



Reprinted
April 9, 1999

ENGROSSED HOUSE BILL No. 1331

DIGEST OF HB 1331 (Updated April 8, 1999 3:41 pm - DI 88)

Citations Affected: IC 5-10; IC 27-8; IC 27-13.

Synopsis: Insurance coverage for infertility treatment. Requires a group health insurance policy or health maintenance organization contract that provides pregnancy related benefits to offer to provide coverage for the diagnosis of infertility and coverage for specified infertility treatment procedures in certain circumstances. Requires that the state consider offering this coverage under the state employee health benefit plans. Exempts policies and contracts issued by or to certain entities if fertility treatment procedures violate religious beliefs. Requires that if an entity does not offer coverage for the diagnosis or treatment of certain disorders due to the entity's religious beliefs, the
(Continued next page)

Effective: July 1, 1999.

Fry, Budak
(SENATE SPONSOR — MILLER)

January 12, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 1, 1999, amended, reported — Do Pass.

February 10, 1999, read second time, amended, ordered engrossed.

February 11, 1999, engrossed. Read third time, passed. Yeas 66, nays 29.

SENATE ACTION

February 25, 1999, read first time and referred to Committee on Health and Provider Services.

April 5, 1999, amended, reported favorably — Do Pass.

April 8, 1999, read second time, amended, ordered engrossed.

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entity must disclose in writing to each potential policyholder the specific conditions for which the entity does not offer diagnosis or treatment. Prohibits coverage for procedures that involve the disposal of fertilized eggs. Provides that consideration of coverage or an offer of coverage for services related to the sale or donation of human eggs is not required. Exempts policies or contracts with a federal governmental entity. Provides that the maximum coverage that must be considered or offered is \$15,000 per year.

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April 9, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1331

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 5-10-8-7.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 7.3. (a) The state shall consider covering the diagnosis
4 and treatment of infertility under a:**
5 (1) **self-insurance program established or maintained under
6 section 7(b) of this chapter to provide group health coverage
7 that includes pregnancy related benefits; and**
8 (2) **contract entered into or renewed under section 7(c) of this
9 chapter to provide health services through a prepaid health
10 care delivery plan that provides pregnancy related benefits.**
11 (b) **Subject to subsections (c) and (d), the coverage that must be
12 considered under this section includes the following procedures:**
13 (1) **In vitro fertilization.**
14 (2) **Assisted hatching.**
15 (3) **Embryo transfer.**
16 (4) **Artificial insemination.**
17 (5) **Gamete intrafallopian tube transfer.**

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1 **(6) Zygote intrafallopian tube transfer.**

2 **(7) Intracytoplasmic sperm injection.**

3 **(8) Transvaginal assisted ovulation.**

4 **(9) Cryopreservation.**

5 **(c) Subject to subsection (e), the state is required to consider**
 6 **coverage for in vitro fertilization, gamete intrafallopian tube**
 7 **transfer, or zygote intrafallopian tube transfer for an individual**
 8 **covered under a self-insurance program or contract specified in**
 9 **subsection (a) only if:**

10 **(1) the individual has not been able to attain or sustain a**
 11 **successful pregnancy through reasonable, less costly,**
 12 **medically appropriate infertility treatments for which**
 13 **coverage is available under the self-insurance program or**
 14 **contract;**

15 **(2) the individual has undergone not more than three (3)**
 16 **oocyte retrievals, except as provided in subsection (d);**

17 **(3) the procedures for in vitro fertilization, gamete**
 18 **intrafallopian tube transfer, or zygote intrafallopian tube**
 19 **transfer are performed at medical facilities that conform to**
 20 **the guidelines of the American College of Obstetricians and**
 21 **Gynecologists for in vitro fertilization clinics; and**

22 **(4) the procedure is performed by a physician whose practice**
 23 **involves the diagnosis or treatment of infertility for at least**
 24 **fifty percent (50%) of the physician's patients.**

25 **(d) Subsection (c)(2) does not relieve the state of considering**
 26 **coverage for an individual who has undergone at least four (4)**
 27 **oocyte retrievals if the individual, since giving birth to a living**
 28 **child, has had less than two (2) oocyte retrievals.**

29 **(e) The state may not cover a procedure under subsection (b) if**
 30 **the procedure involves the disposal of fertilized eggs.**

31 **(f) This section does not require the state to consider coverage**
 32 **for services related to the sale or donation of human eggs.**

33 **(g) The maximum coverage that must be considered under this**
 34 **section is fifteen thousand dollars (\$15,000) per year.**

35 SECTION 2. IC 27-8-27.2 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 1999]:

38 **Chapter 27.2. Group Policy Coverage for Infertility Treatment**

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

41 **(1) provides at least one (1) of the kinds of insurance**
 42 **described in Class 1(b) or 2(a) of IC 27-1-5-1; and**



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- 1 (2) is written on a group basis.
- 2 **(b) The term does not include the following:**
- 3 (1) Accident only, credit, dental, vision, Medicare supplement,
- 4 long term care, or disability income insurance.
- 5 (2) Coverage issued as a supplement to liability insurance.
- 6 (3) Automobile medical payment insurance.
- 7 (4) A specified disease policy.
- 8 (5) A limited benefit health insurance policy.
- 9 (6) A short term insurance plan that:
- 10 (A) may not be renewed; and
- 11 (B) has a duration of not more than six (6) months.
- 12 (7) A policy that provides a stipulated daily, weekly, or
- 13 monthly payment to an insured during hospital confinement,
- 14 without regard to the actual expense of the confinement.
- 15 (8) Worker's compensation or similar insurance.
- 16 (9) A student health insurance policy.
- 17 (10) A policy or contract with a federal governmental entity
- 18 for the insuring or administration of Medicare+Choice plans
- 19 or for plans that cover military or civilian federal employees
- 20 and the employees' dependents.
- 21 **Sec. 2. (a) Except as provided in subsection (b), a policy of**
- 22 **accident and sickness insurance that provides pregnancy related**
- 23 **benefits may not be issued, delivered, amended, or renewed in**
- 24 **Indiana unless the insurer issuing the policy offers to provide**
- 25 **coverage for the diagnosis and treatment of infertility.**
- 26 **(b) This chapter does not require an offer of coverage for the**
- 27 **diagnosis and treatment of infertility in a policy of accident and**
- 28 **sickness insurance that is issued by or to an entity that finds the**
- 29 **procedures in section 3 of this chapter incompatible with its**
- 30 **religious and moral teachings and beliefs.**
- 31 **(c) An insurer that does not offer coverage, as provided in**
- 32 **subsection (b), shall disclose in writing to each potential**
- 33 **policyholder or certificate holder of a policy of accident and**
- 34 **sickness insurance issued by the insurer the following:**
- 35 (1) That the insurer does not offer coverage for the diagnosis
- 36 or treatment of certain conditions because the diagnosis or
- 37 treatment is incompatible with the insurer's religious and
- 38 moral teachings and beliefs.
- 39 (2) A list of the specific conditions for which the insurer does
- 40 not provide coverage for diagnosis or treatment under
- 41 subdivision (1).
- 42 **The disclosure must provide a space for the potential policyholder**



1 or certificate holder to sign in order to acknowledge that the
 2 potential policyholder or certificate holder has been provided with
 3 and understands the information disclosed under subdivisions (1)
 4 and (2).

5 **Sec. 3.** Subject to sections 4 and 5 of this chapter, the coverage
 6 for the diagnosis and treatment of infertility that must be offered
 7 by a policy of accident and sickness insurance under this chapter
 8 includes the following procedures:

- 9 (1) In vitro fertilization.
- 10 (2) Assisted hatching.
- 11 (3) Embryo transfer.
- 12 (4) Artificial insemination.
- 13 (5) Gamete intrafallopian tube transfer.
- 14 (6) Zygote intrafallopian tube transfer.
- 15 (7) Intracytoplasmic sperm injection.
- 16 (8) Transvaginal assisted ovulation.
- 17 (9) Cryopreservation.

18 **Sec. 4.** (a) Subject to section 5 of this chapter, an insurer is
 19 required under this chapter to offer coverage for procedures for in
 20 vitro fertilization, gamete intrafallopian tube transfer, or zygote
 21 intrafallopian tube transfer for an insured 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);
- 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 guidelines of the American College of Obstetricians and
 32 Gynecologists for in vitro fertilization clinics; and
- 33 (4) the procedure is performed by a physician whose practice
 34 involves the diagnosis or treatment of infertility for at least
 35 fifty percent (50%) of the physician's patients.

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

40 **Sec. 5.** An insurer may not cover a procedure under section 3 of
 41 this chapter if the procedure involves the disposal of fertilized eggs.

42 **Sec. 6.** This chapter does not require an insurer to offer



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1 coverage for services related to the sale or donation of human eggs.

2 **Sec. 7. The maximum coverage that must be offered under this**
 3 **chapter is fifteen thousand dollars (\$15,000) per year.**

4 SECTION 3. IC 27-13-7-15.2 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 1999]: **Sec. 15.2. (a) Except as provided in**
 7 **subsection (b), a group contract that provides pregnancy related**
 8 **benefits may not be entered into, delivered, amended, or renewed**
 9 **in Indiana unless the health maintenance organization entering**
 10 **into the group contract offers to provide coverage for the diagnosis**
 11 **and treatment of infertility.**

12 **(b) This chapter does not require an offer of coverage for the**
 13 **diagnosis and treatment of infertility in a group contract that is**
 14 **issued by or to an entity that finds the procedures in subsection (c)**
 15 **incompatible with its religious and moral teachings and beliefs.**

16 **(c) A health maintenance organization that does not offer**
 17 **coverage, as provided in subsection (b), shall disclose in writing to**
 18 **each potential enrollee of a group contract issued by the health**
 19 **maintenance organization the following:**

20 **(1) That the health maintenance organization does not offer**
 21 **coverage for the diagnosis or treatment of certain conditions**
 22 **because the diagnosis or treatment is incompatible with the**
 23 **health maintenance organization's religious and moral**
 24 **teachings and beliefs.**

25 **(2) A list of the specific conditions for which the health**
 26 **maintenance organization does not provide coverage for**
 27 **diagnosis or treatment under subdivision (1).**

28 **The disclosure must provide a space for the potential enrollee to**
 29 **sign in order to acknowledge that the potential enrollee has been**
 30 **provided with and understands the information disclosed under**
 31 **subdivisions (1) and (2).**

32 **(d) Subject to subsections (e) and (g), the coverage for the**
 33 **diagnosis and treatment of infertility that must be offered by a**
 34 **group contract under this section includes the following procedures**
 35 **as in-plan covered services or out-of-plan covered services:**

- 36 **(1) In vitro fertilization.**
 37 **(2) Assisted hatching.**
 38 **(3) Embryo transfer.**
 39 **(4) Artificial insemination.**
 40 **(5) Gamete intrafallopian tube transfer.**
 41 **(6) Zygote intrafallopian tube transfer.**
 42 **(7) Intracytoplasmic sperm injection.**



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(8) Transvaginal assisted ovulation.

(9) Cryopreservation.

(e) Subject to subsection (g), a health maintenance organization is required under this section to offer coverage for procedures for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer for an enrollee only if:

(1) the enrollee has not been able to attain or sustain a successful pregnancy through reasonable, less costly, medically appropriate infertility treatments that are in-plan covered services available under the group contract;

(2) the enrollee has undergone not more than three (3) oocyte retrievals, except as provided in subsection (f);

(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 guidelines of the American College of Obstetricians and Gynecologists for in vitro fertilization clinics; and

(4) the procedure is performed by a physician whose practice involves the diagnosis or treatment of infertility for at least fifty percent (50%) of the physician's patients.

(f) Subsection (e)(2) does not relieve a health maintenance organization of the obligation to offer to cover an individual who has undergone at least four (4) oocyte retrievals if the individual, since giving birth to a living child, has had less than two (2) oocyte retrievals.

(g) A health maintenance organization may not cover a procedure under subsection (d) if the procedure involves the disposal of fertilized eggs.

(h) This section does not require a health maintenance organization to offer coverage for services related to the sale or donation of human eggs.

(i) The maximum coverage that must be offered under this section is fifteen thousand dollars (\$15,000) per year.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1331, 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 2, line 11, delete "it provides" and insert "**the insurer issuing the policy offers to provide**".

Page 2, line 13, after "require" insert "**an offer of**".

Page 2, line 22, delete "provided" and insert "**offered**".

Page 2, line 35, delete "cover" and insert "**offer coverage for**".

Page 3, line 11, after "to" insert "**offer to**".

Page 3, line 20, delete "it".

Page 3, line 21, delete "provides" and insert "**the health maintenance organization entering into the group contract offers to provide**".

Page 3, line 22, after "require" insert "**an offer of**".

Page 3, line 31, delete "provided" and insert "**offered**".

Page 4, line 2, delete "cover" and insert "**offer coverage for**".

Page 4, line 20, after "to" insert "**offer to**".

and when so amended that said bill do pass.

(Reference is to HB 1331 as introduced.)

FRY, Chair

Committee Vote: yeas 11, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1331 be amended to read as follows:

Page 2, line 15, delete "to:" and insert "**by or to an entity**".

Page 2, delete lines 16 through 18.

Page 3, line 26, delete "entered into with:" and insert "**issued by or to an entity**".

Page 3, delete lines 27 through 29.

(Reference is to HB 1331 as printed February 2, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1331, has had the same under consideration and begs leave to report the same back to the Senate 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 5-10-8-7.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7.3. (a) The state shall consider covering the diagnosis and treatment of infertility under a:**

- (1) self-insurance program established or maintained under section 7(b) of this chapter to provide group health coverage that includes pregnancy related benefits; and
- (2) contract entered into or renewed under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan that provides pregnancy related benefits.

(b) Subject to subsections (c) and (d), the coverage that must be considered under this section includes the following procedures:

- (1) In vitro fertilization.
- (2) Assisted hatching.
- (3) Embryo transfer.
- (4) Artificial insemination.
- (5) Gamete intrafallopian tube transfer.
- (6) Zygote intrafallopian tube transfer.
- (7) Intracytoplasmic sperm injection.
- (8) Transvaginal assisted ovulation.
- (9) Cryopreservation.

(c) Subject to subsection (e), the state is required to consider coverage for in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer for an individual covered under a self-insurance program or contract specified in subsection (a) only if:

- (1) the individual has not been able to attain or sustain a successful pregnancy through reasonable, less costly, medically appropriate infertility treatments for which coverage is available under the self-insurance program or contract;
- (2) the individual has undergone not more than three (3) oocyte retrievals, except as provided in subsection (d);
- (3) the procedures for in vitro fertilization, gamete

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intrafallopian tube transfer, or zygote intrafallopian tube transfer are performed at medical facilities that conform to the guidelines of the American College of Obstetricians and Gynecologists for in vitro fertilization clinics; and

(4) the procedure is performed by a physician whose practice involves the diagnosis or treatment of infertility for at least fifty percent (50%) of the physician's patients.

(d) Subsection (c)(2) does not relieve the state of considering coverage for an individual who has undergone at least four (4) oocyte retrievals if the individual, since giving birth to a living child, has had less than two (2) oocyte retrievals.

(e) The state may not cover a procedure under subsection (b) if the procedure involves the disposal of fertilized eggs.

(f) This section does not require the state to consider coverage for services related to the sale or donation of human eggs.

(g) The maximum coverage that must be considered under this section is fifteen thousand dollars (\$15,000) per year."

Page 1, line 1, delete "IC 27-8-27" and insert "IC 27-8-27.2".

Page 1, line 4, delete "27" and insert "27.2".

Page 2, between lines 7 and 8, begin a new line block indented and insert:

"(10) A policy or contract with a federal governmental entity for the insuring or administration of Medicare+Choice plans or for plans that cover military or civilian federal employees and the employees' dependents ."

Page 3, between lines 12 and 13, begin a new paragraph and insert:

"Sec. 6. This chapter does not require an insurer to offer coverage for services related to the sale or donation of human eggs.

Sec. 7. The maximum coverage that must be offered under this chapter is fifteen thousand dollars (\$15,000) per year."

Page 3, line 13, delete "IC 27-13-7-15" and insert "IC 27-13-7-15.2".

Page 3, line 15, delete "15" and insert "15.2".

Page 4, after line 21, begin a new paragraph and insert:

"(g) This section does not require a health maintenance organization to offer coverage for services related to the sale or donation of human eggs.

(h) The maximum coverage that must be offered under this section is fifteen thousand dollars (\$15,000) per year."

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and when so amended that said bill do pass.

(Reference is to HB 1331 as reprinted February 11, 1999.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 1.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1331 be amended to read as follows:

Page 3, between lines 30 and 31, begin a new paragraph and insert:

"(c) An insurer that does not offer coverage, as provided in subsection (b), shall disclose in writing to each potential policyholder or certificate holder of a policy of accident and sickness insurance issued by the insurer the following:

(1) That the insurer does not offer coverage for the diagnosis or treatment of certain conditions because the diagnosis or treatment is incompatible with the insurer's religious and moral teachings and beliefs.

(2) A list of the specific conditions for which the insurer does not provide coverage for diagnosis or treatment under subdivision (1).

The disclosure must provide a space for the potential policyholder or certificate holder to sign in order to acknowledge that the potential policyholder or certificate holder has been provided with and understands the information disclosed under subdivisions (1) and (2)."

Page 4, between lines 41 and 42, begin a new paragraph and insert:

"(c) A health maintenance organization that does not offer coverage, as provided in subsection (b), shall disclose in writing to each potential enrollee of a group contract issued by the health maintenance organization the following:

(1) That the health maintenance organization does not offer coverage for the diagnosis or treatment of certain conditions because the diagnosis or treatment is incompatible with the health maintenance organization's religious and moral teachings and beliefs.

(2) A list of the specific conditions for which the health maintenance organization does not provide coverage for diagnosis or treatment under subdivision (1).

The disclosure must provide a space for the potential enrollee to sign in order to acknowledge that the potential enrollee has been provided with and understands the information disclosed under subdivisions (1) and (2)."

Page 4, line 42, delete "(c)" and insert "**(d)**".

Page 4, line 42, delete "(d) and (f)" and insert "**(e) and (g)**".

Page 5, line 13, delete "(d)" and insert "**(e)**".

Page 5, line 13, delete "(f)" and insert "**(g)**".

Page 5, line 22, delete "(e)" and insert "**(f)**".



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Page 5, line 31, delete "(e) Subsection (d)(2)" and insert "**(f) Subsection (e)(2)**".

Page 5, line 36, delete "(f)" and insert "**(g)**".

Page 5, line 37, delete "(c)" and insert "**(d)**".

Page 5, line 39, delete "(g)" and insert "**(h)**".

Page 5, line 42, delete "(h)" and insert "**(i)**".

(Reference is to EHB 1331 as printed April 6, 1999.)

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