber or on **[the] A** dependent
27 **[spouse]** of a policyholder or subscriber.

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

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

31 (ii) for health maintenance organizations, to the same extent as the

1 benefits provided for other infertility services.

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

3 (1) the patient is the policyholder or subscriber or a covered dependent of
4 the policyholder or subscriber;

5 (2) [for a patient whose spouse is of the opposite sex, the patient's oocytes
6 are fertilized with the patient's spouse's sperm, unless:

7 (i) the patient's spouse is unable to produce and deliver functional
8 sperm; and

9 (ii) the inability to produce and deliver functional sperm does not
10 result from:

11 1. a vasectomy; or

12 2. another method of voluntary sterilization;

13 (3) (i) **THE PATIENT HAS OR, IF THE PATIENT IS MARRIED TO AN**
14 **INDIVIDUAL OF THE OPPOSITE SEX**, the patient and the patient's spouse have a history
15 of involuntary infertility, which may be demonstrated by a history of:

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

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

21 (ii) the infertility is associated with any of the following medical
22 conditions:

23 1. endometriosis **OR OTHER UTERINE ABNORMALITY**;

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

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

28 4. abnormal male factors, including oligospermia,
29 contributing to the infertility;

30 [(4) (3) the patient has been unable to attain a successful pregnancy

1 through a less costly infertility treatment for which coverage is available under the policy
2 or contract; and

3 ~~[(5)]~~ (4) 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 (e) An entity subject to this section may limit coverage of the benefits for in vitro
8 fertilization required under this section to three in vitro fertilization attempts per live birth,
9 not to exceed a maximum lifetime benefit of \$100,000.

10 (f) An entity subject to this section is not responsible for any costs incurred by a
11 policyholder or subscriber or a dependent of a policyholder or subscriber in obtaining donor
12 sperm.

13 (g) A denial of coverage for in vitro fertilization benefits required under this
14 section by an entity subject to this section constitutes an adverse decision under Subtitle
15 10A of this title.

16 (h) This section may not be construed to require an entity subject to this section
17 to provide coverage for a treatment or a procedure that would not treat a diagnosed medical
18 condition of a patient.

19 (i) Notwithstanding any other provision of this section, if the coverage required
20 under this section conflicts with the bona fide religious beliefs and practices of a religious
21 organization, on request of the religious organization, an entity subject to this section shall
22 exclude the coverage otherwise required under this section in a policy or contract with the
23 religious organization.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
25 policies, contracts, and health benefit plans issued, delivered, renewed, or in force in the
26 State on or after January 1, 2019.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 January 1, 2019.