Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1151

Brief Description: Mandating coverage for fertility services.

Sponsors: Representatives Stonier, Macri, Reed, Peterson, Berry, Ramel, Fitzgibbon, Cortes, Callan, Simmons, Reeves, Lekanoff, Bergquist, Fosse and Ormsby.

Brief Summary of Bill

- Requires health plans to cover the diagnosis of infertility, treatment for infertility, and standard fertility preservation services.

Hearing Date: 1/18/23

Staff: Kim Weidenaar (786-7120).

Background:

Fertility Treatment.
In 2021 the Department of Health (DOH) completed a mandated benefit sunrise review of a proposal mandated coverage for fertility services. The proposal required health plans, including plans offered to public employees, to provide coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services, as well as four completed oocyte retrievals with unlimited embryo transfers. The DOH found that health plans generally did not include coverage for fertility treatments, that out-of-pocket costs for these services are generally expensive, and that the mandated benefit would likely result in increase costs to the state, health carriers, and enrollees, but may decrease out-of-pocket costs for patients and allow for better quality care and informed decision-making.

The 2022 Supplemental Operating Budget included a proviso requiring the Insurance Commissioner (Commissioner), in consultation with the Health Care Authority, to complete an

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analysis of the cost to implement a fertility treatment benefit as described in the 2021 mandated benefit sunrise review. The Commissioner must contract with consultants to obtain utilization and cost data from health carriers in Washington to provide an estimate of the fiscal impact of providing the benefit. The analysis must include a utilization and cost analysis for the following services: infertility diagnosis, fertility medications, intrauterine insemination, in vitro fertilization, and egg freezing. The Commissioner must report the findings by June 30, 2023.

Essential Health Benefits Benchmark Plan.
Passed in 2010, the federal Patient Protection and Affordable Care Act (ACA) enacted a variety of provisions related to private health insurance coverage, including establishing essential health benefits, out-of-pocket maximums, prohibiting annual or lifetime limits, and discrimination prohibitions.

The ACA requires most individual and small group market health plans to cover 10 categories of essential health benefits. To determine the specific services covered within each category, federal rules allow states to choose a benchmark plan and to supplement that plan to ensure it covers all 10 categories. State law designates the largest small group plan in the state as the benchmark plan. Consistent with federal law, the Commissioner must supplement the benchmark plan to ensure that all 10 categories of essential health benefits are included.

Summary of Bill:

Health plans, including health plans offered to public employees and their covered dependents, issued or renewed on or after January 1, 2025, must include coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services. The coverage must include four complete oocyte retrievals with unlimited embryo transfers in accordance with the American Society for Reproductive Medicine's guidelines, using single embryos when medically appropriate. The health plans may not include any:

- exclusions or limitations on coverage of fertility medications different than those imposed on other prescription medications;
- exclusions or limitations on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third party; or
- deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitations on coverage for these services that are different from those imposed upon benefits for other services.

If at any time the state is required to defray the cost of coverage for diagnosis of infertility, treatment for infertility, and standard fertility preservation services for individual or small group health plans, the requirement to cover these services is inoperative as applied to individual and small group health plans and the state may not assume any obligation for the cost of coverage.

For purpose of these requirements, "diagnosis of and treatment for infertility" means the recommended procedures and medications from the direction of a licensed physician that are consistent with established, published, or approved medical practices or professional guidelines

from the American College of Obstetricians and Gynecologists or the American Society for Reproductive Medicine.

"Standard fertility preservation services" means procedures that are consistent with the established medical practices or professional guidelines published by the American Society of Reproductive Medicine or the American Society of Clinical Oncology for a person who has a medical condition or is expected to undergo medication therapy, surgery, radiation, chemotherapy, or other medical treatment that is recognized by medical professionals to cause a risk of impairment to fertility.

"Infertility" means a disease, condition, or status characterized by:

- the failure to establish a pregnancy or to carry a pregnancy to live birth after regular, unprotected sexual intercourse;
- a person's inability to reproduce either as a single individual or with the person's partner without medical intervention;
- a licensed physician's or osteopathic physician's findings based on a patient's medical, sexual, and reproductive history, age, physical findings, or diagnostic testing; or
- disability as an impairment of function.

This act may be known and cited as the Washington State Building Families Act.

Appropriation: None.

Fiscal Note: Requested on January 9, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.