

HOUSE BILL No. 1401

DIGEST OF HB 1401 (Updated February 2, 1998 6:35 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 insurer issuing the policy offers coverage for the diagnosis and treatment of infertility. Specifies certain infertility treatment procedures for which coverage must be offered, but provides that under the offer 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 the health maintenance organization issuing the group contract
(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.

February 2, 1998, read second time, amended, ordered engrossed.

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Digest Continued

offers coverage for the diagnosis and treatment of infertility. Specifies certain infertility treatment procedures for which coverage must be offered as in-plan covered services or out-of-plan covered services, but provides that under the offer 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 that provide basic health care services, 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.

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Reprinted
February 3, 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.

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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**

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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) that
 10 provides basic health care services (as defined in
 11 IC 27-13-1-4); or

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

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

16 (b) The term does not include:

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

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

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

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

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

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

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



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

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

14 SECTION 2. IC 27-8-27 IS ADDED TO THE INDIANA CODE AS
 15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 1998]:

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

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

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

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

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

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



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1 **(b) This chapter does not require coverage for the diagnosis and**
 2 **treatment of infertility in a policy of accident and sickness**
 3 **insurance that is issued to:**

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

7 **that finds the procedures in section 3 of this chapter incompatible**
 8 **with its religious and moral teachings and beliefs.**

9 **Sec. 3. Subject to section 4 of this chapter, the coverage for the**
 10 **diagnosis and treatment of infertility that must be offered with a**
 11 **policy of accident and sickness insurance under this chapter**
 12 **includes the following procedures:**

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

20 **Sec. 4. (a) If an offer described in section 3 of this chapter has**
 21 **been accepted, an insurer is required under this chapter to cover**
 22 **procedures for in vitro fertilization, gamete intrafallopian tube**
 23 **transfer, or zygote intrafallopian tube transfer for an insured**
 24 **individual only if:**

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

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

39 **(b) Subsection (a)(2) does not relieve an insurer of the obligation**
 40 **to cover an individual who has accepted the offer of coverage**
 41 **described in section 3 of this chapter and has undergone at least**
 42 **four (4) oocyte retrievals if the individual, since giving birth to a**



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1 living child, has had less than two (2) oocyte retrievals.

2 SECTION 3. IC 27-13-7-15 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 1998]: **Sec. 15. (a) Except as provided in subsection (b), a group
5 contract that provides pregnancy related benefits may not be
6 entered into, delivered, amended, or renewed in Indiana unless the
7 health maintenance organization issuing the group contract offers
8 coverage for the diagnosis and treatment of infertility.**

9 **(b) This chapter does not require coverage for the diagnosis and
10 treatment of infertility in a group contract that is entered into
11 with:**

- 12 (1) a religious institution or organization; or
13 (2) an entity sponsored by a religious institution or
14 organization;

15 **that finds the procedures in subsection (c) incompatible with its
16 religious and moral teachings and beliefs.**

17 **(c) Subject to subsection (d), the coverage for the diagnosis and
18 treatment of infertility that must be offered with a group contract
19 under this section includes the following procedures as in-plan
20 covered services or out-of-plan covered services:**

- 21 (1) In vitro fertilization.
22 (2) Uterine embryo lavage.
23 (3) Embryo transfer.
24 (4) Artificial insemination.
25 (5) Gamete intrafallopian tube transfer.
26 (6) Zygote intrafallopian tube transfer.
27 (7) Low tubal ovum transfer.

28 **(d) If an offer described in subsection (c) has been accepted, a
29 health maintenance organization is required under this section to
30 cover procedures for in vitro fertilization, gamete intrafallopian
31 tube transfer, or zygote intrafallopian tube transfer for an enrollee
32 only if:**

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



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1 (A) guidelines of the American College of Obstetricians
2 and Gynecologists for in vitro fertilization; or

3 (B) minimal standards of the American Fertility Society
4 for programs of in vitro fertilization.

5 (e) Subsection (d)(2) does not relieve a health maintenance
6 organization of the obligation to cover an individual who has
7 accepted the offer of coverage described in subsection (c) and has
8 undergone at least four (4) oocyte retrievals if the individual, since
9 giving birth to a living child, has had less than two (2) oocyte
10 retrievals.

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

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

15 (2) health maintenance organization regulated under
16 IC 27-13;

17 (3) preferred provider plan (as defined in IC 27-8-11-1) that
18 provides basic health care services (as defined in
19 IC 27-13-1-4); or

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

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

24 (b) The term does not include:

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

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

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

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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

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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



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**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.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1401 be amended to read as follows:

Page 2, line 9, after "IC 27-8-11-1)" insert "**that provides basic health care services (as defined in IC 27-13-1-4)**".

Page 3, line 39, delete "it provides" and insert "**the insurer issuing the policy offers**".

Page 4, line 8, delete "provided by" and insert "**offered with**".

Page 4, line 18, delete "An" and insert "**If an offer described in section 3 of this chapter has been accepted, an**".

Page 4, line 37, after "has" insert "**accepted the offer of coverage described in section 3 of this chapter and has**".

Page 5, line 2, delete "it" and insert "**the health maintenance organization issuing the group contract offers**".

Page 5, line 3, delete "provides".

Page 5, line 13, delete "provided by" and insert "**offered with**".

Page 5, line 23, delete "A" and insert "**If an offer described in subsection (c) has been accepted, a**".

Page 5, line 42, after "has" insert "**accepted the offer of covered described in subsection (c) and has**".

Page 6, line 10, after "IC 27-8-11-1)" insert "**that provides basic health care services (as defined in IC 27-13-1-4)**".

(Reference is to House Bill 1401 as printed January 29, 1998.)

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