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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1493 Session of  
2023

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INTRODUCED BY MAYES, MADDEN, SANCHEZ, HILL-EVANS, FRANKEL,  
INNAMORATO, SALISBURY, BOROWSKI, DELLOSO, O'MARA, KINSEY,  
STEELE, CERRATO, PISCIOTTANO, KHAN, CEPEDA-FREYTIZ, WAXMAN,  
SCOTT, DONAHUE, GUENST, ABNEY, A. BROWN, KAZEEM, KRAJEWSKI,  
OTTEN, BURGOS, HANBIDGE, HOHENSTEIN, ROZZI AND GREEN,  
JUNE 22, 2023

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REFERRED TO COMMITTEE ON INSURANCE, JUNE 22, 2023

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AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," in casualty insurance, providing  
12 for fertility preservation coverage.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
16 as The Insurance Company Law of 1921, is amended by adding a  
17 section to read:

18 Section 635.9. Fertility Preservation Coverage.--(a) An  
19 individual or group health insurance policy offered, issued or  
20 renewed in this Commonwealth or a government program shall  
21 include coverage for fertility preservation services as

1 specified in subsection (b) and shall waive cost-sharing  
2 requirements related to fertility preservation care.

3 (b) Fertility preservation specified under subsection (c)  
4 shall apply to covered individuals not older than forty-five  
5 (45) years of age who are at risk of iatrogenic infertility.

6 (c) Fertility preservation care services under this section  
7 shall include services related to fertility preservation as a  
8 result of iatrogenic infertility, including for the  
9 consultation, diagnosis and treatment of iatrogenic infertility,  
10 as well as the following:

11 (1) Cryopreservation and thawing of eggs, sperm and embryos.

12 (2) Cryopreservation of ovarian tissue.

13 (3) Cryopreservation of testicular tissue.

14 (4) Intrauterine insemination.

15 (5) Embryo biopsy.

16 (6) Diagnostic testing.

17 (7) Fresh and frozen embryo transfers.

18 (8) Egg retrievals with unlimited embryo transfers in  
19 accordance with the guidelines determined by the Department of  
20 Health. The guidelines should be informed by standards of  
21 practice as developed by the American Society for Reproductive  
22 Medicine, including the use of single embryo transfers when  
23 recommended and medically appropriate.

24 (9) Assisted hatching.

25 (10) Intracytoplasmic sperm injection.

26 (11) Ovulation induction.

27 (12) Storage of oocytes, sperm, embryos and tissue.

28 (13) Medical and laboratory services that reduce excess  
29 embryo creation through egg cryopreservation and thawing.

30 (14) Therapeutic devices.

1 (15) Standard fertility preservation services for an  
2 individual who has a medical condition and is expected to  
3 undergo medication therapy, surgery, radiation, chemotherapy or  
4 other medical treatment that is recognized by a medical  
5 professional to cause a risk of impairment to fertility.

6 (16) Any nonexperimental procedure for infertility  
7 determined by the Department of Health.

8 (17) Any other services, procedures, medications or devices  
9 related to the consultation, diagnosis and treatment for  
10 fertility preservation.

11 (18) In vitro fertilization, including in vitro  
12 fertilization through the use of donor eggs, sperm or embryos  
13 and in vitro fertilization that involves the transfer of embryos  
14 to a gestational carrier or surrogate.

15 (d) A health insurance policy or government program covered  
16 under this section may not:

17 (1) contain preexisting condition exclusions or preexisting  
18 waiting periods to access fertility preservation care coverage  
19 required under this section;

20 (2) contain limitations on coverage for fertility  
21 preservation benefits based solely on arbitrary factors,  
22 including the number of fertility preservation attempts or cost  
23 of fertility preservation care.

24 (e) Storage requirements under subsection (c)(12) shall be  
25 covered by a health insurance policy or a government program for  
26 five consecutive years unless:

27 (1) If the covered individual receiving service coverage  
28 under subsection (b) is not yet eighteen (18) years of age, in  
29 addition to requirements under this subsection, a health  
30 insurance policy or government program shall also cover storage

1 requirements as necessary until the covered individual attains  
2 eighteen (18) years of age.

3 (2) If a covered individual receiving services under  
4 subsection (c)(12) under one health insurance policy or  
5 government program changes coverage to another health insurance  
6 policy or government program during the five-consecutive-year  
7 window under this subsection, the subsequent health insurance  
8 policy or government program shall continue to provide coverage  
9 of services required under subsection (c)(12) for the remaining  
10 storage time under this subsection.

11 (f) Nothing in this section shall be construed to interfere  
12 with the clinical judgment of a physician.

13 (g) As used in this section, the following words and phrases  
14 shall have the meanings given to them in this subsection unless  
15 the context clearly indicates otherwise:

16 "Cost-sharing" means the share of costs covered by the  
17 patient, including a deductible, coinsurance, copayment or  
18 similar charge. The term does not include the payment of a  
19 health insurance or government program policy premium.

20 "Covered individual" means an individual covered under a  
21 health insurance policy or government program, including covered  
22 spouses and covered nonspouse dependents which is provided  
23 without discrimination on the basis of ancestry, color,  
24 disability, domestic partner status, gender, gender expression,  
25 gender identity, genetic information, marital status, national  
26 origin, race, religion, sex or sexual orientation.

27 "Fertility preservation" means health care services used in  
28 saving or protecting embryos, eggs, ovarian tissue, sperm or  
29 testicular tissue for future reproduction.

30 "Government program" means a program of government sponsored

1 or subsidized health care coverage, including:

2 (1) The children's health insurance program under Article  
3 XXIII-A.

4 (2) Subdivision (f) of Article IV of the act of June 13,  
5 1967 (P.L.31, No.21), known as the "Human Services Code."

6 "Health insurance policy" means as follows:

7 (1) The term includes an individual or group health  
8 insurance policy, subscriber contract, certificate or plan that  
9 provides medical or health care coverage on an expense-incurred  
10 service or prepaid basis and that is offered by or is governed  
11 under any of the following:

12 (i) This act, including section 630.

13 (ii) The act of December 29, 1972 (P.L.1701, No.364), known  
14 as the "Health Maintenance Organization Act."

15 (iii) 40 Pa.C.S. Chs. 61 (relating to hospital plan  
16 corporations) and 63 (relating to professional health services  
17 plan corporations).

18 (2) The term does not include any of the following plans:

19 (i) Accident only.

20 (ii) Credit only.

21 (iii) Long-term care or disability income.

22 (iv) Specified disease.

23 (v) Medicare supplement.

24 (vi) TRICARE, including the Civilian Health and Medical  
25 Program of the Uniformed Services supplement (CHAMPUS).

26 (vii) Fixed indemnity.

27 (viii) Dental only.

28 (ix) Vision only.

29 (x) Workers' compensation.

30 (xi) An automobile medical payment under 75 Pa.C.S.

1 (relating to vehicles).

2 "Iatrogenic infertility" means infertility arising from  
3 medical treatments that directly or indirectly cause  
4 infertility.

5 "Infertility" means a disease historically defined by the  
6 failure to achieve a successful pregnancy after six to twelve  
7 months or more of regular, unprotected sexual intercourse or due  
8 to an individual's status and capacity to reproduce as an  
9 individual or with a partner.

10 "Physician" means an individual licensed as a medical doctor  
11 by the State Board of Medicine to practice in this Commonwealth.

12 Section 2. The following shall apply:

13 (1) For health insurance policies for which either rates  
14 or forms are required to be filed with the Federal Government  
15 or the Insurance Department, this act shall apply to any  
16 policy for which a form or rate is first filed on or after  
17 the effective date of this section.

18 (2) For health insurance policies for which rates or  
19 forms are required to be filed with the Federal Government or  
20 the Insurance Department, this act shall apply to any policy  
21 issued or renewed on or after 180 days after the effective  
22 date of this section.

23 Section 3. This act shall take effect in 60 days.