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# A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that infertility is a  
2 disease of the reproductive system that impairs and  
3 substantially limits an individual's major life activity of  
4 reproduction. In the United States, infertility affects  
5 approximately seven million women and their partners.  
6 Approximately 12 per cent of women of childbearing age have used  
7 an infertility service. Since 1978, in vitro fertilization has  
8 provided a necessary solution for many diagnosed with  
9 infertility who desire to have a child and be a parent.

10           The legislature further finds that since 1987, Hawaii has  
11 required insurance coverage for the treatment of infertility  
12 through in vitro fertilization. The current law only provides  
13 for a one-time benefit; applies only to the insured or insured's  
14 spouse; requires fertilization with the sperm from the patient's  
15 spouse; requires a history of infertility for at least five  
16 years; requires previous attempts at pregnancy through other  
17 applicable infertility treatments for which coverage is



1 available; and applies only to a limited number of medical  
2 conditions associated with infertility.

3       The purpose of this Act is to provide in vitro  
4 fertilization insurance coverage for women who are diagnosed  
5 with infertility by requiring non-discriminatory coverage and  
6 ensuring quality of care in the diagnosis and treatment of  
7 infertility. It is the intent of the legislature to exempt  
8 religious institutions and organizations that believe the  
9 covered procedures violate their religious and moral teachings  
10 and beliefs. It is also the intent of the legislature that this  
11 Act not apply to the federal Medicaid program.

12       SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,  
13 is amended by amending subsections (a) and (b) to read as  
14 follows:

15       "(a) All individual and group accident and health or  
16 sickness insurance policies which provide pregnancy-related  
17 benefits shall include in addition to any other benefits for  
18 treating infertility, a one-time only benefit for all outpatient  
19 expenses arising from in vitro fertilization procedures  
20 performed on the insured or the insured's dependent [spouse];  
21 provided that:



- 1           (1) Benefits under this section shall be provided to the
- 2           same extent as the benefits provided for other
- 3           pregnancy-related benefits;
- 4           (2) The patient is the insured or covered dependent of the
- 5           insured;
- 6           ~~(3) The patient's oocytes are fertilized with the~~
- 7           ~~patient's spouse's sperm;~~
- 8           ~~(4) The:~~
- 9           ~~(A) Patient and the patient's spouse have a history~~
- 10           ~~of infertility of at least five years' duration;~~
- 11           ~~or~~
- 12           ~~(B) Infertility]~~ (3) The infertility is associated
- 13           with one or more of the following medical
- 14           conditions:
- 15           ~~(i)]~~ (A) Endometriosis;
- 16           ~~(ii)]~~ (B) Exposure in utero to
- 17           diethylstilbestrol, commonly known as
- 18           DES;
- 19           ~~(iii)]~~ (C) Blockage of, or surgical removal of,
- 20           one or both fallopian tubes (lateral or
- 21           bilateral salpingectomy); or



1           [~~(iv)~~] (D) Abnormal male factors contributing to  
2                           the infertility;

3           [~~(5)~~] (4) The patient has been unable to attain a  
4                           successful pregnancy through other applicable  
5                           infertility treatments for which coverage [~~is~~] shall  
6                           be available under the insurance contract [~~+~~], unless  
7                           the individual's physician determines that those  
8                           treatments are likely to be unsuccessful; and

9           [~~(6)~~] (5) The in vitro fertilization procedures are  
10                          performed at medical facilities that conform to the  
11                          American College of Obstetricians and Gynecologists  
12                          guidelines for in vitro fertilization clinics or to  
13                          the American Society for Reproductive Medicine minimal  
14                          standards for programs of in vitro fertilization.

15           (b) For the purposes of this section, the term [~~"spouse"~~  
16           ~~means a person who is lawfully married to the patient under the~~  
17           ~~laws of the State.~~] "infertility" means a disease, defined by  
18           the failure to achieve a successful pregnancy after twelve  
19           months or more of appropriate, timed unprotected intercourse or  
20           therapeutic donor insemination. Earlier evaluation and  
21           treatment may be justified based on medical history and physical

1 findings and is warranted after six months for women over  
2 thirty-five years of age."

3 SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) All individual and group hospital or medical service  
6 plan contracts which provide pregnancy-related benefits shall  
7 include in addition to any other benefits for treating  
8 infertility, a one-time only benefit for all outpatient expenses  
9 arising from in vitro fertilization procedures performed on the  
10 subscriber or member or the subscriber's or member's dependent  
11 [spouse]; provided that:

12 (1) Benefits under this section shall be provided to the  
13 same extent as the benefits provided for other  
14 pregnancy-related benefits;

15 (2) The patient is a subscriber or member or covered  
16 dependent of the subscriber or member;

17 ~~[-(3) The patient's oocytes are fertilized with the~~  
18 ~~patient's spouse's sperm;~~

19 ~~-(4) The-~~



1 ~~(A) Patient and the patient's spouse have a history~~  
2 ~~of infertility of at least five years' duration,~~  
3 ~~or~~

4 ~~(B) Infertility]~~ (3) The infertility is associated  
5 with one or more of the following medical  
6 conditions:

7 ~~(i)]~~ (A) Endometriosis;

8 ~~(ii)]~~ (B) Exposure in utero to  
9 diethylstilbestrol, commonly known as  
10 DES;

11 ~~(iii)]~~ (C) Blockage of, or surgical removal of,  
12 one or both fallopian tubes (lateral or  
13 bilateral salpingectomy); or

14 ~~(iv)]~~ (D) Abnormal male factors contributing to  
15 the infertility;

16 ~~(5)]~~ (4) The patient has been unable to attain a  
17 successful pregnancy through other applicable  
18 infertility treatments for which coverage ~~is]~~ shall  
19 be available under the contract [7], unless the  
20 individual's physician determines that the treatments  
21 are likely to be unsuccessful; and



1       ~~[(6)]~~ (5) The in vitro fertilization procedures are  
2           performed at medical facilities that conform to the  
3           American College of Obstetricians and Gynecologists  
4           guidelines for in vitro fertilization clinics or to  
5           the American Society for Reproductive Medicine minimal  
6           standards for programs of in vitro fertilization.

7           (b) For the purposes of this section, the term [~~"spouse"~~  
8 ~~means a person who is lawfully married to the patient under the~~  
9 ~~laws of the State.~~] "infertility" means a disease, defined by  
10 the failure to achieve a successful pregnancy after twelve  
11 months or more of appropriate, timed unprotected intercourse or  
12 therapeutic donor insemination. Earlier evaluation and  
13 treatment may be justified based on medical history and physical  
14 findings and is warranted after six months for women over  
15 thirty-five years of age."

16       SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 5. This Act shall take effect on July 1, 2112.



**Report Title:**

In Vitro Fertilization Procedure Coverage

**Description:**

Amends insurance coverage for in vitro fertilization to allow for expanded applicability. (HB864 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

