
SENATE BILL 5204

State of Washington

68th Legislature

2023 Regular Session

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

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1 AN ACT Relating to mandating health plans to provide coverage for
2 the diagnosis of infertility, treatment for infertility, and standard
3 fertility preservation services; adding a new section to chapter
4 48.43 RCW; adding a new section to chapter 41.05 RCW; and creating
5 new sections.

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
5 RCW to read as follows:

6 (1) Health plans issued or renewed on or after January 1, 2025,
7 must include coverage for the diagnosis of infertility, treatment for
8 infertility, and standard fertility preservation services. The
9 benefits must be provided to enrollees, including covered spouses and
10 covered nonspouse dependents, to the same extent as other pregnancy-
11 related benefits. Coverage must provide for four completed oocyte
12 retrievals with unlimited embryo transfers in accordance with the
13 guidelines of the American society for reproductive medicine, using
14 single embryo transfer when recommended and medically appropriate.

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

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

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

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

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

1 infertility, and standard fertility preservation services for
2 individual and small group health plans.

3 (4) For the purposes of this section:

4 (a) "Diagnosis of and treatment for infertility" means the
5 recommended procedures and medications from the direction of a
6 licensed physician or osteopathic physician that are consistent with
7 established, published, or approved medical practices or professional
8 guidelines from the American college of obstetricians and
9 gynecologists or the American society for reproductive medicine.

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

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

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

16 (iii) A licensed physician's or osteopathic physician's findings
17 based on a patient's medical, sexual, and reproductive history, age,
18 physical findings, or diagnostic testing; or

19 (iv) Disability as an impairment of function.

20 (c) "Regular, unprotected sexual intercourse" means no more than
21 12 months of unprotected sexual intercourse for a woman under the age
22 of 35 or no more than six months of unprotected sexual intercourse
23 for a woman 35 years of age or older. Pregnancy resulting in
24 miscarriage does not restart the 12-month or six-month time period to
25 qualify as having infertility.

26 (d) "Standard fertility preservation services" means procedures
27 that are consistent with the established medical practices or
28 professional guidelines published by the American society of
29 reproductive medicine or the American society of clinical oncology
30 for a person who has a medical condition or is expected to undergo
31 medication therapy, surgery, radiation, chemotherapy, or other
32 medical treatment that is recognized by medical professionals to
33 cause a risk of impairment to fertility.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05
35 RCW to read as follows:

36 (1) Health plans offered to employees and their covered
37 dependents under this chapter issued or renewed on or after January
38 1, 2025, must include coverage for the diagnosis of infertility,
39 treatment for infertility, and standard fertility preservation

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

8 (2) Health plans offered to employees and their covered
9 dependents under this chapter issued or renewed on or after January
10 1, 2025, may not include:

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

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

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

24 (3) For the purposes of this section:

25 (a) "Diagnosis of and treatment for infertility" means the
26 recommended procedures and medications from the direction of a
27 licensed physician or osteopathic physician that are consistent with
28 established, published, or approved medical practices or professional
29 guidelines from the American college of obstetricians and
30 gynecologists or the American society for reproductive medicine.

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

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

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

37 (iii) A licensed physician's or osteopathic physician's findings
38 based on a patient's medical, sexual, and reproductive history, age,
39 physical findings, or diagnostic testing; or

40 (iv) Disability as an impairment of function.

1 (c) "Regular, unprotected sexual intercourse" means no more than
2 12 months of unprotected sexual intercourse for a woman under the age
3 of 35 or no more than six months of unprotected sexual intercourse
4 for a woman 35 years of age or older. Pregnancy resulting in
5 miscarriage does not restart the 12-month or six-month time period to
6 qualify as having infertility.

7 (d) "Standard fertility preservation services" means procedures
8 that are consistent with the established medical practices or
9 professional guidelines published by the American society of
10 reproductive medicine or the American society of clinical oncology
11 for a person who has a medical condition or is expected to undergo
12 medication therapy, surgery, radiation, chemotherapy, or other
13 medical treatment that is recognized by medical professionals to
14 cause a risk of impairment to fertility.

15 NEW SECTION. **Sec. 4.** This act may be known and cited as the
16 Washington state building families act.

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