

# HOUSE BILL REPORT

## HB 1129

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**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to providing coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services.

**Brief Description:** Concerning health plan coverage of fertility-related services.

**Sponsors:** Representatives Stonier, Macri, Street, Shavers, Farivar, Simmons, Tharinger, Parshley, Obras, Fosse, Reeves, Bernbaum, Mena, Fey, Taylor, Berry, Pollet, Entenman, Alvarado, Reed, Fitzgibbon, Callan, Cortes, Timmons, Ortiz-Self, Peterson, Goodman, Wylie, Berg, Ormsby, Lekanoff, Salahuddin and Hill.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/21/25, 1/24/25 [DPS].

**Brief Summary of Substitute Bill**

- Requires large group health plans to cover the diagnosis of infertility, treatment for infertility, and standard fertility preservation services.
- Requires the Health Care Authority to provide coverage for standard fertility preservation services for Medicaid enrollees.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Bronoske, Chair; Lekanoff, Vice Chair; Davis, Macri, Obras, Parshley, Shavers, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Marshall, Assistant Ranking Minority Member; Engell, Low, Manjarrez and Stuebe.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Kim Weidenaar (786-7120).

**Background:**

In 2021 the Department of Health (DOH) completed a mandated benefit sunrise review of a proposal to mandate coverage for fertility services. The proposal required health plans, including plans offered to public employees, to provide coverage for standard fertility preservation services, the diagnosis of infertility, and treatment for infertility, including 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 increased 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 (HCA), to complete an analysis of the cost to implement a fertility benefit as described in the 2021 mandated benefit sunrise review. The Implementation Cost Analysis, provided by Milliman and published June 30, 2023, analyzed five benefit categories (infertility diagnosis, non-assisted reproductive technology treatments, assisted reproductive technology treatments, fertility preservation for patients with medically induced fertility, and fertility medication) and estimated a per member per month (PMPM) cost of these categories of coverage to the different types of health plans.

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**Summary of Substitute Bill:**

Large group health plans, including health plans offered to public employees and their covered dependents, issued or renewed on or after January 1, 2026, must include coverage for standard fertility preservation services. Large group health plans issued or renewed on or after January 1, 2027, must include coverage for the diagnosis of and treatment for infertility, which must include two 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
- cost sharing, benefit maximums, waiting periods, or other limitations on coverage for these services that are different from those imposed upon benefits for other services.

The HCA must provide coverage for standard fertility preservation services for Medicaid enrollees. The HCA and Medicaid managed care organizations may not include: any exclusions or limitations on coverage of fertility medications different than those imposed

on other prescription medications; or benefit maximums, waiting periods, or other limitations on coverage for these services that are different from those imposed upon benefits for other services.

For purpose of these requirements, "diagnosis of and treatment for infertility" means the recommended procedures and medications from the direction of a licensed physician, osteopathic physician, physician assistant, or advanced registered nurse practitioner 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, osteopathic physician's, physician assistant's, or advanced registered nurse practitioner's findings based on a patient's medical, sexual, and reproductive history, age, physical findings, or diagnostic testing; or
- a disability as an impairment of function.

The Commissioner is authorized to adopt rules to implement, administer, and enforce the provisions related to health carriers. This act may be known and cited as the Washington State Building Families Act.

### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- removes small group health plans from the provisions of the bill; and
- modifies the definitions of "diagnosis of and treatment for infertility" and "infertility" to include recommendations or findings of physician assistants and advanced registered nurse practitioners to the same extent currently included for physicians and osteopathic physicians.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 14, 2025.

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

**Staff Summary of Public Testimony:**

(In support) Everyone knows someone who has struggled with fertility or undergone a treatment that may impair fertility. Globally one in six are infertile. There are many reasons why a person may need fertility treatments including in vitro fertilization (IVF). Some individuals carry serious genetic diseases that they do not want to pass on to their children. Others have gone through emergency procedures related to previous pregnancies that impaired their fertility.

Fertility treatments are not elective. There is precedent for insurers covering medically necessary services that maintain a person's quality of life. That is what fertility treatments do. Families should be able to decide if and when to start a family.

Twenty-two other states and the District of Columbia have required coverage of fertility services. None of these states have had to defray the cost for individual and small group plans. King County has covered these services for decades. Covering these services will lead to better outcomes for individuals because they take safer approaches and will increase our declining birth rate. It is an affordable and sustainable thing for the state to do.

Fertility treatments are an equity issue. LGBTQ families require fertility services to start families, but the cost often makes that unattainable. All people deserve a chance to build a family. Fertility treatments like IVF and fertility preservation are a huge financial burden for individuals, but would not be a significant burden to insurance companies and the health care system.

Fertility preservation gives individuals and families hope during a very difficult time. Future fertility does not need to be another worry for someone or a family going through cancer. Fertility preservation is a huge financial commitment and should be covered the same way as cancer care. Cancer already takes away so much, it should not take away the chance of having children as well.

(Opposed) Treatments like IVF are extremely expensive and in Seattle IVF costs between \$8,000 and \$25,000. The unlimited treatment required by this bill means that the cost could top \$100,000. The insurance industry is already prohibitively expensive, and the increased cost of insurance is ultimately paid for by consumers. Everyone has something they would like for free and while the situation of infertility is moving, insurance should focus on the promotion of health.

Every human life from moment of conception is precious and deserving of protection. Treatments like IVF results in the destruction or abandonment of embryos, which is unethical. The financial implications of these treatments are also substantial and will result

in increased premiums and increasing the state's deficit. There is also a risk of shifting cultural norms to view life as something that is engineered and not a gift from God.

(Other) Under the Affordable Care Act individual and small group have to cover essential health benefits. The state is in the process of updating the essential health benefits and the update will include intrauterine insemination, commonly known as IUI, and the diagnosis of infertility. There are some questions about some of the language in the bill that says that carriers cannot treat fertility services in a different way than other services and more clarity is needed. Work is being done with the Centers for Medicare and Medicaid Services (CMS) to ensure that CMS's understanding about what needs to be defrayed is consistent with the state's current understanding.

The OIC and the HCA were directed in 2023 to estimate the PMPM cost for these services and found the PMPM to be between \$4.27 and \$5.01 for individual consumers. These benefit mandates are not consistently applied to all insurance markets which confuses members of the public. Consumers see headlines about new health benefits and then are often surprised when it does not apply to their plan.

Infertility is a deeply personal and challenging journey that families face and there has been increasing demand for these benefits. However, there would be significant cost implications for health plans, employers, and consumers. Fertility treatments exceed tens of thousands of dollars, and some plans have determined that the PMPM cost would be \$7.68 or a premium increase of 1.4 percent, though some plans in Washington do cover these services.

**Persons Testifying:** (In support) Representative Monica Jurado Stonier, prime sponsor; Erica Sahota; Erica Tomas; Maranatha Hay; Michael Truong; Nicole Kern, Planned Parenthood Alliance Advocates; Dr. Lori Marshall; Dr. Tyler Ketterl; Emily Stenson; Amy Landram; and Dana Savage, AWAAG.

(Opposed) Mary Long, Conservative Ladies of Washington; and Theresa Schrempp.

(Other) Jane Beyer, Office of the Insurance Commissioner; Christine Brewer, Premera Blue Cross; and Jennifer Ziegler, Association of Washington Health Care Plans.

**Persons Signed In To Testify But Not Testifying:** None.