
HOUSE BILL No. 1221

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8-7.9; IC 27-8-14.3; IC 27-13-7-19.

Synopsis: Insurance coverage for infertility. Provides that: (1) the state; (2) a health insurer; and (3) a health maintenance organization; must provide coverage for the diagnosis and treatment of infertility.

Effective: July 1, 2004.

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January 15, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1221



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 5-10-8-7.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 7.9. (a) As used in this section, "covered individual"**
4 **means a person who is:**
5 (1) **covered under a self-insurance program established under**
6 **section 7(b) of this chapter to provide health care coverage; or**
7 (2) **entitled to services under a contract entered into under**
8 **section 7(c) of this chapter to provide health services through**
9 **a prepaid health care delivery plan.**
10 (b) **As used in this section, "health care plan" means:**
11 (1) **a self-insurance program established under section 7(b) of**
12 **this chapter to provide health care coverage; or**
13 (2) **a contract entered into under section 7(c) of this chapter**
14 **to provide health services through a prepaid health care**
15 **delivery plan.**
16 (c) **As used in this section, "infertility" means the inability to**
17 **conceive a child after one (1) year of unprotected sexual**



1 intercourse or the inability to sustain a successful pregnancy.

2 (d) A self-insurance program established under section 7(b) of
3 this chapter to provide health care coverage must provide a
4 covered individual with coverage for the diagnosis and treatment
5 of infertility.

6 (e) A contract with a prepaid health care delivery plan that is
7 entered into or renewed under section 7(c) of this chapter must
8 provide a covered individual with services for the diagnosis and
9 treatment of infertility.

10 (f) Subject to subsections (g) and (i), the coverage for the
11 diagnosis and treatment of infertility that must be provided to a
12 covered individual under this section includes the following
13 procedures:

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

23 (g) Subject to subsection (i), a health care plan is required under
24 this chapter to cover procedures for in vitro fertilization, gamete
25 intrafallopian tube transfer, or zygote intrafallopian tube transfer
26 for a covered individual only if:

- 27 (1) the covered individual has not been able to attain or
28 sustain a successful pregnancy through reasonable, less costly,
29 medically appropriate infertility treatments for which
30 coverage is available under the health care plan;
- 31 (2) the covered individual has undergone not more than three
- 32 (3) oocyte retrievals, except as provided in subsection (h);
- 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 guidelines of the American College of Obstetricians and
37 Gynecologists for in vitro fertilization clinics; and
- 38 (4) the procedure is performed by a physician whose practice
39 involves the diagnosis or treatment of infertility for at least
40 fifty percent (50%) of the physician's patients.

41 (h) Subsection (g)(2) does not relieve a health care plan of the
42 obligation to provide coverage to a covered individual who has

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

4 (i) A health care plan may not cover a procedure under
5 subsection (f) if the procedure involves the disposal of fertilized
6 eggs.

7 SECTION 2. IC 27-8-14.3 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2004]:

10 **Chapter 14.3. Coverage for Infertility Treatment**

11 **Sec. 1. As used in this section, "infertility" has the meaning set**
12 **forth in IC 5-10-8-7.9.**

13 **Sec. 2. (a) As used in this chapter, "policy of accident and**
14 **sickness insurance" means an insurance policy that:**

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

17 (2) is written on an individual or a group basis.

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

19 (1) Accident only, credit, dental, vision, Medicare supplement,
20 long term care, or disability income insurance.

21 (2) Coverage issued as a supplement to liability insurance.

22 (3) Automobile medical payment insurance.

23 (4) A specified disease policy.

24 (5) A limited benefit health insurance policy.

25 (6) A short term insurance plan that:

26 (A) may not be renewed; and

27 (B) has a duration of not more than six (6) months.

28 (7) A policy that provides a stipulated daily, weekly, or
29 monthly payment to an insured during hospital confinement,
30 without regard to the actual expense of the confinement.

31 (8) Worker's compensation or similar insurance.

32 (9) A student health insurance policy.

33 **Sec. 3. (a) Except as provided in subsection (b), a policy of**
34 **accident and sickness insurance that provides pregnancy related**
35 **benefits may not be issued, delivered, amended, or renewed in**
36 **Indiana unless it provides coverage for the diagnosis and treatment**
37 **of infertility.**

38 (b) This chapter does not require coverage for the diagnosis and
39 treatment of infertility in a policy of accident and sickness
40 insurance that is issued to:

41 (1) a religious institution or organization; or

42 (2) an entity sponsored by a religious institution or

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1 organization;
2 that finds the procedures in section 4 of this chapter incompatible
3 with its religious and moral teachings and beliefs.

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

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

17 Sec. 5. (a) Subject to section 6 of this chapter, an insurer is
18 required under this chapter to cover procedures for in vitro
19 fertilization, gamete intrafallopian tube transfer, or zygote
20 intrafallopian tube transfer for an insured individual only if:

- 21 (1) the individual has not been able to attain or sustain a
22 successful pregnancy through reasonable, less costly,
23 medically appropriate infertility treatments for which
24 coverage is available under the policy;
- 25 (2) the individual has undergone not more than three (3)
26 oocyte retrievals, except as provided in subsection (b);
- 27 (3) the procedures for in vitro fertilization, gamete
28 intrafallopian tube transfer, or zygote intrafallopian tube
29 transfer are performed at medical facilities that conform to
30 the guidelines of the American College of Obstetricians and
31 Gynecologists for in vitro fertilization clinics; and
- 32 (4) the procedure is performed by a physician whose practice
33 involves the diagnosis or treatment of infertility for at least
34 fifty percent (50%) of the physician's patients.

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

39 Sec. 6. An insurer may not cover a procedure under section 4 of
40 this chapter if the procedure involves the disposal of fertilized eggs.

41 SECTION 3. IC 27-13-7-19 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2004]: **Sec. 19. (a) As used in this section, "infertility" has the meaning set forth in IC 5-10-8-7.9.**

(b) Except as provided in subsection (c), an individual contract or a group contract with a health maintenance organization 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.

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

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

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

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

- (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.**

(e) Subject to subsection (g), a health maintenance organization is required under this section to cover 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 individual contract or 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**

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1 transfer are performed at medical facilities that conform to
 2 the guidelines of the American College of Obstetricians and
 3 Gynecologists for in vitro fertilization clinics; and
 4 (4) the procedure is performed by a physician whose practice
 5 involves the diagnosis or treatment of infertility for at least
 6 fifty percent (50%) of the physician's patients.
 7 (f) Subsection (e)(2) does not relieve a health maintenance
 8 organization of the obligation to cover an individual who has
 9 undergone at least four (4) oocyte retrievals if the individual, since
 10 giving birth to a living child, has had fewer than two (2) oocyte
 11 retrievals.
 12 (g) A health maintenance organization may not cover a
 13 procedure under subsection (d) if the procedure involves the
 14 disposal of fertilized eggs.
 15 SECTION 4. [EFFECTIVE JULY 1, 2004] (a) IC 5-10-8-7.9, as
 16 added by this act, applies to a self-insurance program or a contract
 17 to provide health services through a prepaid health care delivery
 18 plan that is established, delivered, entered into, or renewed after
 19 June 30, 2004.
 20 (b) IC 27-8-14.3, as added by this act, applies to policies issued,
 21 delivered, amended, or renewed after June 30, 2004.
 22 (c) IC 27-13-7-19, as added by this act, applies to contracts
 23 entered into, delivered, amended, or renewed after June 30, 2004.

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