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**SENATE BILL 5204**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Frame, Robinson, Hunt, Keiser, Kuderer, Nobles, Pedersen, Randall, Salomon, Valdez, and C. Wilson

AN ACT Relating to mandating health plans to provide coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services; adding a new section to chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) According to the federal centers for disease control and prevention, over 12 percent of women of reproductive age in the United States have difficulty becoming pregnant or staying pregnant;

(b) Infertility is evenly divided between men and women and approximately one-third of cases involve both partners being diagnosed or are unexplained;

(c) Increasing accessibility for infertility treatment will expand the state's health services and improve the short and long-term health outcomes for the resulting children and mothers, which may also reduce health care costs by reducing adverse outcomes; and

(d) Insurance coverage reduces disparities in access to care for racial and ethnic minorities as well as for LGBTQ persons.

(2) The legislature, therefore, intends to provide coverage for the diagnosis of and treatment for infertility, as well as for standard fertility preservation services.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) Health plans 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 benefits must be provided to enrollees, including covered spouses and covered nonspouse dependents, to the same extent as other pregnancy-related benefits. Coverage must provide for four completed oocyte retrievals with unlimited embryo transfers in accordance with the guidelines of the American society for reproductive medicine, using single embryo transfer when recommended and medically appropriate.

(2) Health plans issued or renewed on or after January 1, 2025, may not include:

(a) Any exclusions, limitations, or other restrictions on coverage of fertility medications that are different from those imposed on other prescription medications;

(b) Any exclusions, limitations, or other restrictions on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third party; or

(c) Any deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitations on coverage for the diagnosis of infertility, treatment of infertility, and standard fertility preservation services, except as provided in this section, that are different from those imposed upon benefits for services not related to infertility.

(3) If at any time the state is required by the secretary of the United States department of health and human services, or its successor agency, to defray the cost of coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services for individual or small group health plans as required under subsection (1) of this section, the requirements of this section are inoperative as applied to individual and small group health plans and the state may not assume any obligation for the cost of coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services for individual and small group health plans.

(4) For the purposes of this section:

(a) "Diagnosis of and treatment for infertility" means the recommended procedures and medications from the direction of a licensed physician or osteopathic 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.

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

(i) The failure to establish a pregnancy or to carry a pregnancy to live birth after regular, unprotected sexual intercourse;

(ii) A person's inability to reproduce either as a single individual or with the person's partner without medical intervention;

(iii) 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

(iv) Disability as an impairment of function.

(c) "Regular, unprotected sexual intercourse" means no more than 12 months of unprotected sexual intercourse for a woman under the age of 35 or no more than six months of unprotected sexual intercourse for a woman 35 years of age or older. Pregnancy resulting in miscarriage does not restart the 12-month or six-month time period to qualify as having infertility.

(d) "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.

NEW SECTION. **Sec.**  A new section is added to chapter 41.05 RCW to read as follows:

(1) Health plans offered to employees and their covered dependents under this chapter 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 benefits must be provided to enrollees, including covered spouses and covered nonspouse dependents, to the same extent as other pregnancy-related benefits. Coverage must provide for four completed oocyte retrievals with unlimited embryo transfers in accordance with the guidelines of the American society for reproductive medicine, using single embryo transfer when recommended and medically appropriate.

(2) Health plans offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2025, may not include:

(a) Any exclusions, limitations, or other restrictions on coverage of fertility medications that are different from those imposed on other prescription medications;

(b) Any exclusions, limitations, or other restrictions on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third party; or

(c) Any deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitations on coverage for the diagnosis of infertility, treatment of infertility, and standard fertility preservation services, except as provided in this section, that are different from those imposed upon benefits for services not related to infertility.

(3) For the purposes of this section:

(a) "Diagnosis of and treatment for infertility" means the recommended procedures and medications from the direction of a licensed physician or osteopathic 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.

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

(i) The failure to establish a pregnancy or to carry a pregnancy to live birth after regular, unprotected sexual intercourse;

(ii) A person's inability to reproduce either as a single individual or with the person's partner without medical intervention;

(iii) 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

(iv) Disability as an impairment of function.

(c) "Regular, unprotected sexual intercourse" means no more than 12 months of unprotected sexual intercourse for a woman under the age of 35 or no more than six months of unprotected sexual intercourse for a woman 35 years of age or older. Pregnancy resulting in miscarriage does not restart the 12-month or six-month time period to qualify as having infertility.

(d) "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.

NEW SECTION. **Sec.**  This act may be known and cited as the Washington state building families act.

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