

January 29, 1998

HOUSE BILL No. 1401

DIGEST OF HB 1401 (Updated January 28, 1998 1:38 pm - DI 97)

Citations Affected: IC 27-8; IC 27-13; noncode.

Synopsis: Insurance coverage for infertility treatment. Prohibits the issuance, delivery, amendment, or renewal of a group policy of accident and sickness insurance providing pregnancy related benefits unless the policy provides coverage for the diagnosis and treatment of infertility. Specifies certain infertility treatment procedures that must be covered, but provides that the coverage of an insured individual for certain procedures is required only under certain circumstances. Does not apply to a group policy issued to a religious institution or organization that finds the fertility treatment procedures incompatible with its religious and moral teachings and beliefs. Provides that a group health maintenance organization (HMO) contract that provides pregnancy related benefits may not be entered into, delivered, amended, or renewed in Indiana unless it provides coverage for the diagnosis and treatment of infertility. Specifies certain infertility
(Continued next page)

Effective: July 1, 1998.

Summers, Fry

January 13, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.
January 28, 1998, amended, reported — Do Pass.

HB 1401—LS 6835/DI 55



C
O
P
Y

Digest Continued

treatment procedures that must be covered as in-plan covered services or out-of-plan covered services, but provides that the coverage of an enrollee for certain procedures is required only under certain circumstances. Does not apply to a group HMO contract entered into with a religious institution or organization that finds the fertility treatment procedures incompatible with its religious and moral teachings and beliefs.

Requires insurers, health maintenance organizations, preferred provider plans, and comprehensive health insurance policies providing coverage for outpatient prescription drugs and outpatient services provided by health care professionals to provide equal coverage for contraceptive drugs, devices and services.

C
o
p
y



January 29, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

C
O
P
Y

HOUSE BILL No. 1401

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-24.2 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]:

4 **Chapter 24.2. Contraceptive Coverage**

5 **Sec. 1. As used in this chapter, "contraceptive" means any**
6 **prescription contraceptive drug, device, or service approved by the**
7 **United States Food and Drug Administration that is:**

8 (1) **intended to prevent pregnancy, including any medically**
9 **necessary or appropriate consultation, examination,**
10 **procedure, or medical service;**

11 (2) **provided on an outpatient basis; and**

12 (3) **related to the use of contraceptive methods to prevent an**
13 **unintended pregnancy.**

14 **The term does not include abortion (as defined in IC 16-18-2-1).**

15 **Sec. 2. As used in this chapter, "covered person" means an**

HB 1401—LS 6835/DI 55



1 individual policy holder, a subscriber, a certificate holder, an
 2 enrollee, or other individual who is covered by the insurance policy
 3 of a policy holder, a subscriber, a certificate holder, or an enrollee.

4 **Sec. 3. (a) As used in this chapter, "insurance policy" means a:**

5 (1) policy of accident and sickness insurance regulated under
 6 IC 27-8-5;

7 (2) health maintenance organization regulated under
 8 IC 27-13;

9 (3) preferred provider plan (as defined in IC 27-8-11-1); or

10 (4) comprehensive health insurance policy issued under
 11 IC 27-8-10;

12 that provides coverage under an individual or group policy or plan
 13 issued for delivery in Indiana.

14 **(b) The term does not include:**

15 (1) an employee benefit program subject to the federal
 16 Employee Retirement Income Security Act (29 U.S.C. 1001, et
 17 seq.); or

18 (2) worker's compensation coverage for an injury to, or
 19 occupational disease of, an employee under IC 22-3.

20 **Sec. 4. As used in this chapter, "prescription drug" means any**
 21 **article or substance regulated under IC 16-42-19.**

22 **Sec. 5. An insurance policy that provides coverage for**
 23 **outpatient prescription drugs may not exclude or restrict benefits**
 24 **for prescription contraceptive drugs or devices approved by the**
 25 **United States Food and Drug Administration to any covered**
 26 **person.**

27 **Sec. 6. An insurance policy that provides coverage for**
 28 **outpatient services provided by a health care professional may not**
 29 **exclude or restrict benefits for outpatient contraceptive services**
 30 **provided by a health care professional to any covered person.**

31 **Sec. 7. The coverage required under this chapter may not be**
 32 **subject to dollar limits, deductibles, copayments, or coinsurance**
 33 **provisions that are less favorable to covered persons than the**
 34 **dollar limits, deductibles, copayments, or coinsurance provisions**
 35 **applying to physical illness generally under the insurance policy.**

36 **Sec. 8. A covered person may not be required to pay a**
 37 **deductible, coinsurance, or a copayment for contraceptive drugs,**
 38 **devices, or services that is greater than a deductible, coinsurance,**
 39 **or a copayment established for other prescription drugs, devices,**
 40 **or services under the insurance policy.**

41 **Sec. 9. A covered person who receives or is eligible to receive**
 42 **contraceptive drugs, devices, or services under this chapter may**



C
O
P
Y

1 not be required to pay a deductible, coinsurance, a copayment, or
 2 a fee that is greater than a deductible, coinsurance, a copayment,
 3 or a fee established for individuals of the same benefit category or
 4 class, or coinsurance or copayment level, receiving benefits for
 5 other prescription drugs, devices, or services.

6 **Sec. 10. If a covered person's health care provider determines**
 7 **that contraceptive methods specifically covered under an insurance**
 8 **policy are not medically appropriate for the covered person, the**
 9 **insurance policy must provide coverage for another medically**
 10 **approved prescriptive contraceptive method prescribed by the**
 11 **covered person's health care provider.**

12 SECTION 2. IC 27-8-27 IS ADDED TO THE INDIANA CODE AS
 13 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 1998]:

15 **Chapter 27. Group Policy Coverage for Infertility Treatment**

16 **Sec. 1. (a) As used in this chapter, "policy of accident and**
 17 **sickness insurance" means a policy or contract that:**

- 18 (1) provides at least one (1) of the kinds of insurance
 19 described in Class 1(b) or 2(a) of IC 27-1-5-1; and
 20 (2) is written on a group basis.

21 (b) The term does not include the following:

- 22 (1) Accident only, credit, dental, vision, Medicare supplement,
 23 long term care, or disability income insurance.
 24 (2) Coverage issued as a supplement to liability insurance.
 25 (3) Automobile medical payment insurance.
 26 (4) A specified disease policy.
 27 (5) A limited benefit health insurance policy.
 28 (6) A short term insurance plan that:
 29 (A) may not be renewed; and
 30 (B) has a duration of not more than six (6) months.
 31 (7) A policy that provides a stipulated daily, weekly, or
 32 monthly payment to an insured during hospital confinement,
 33 without regard to the actual expense of the confinement.
 34 (8) Worker's compensation or similar insurance.
 35 (9) A student health insurance policy.

36 **Sec. 2. (a) Except as provided in subsection (b), a policy of**
 37 **accident and sickness insurance that provides pregnancy related**
 38 **benefits may not be issued, delivered, amended, or renewed in**
 39 **Indiana unless it provides coverage for the diagnosis and treatment**
 40 **of infertility.**

41 (b) This chapter does not require coverage for the diagnosis and
 42 treatment of infertility in a policy of accident and sickness

C
O
P
Y



1 insurance that is issued to:

- 2 (1) a religious institution or organization; or
 3 (2) an entity sponsored by a religious institution or
 4 organization;

5 that finds the procedures in section 3 of this chapter incompatible
 6 with its religious and moral teachings and beliefs.

7 Sec. 3. Subject to section 4 of this chapter, the coverage for the
 8 diagnosis and treatment of infertility that must be provided by a
 9 policy of accident and sickness insurance under this chapter
 10 includes the following procedures:

- 11 (1) In vitro fertilization.
 12 (2) Uterine embryo lavage.
 13 (3) Embryo transfer.
 14 (4) Artificial insemination.
 15 (5) Gamete intrafallopian tube transfer.
 16 (6) Zygote intrafallopian tube transfer.
 17 (7) Low tubal ovum transfer.

18 Sec. 4. (a) An insurer is required under this chapter to cover
 19 procedures for in vitro fertilization, gamete intrafallopian tube
 20 transfer, or zygote intrafallopian tube transfer for an insured
 21 individual only if:

- 22 (1) the individual has not been able to attain or sustain a
 23 successful pregnancy through reasonable, less costly,
 24 medically appropriate infertility treatments for which
 25 coverage is available under the policy;
 26 (2) the individual has undergone not more than three (3)
 27 oocyte retrievals, except as provided in subsection (b); and
 28 (3) the procedures for in vitro fertilization, gamete
 29 intrafallopian tube transfer, or zygote intrafallopian tube
 30 transfer are performed at medical facilities that conform to
 31 the:

- 32 (A) guidelines of the American College of Obstetricians
 33 and Gynecologists for in vitro fertilization clinics; or
 34 (B) minimal standards of the American Fertility Society
 35 for programs of in vitro fertilization.

36 (b) Subsection (a)(2) does not relieve an insurer of the obligation
 37 to cover an individual who has undergone at least four (4) oocyte
 38 retrievals if the individual, since giving birth to a living child, has
 39 had less than two (2) oocyte retrievals.

40 SECTION 3. IC 27-13-7-15 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 1998]: Sec. 15. (a) Except as provided in subsection (b), a group



1 contract that provides pregnancy related benefits may not be
 2 entered into, delivered, amended, or renewed in Indiana unless it
 3 provides coverage for the diagnosis and treatment of infertility.

4 (b) This chapter does not require coverage for the diagnosis and
 5 treatment of infertility in a group contract that is entered into
 6 with:

- 7 (1) a religious institution or organization; or
 8 (2) an entity sponsored by a religious institution or
 9 organization;

10 that finds the procedures in subsection (c) incompatible with its
 11 religious and moral teachings and beliefs.

12 (c) Subject to subsection (d), the coverage for the diagnosis and
 13 treatment of infertility that must be provided by a group contract
 14 under this section includes the following procedures as in-plan
 15 covered services or out-of-plan covered services:

- 16 (1) In vitro fertilization.
 17 (2) Uterine embryo lavage.
 18 (3) Embryo transfer.
 19 (4) Artificial insemination.
 20 (5) Gamete intrafallopian tube transfer.
 21 (6) Zygote intrafallopian tube transfer.
 22 (7) Low tubal ovum transfer.

23 (d) A health maintenance organization is required under this
 24 section to cover procedures for in vitro fertilization, gamete
 25 intrafallopian tube transfer, or zygote intrafallopian tube transfer
 26 for an enrollee only if:

- 27 (1) the enrollee has not been able to attain or sustain a
 28 successful pregnancy through reasonable, less costly,
 29 medically appropriate infertility treatments that are in-plan
 30 covered services available under the group contract;
 31 (2) the enrollee has undergone not more than three (3) oocyte
 32 retrievals, except as provided in subsection (e); and
 33 (3) the procedures for in vitro fertilization, gamete
 34 intrafallopian tube transfer, or zygote intrafallopian tube
 35 transfer are performed at medical facilities that conform to
 36 the:

- 37 (A) guidelines of the American College of Obstetricians
 38 and Gynecologists for in vitro fertilization; or
 39 (B) minimal standards of the American Fertility Society
 40 for programs of in vitro fertilization.

41 (e) Subsection (d)(2) does not relieve a health maintenance
 42 organization of the obligation to cover an individual who has

C
O
P
Y



1 undergone at least four (4) oocyte retrievals if the individual, since
2 giving birth to a living child, has had less than two (2) oocyte
3 retrievals.

4 SECTION 4. [EFFECTIVE JULY 1, 1998] (a) As used in this
5 SECTION, "insurance policy" means a:

6 (1) policy of accident and sickness insurance regulated under
7 IC 27-8-5;

8 (2) health maintenance organization regulated under
9 IC 27-13;

10 (3) preferred provider plan (as defined in IC 27-8-11-1); or

11 (4) comprehensive health insurance policy issued under
12 IC 27-8-10;

13 that provides coverage under an individual or group policy or plan
14 issued for delivery in Indiana.

15 (b) The term does not include:

16 (1) an employee benefit program subject to the federal
17 Employee Retirement Income Security Act (29 U.S.C. 1001, et
18 seq.); or

19 (2) worker's compensation coverage for an injury to, or
20 occupational disease of, an employee under IC 22-3.

21 (c) IC 27-8-24.2, as added by this act, applies to insurance
22 policies issued, delivered, executed, or renewed after June 30, 1998.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1401, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-8-24.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]:

Chapter 24.2. Contraceptive Coverage

Sec. 1. As used in this chapter, "contraceptive" means any prescription contraceptive drug, device, or service approved by the United States Food and Drug Administration that is:

- (1) intended to prevent pregnancy, including any medically necessary or appropriate consultation, examination, procedure, or medical service;
- (2) provided on an outpatient basis; and
- (3) related to the use of contraceptive methods to prevent an unintended pregnancy.

The term does not include abortion (as defined in IC 16-18-2-1).

Sec. 2. As used in this chapter, "covered person" means an individual policy holder, a subscriber, a certificate holder, an enrollee, or other individual who is covered by the insurance policy of a policy holder, a subscriber, a certificate holder, or an enrollee.

Sec. 3. (a) As used in this chapter, "insurance policy" means a:

- (1) policy of accident and sickness insurance regulated under IC 27-8-5;
- (2) health maintenance organization regulated under IC 27-13;
- (3) preferred provider plan (as defined in IC 27-8-11-1); or
- (4) comprehensive health insurance policy issued under IC 27-8-10;

that provides coverage under an individual or group policy or plan issued for delivery in Indiana.

(b) The term does not include:

- (1) an employee benefit program subject to the federal Employee Retirement Income Security Act (29 U.S.C. 1001, et seq.); or
- (2) worker's compensation coverage for an injury to, or occupational disease of, an employee under IC 22-3.

Sec. 4. As used in this chapter, "prescription drug" means any

C
O
P
Y



article or substance regulated under IC 16-42-19.

Sec. 5. An insurance policy that provides coverage for outpatient prescription drugs may not exclude or restrict benefits for prescription contraceptive drugs or devices approved by the United States Food and Drug Administration to any covered person.

Sec. 6. An insurance policy that provides coverage for outpatient services provided by a health care professional may not exclude or restrict benefits for outpatient contraceptive services provided by a health care professional to any covered person.

Sec. 7. The coverage required under this chapter may not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable to covered persons than the dollar limits, deductibles, copayments, or coinsurance provisions applying to physical illness generally under the insurance policy.

Sec. 8. A covered person may not be required to pay a deductible, coinsurance, or a copayment for contraceptive drugs, devices, or services that is greater than a deductible, coinsurance, or a copayment established for other prescription drugs, devices, or services under the insurance policy.

Sec. 9. A covered person who receives or is eligible to receive contraceptive drugs, devices, or services under this chapter may not be required to pay a deductible, coinsurance, a copayment, or a fee that is greater than a deductible, coinsurance, a copayment, or a fee established for individuals of the same benefit category or class, or coinsurance or copayment level, receiving benefits for other prescription drugs, devices, or services.

Sec. 10. If a covered person's health care provider determines that contraceptive methods specifically covered under an insurance policy are not medically appropriate for the covered person, the insurance policy must provide coverage for another medically approved prescriptive contraceptive method prescribed by the covered person's health care provider.

Page 4, line 4, delete "and".

Page 4, line 6, delete "(b)." and insert "(e); and".

Page 4, between lines 6 and 7, begin a new line single block indented and insert:

"(3) the procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer are performed at medical facilities that conform to the:

(A) guidelines of the American College of Obstetricians



C
O
P
Y

**and Gynecologists for in vitro fertilization; or
(B) minimal standards of the American Fertility Society
for programs of in vitro fertilization."**

Page 4, after line 11, begin a new paragraph and insert:

**SECTION 3. [EFFECTIVE JULY 1, 1998] (a) As used in this
SECTION, "insurance policy" means a:**

- (1) policy of accident and sickness insurance regulated under
IC 27-8-5;**
- (2) health maintenance organization regulated under
IC 27-13;**
- (3) preferred provider plan (as defined in IC 27-8-11-1); or**
- (4) comprehensive health insurance policy issued under
IC 27-8-10;**

**that provides coverage under an individual or group policy or plan
issued for delivery in Indiana.**

(b) The term does not include:

- (1) an employee benefit program subject to the federal
Employee Retirement Income Security Act (29 U.S.C. 1001, et
seq.); or**
- (2) worker's compensation coverage for an injury to, or
occupational disease of, an employee under IC 22-3.**

**(c) IC 27-8-24.2, as added by this act, applies to insurance
policies issued, delivered, executed, or renewed after June 30,
1998."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1401 as introduced.)

FRY, Chair

Committee Vote: yeas 8, nays 5.

C
O
P
Y

