

# SENATE BILL REPORT

## SB 5204

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As of January 17, 2023

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

**Brief Description:** Mandating coverage for fertility services.

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

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/20/23.

**Brief Summary of Bill**

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

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Greg Attanasio (786-7410)

**Background:** In 2021 the Department of Health (DOH) completed a mandated benefit sunrise review of a proposal to 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.

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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.*

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

**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 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 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 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.

If at any time the state is required by the United States Department of Health and Human Services to defray the cost of coverage required under this act for individual or small group health plans, those coverage requirements are inoperative as applied to individual and small group health plans and the state may not assume any obligation for the cost of coverage.

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.