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**SECOND SUBSTITUTE HOUSE BILL 1151**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Stonier, Macri, Reed, Peterson, Berry, Ramel, Fitzgibbon, Cortes, Callan, Simmons, Reeves, Lekanoff, Bergquist, Fosse, and Ormsby)

READ FIRST TIME 02/24/23.

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) Group health plans other than small group health plans issued  
7 or renewed on or after January 1, 2025, must include coverage for  
8 standard fertility preservation services. For persons who underwent  
9 standard fertility preservation services, coverage must include two  
10 completed oocyte retrievals with unlimited embryo transfers in  
11 accordance with the guidelines of the American society for  
12 reproductive medicine, using single embryo transfer when recommended  
13 and medically appropriate.

14 (2) Group health plans other than small group health plans issued  
15 or renewed on or after January 1, 2026, must include coverage for the  
16 diagnosis of and treatment for infertility. Coverage must provide for  
17 two completed oocyte retrievals with unlimited embryo transfers in  
18 accordance with the guidelines of the American society for  
19 reproductive medicine, using single embryo transfer when recommended  
20 and medically appropriate.

21 (3) The benefits must be provided to enrollees, including covered  
22 spouses and covered nonspouse dependents, to the same extent as other  
23 pregnancy-related benefits.

24 (4) Group health plans other than small group health plans, may  
25 not include:

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

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

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

39 (5) For the purposes of this section:

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

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

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

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

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

16 (iv) Disability as an impairment of function.

17 (c) "Regular, unprotected sexual intercourse" means no more than  
18 12 months of unprotected sexual intercourse for a woman under the age  
19 of 35 or no more than six months of unprotected sexual intercourse  
20 for a woman 35 years of age or older. Pregnancy resulting in  
21 miscarriage does not restart the 12-month or six-month time period to  
22 qualify as having infertility.

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

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

33 (1) Health plans offered to employees and their covered  
34 dependents under this chapter issued or renewed on or after January  
35 1, 2025, must include coverage for standard fertility preservation  
36 services. For persons who underwent standard fertility preservation  
37 services, coverage must include two completed oocyte retrievals with  
38 unlimited embryo transfers in accordance with the guidelines of the

1 American society for reproductive medicine, using single embryo  
2 transfer when recommended and medically appropriate.

3 (2) Health plans offered to employees and their covered  
4 dependents under this chapter issued or renewed on or after January  
5 1, 2026, must include coverage for the diagnosis of and treatment for  
6 infertility. Coverage must provide for two completed oocyte  
7 retrievals with unlimited embryo transfers in accordance with the  
8 guidelines of the American society for reproductive medicine, using  
9 single embryo transfer when recommended and medically appropriate.

10 (3) The benefits must be provided to enrollees, including covered  
11 spouses and covered nonspouse dependents, to the same extent as other  
12 pregnancy-related benefits.

13 (4) Health plans offered to employees and their covered  
14 dependents under this chapter, may not include:

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

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

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

28 (5) For the purposes of this section:

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

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

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

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

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

4 (iv) Disability as an impairment of function.

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

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

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

21 NEW SECTION. **Sec. 5.** The insurance commissioner may adopt rules  
22 to implement, administer, and enforce section 2 of this act.

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