A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

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

SECTION 1. The legislature finds that reproductive
technologies, such as in vitro fertilization, are extremely
important to many who desire to have children. The legislature
also finds that the State's mandate that insurance plans provide
a one-time benefit for costs associated with in vitro
fertilization procedures, though admirable, excludes same-sex
couples, unmarried women, and male-female couples for whom male
infertility is the relevant factor. While some insurers
independently offer policies that cover female couples or women
without male partners, these policies are not guaranteed by law
and not all cover single women. No policies currently cover
male couples; policies typically exclude procedures involving
donor oocytes and surrogates that male couples require.
Finally, male-female couples for whom male infertility is the
relevant factor are excluded through the current statutory
requirement that the covered treatment involve sperm from the
male spouse.
The legislature finds that the current unequal treatment of individuals seeking medical fertility assistance constitutes discrimination on the basis of sex, sexual orientation, and marital status. In vitro fertilization procedures are expensive, costing $10,000 to $15,000 per cycle, which is approximately half of the average annual disposable income in the United States. Same-sex couples, unmarried women, and male-female couples affected by male infertility must unreasonably bear the full cost of the procedures while male-female married couples for whom female infertility is the relevant factor do not bear the same burden.

The purpose of this Act is to ensure equal access to in vitro fertilization for all couples, including same-sex couples, and for women regardless of their marital status.

SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

(1) Benefits under this section shall be gender neutral, meaning any benefit available for a married couple of the opposite sex shall also be available for same-sex couples and for women regardless of their marital status;

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

(3) The patient's oocytes [are fertilized with the patient's spouse's sperm] or sperm of the insured or of the insured's dependent spouse are used in the in vitro fertilization procedures;

(4) The:

(A) [Patient and the patient's spouse have] Insured or the insured's dependent spouse has a history
of infertility of at least [five years' duration; or] twelve months;

(B) Infertility is associated with one or more of the following medical conditions:

(i) Endometriosis;

(ii) Exposure in utero to diethylstilbestrol, commonly known as DES;

(iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or

(iv) Abnormal male factors contributing to the infertility; or

(C) Insured and insured's spouse are of the same sex;

(5) The [patient] insured or the insured's dependent spouse has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the insurance contract; and

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

The benefits available under this subsection shall be covered expenses directly related to in vitro fertilization services, and shall not include other pregnancy-related or other post-in vitro fertilization outpatient services."

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

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

(1) Benefits under this section shall be gender neutral, meaning any benefit available for a married couple of the opposite sex shall also be available for same-sex
couples and for women regardless of their marital status;

[(1)] (2) Benefits under this section shall be provided to the same extent as the benefits provided for other pregnancy-related benefits;

[(2)] The patient is a subscriber or member or covered dependent of the subscriber or member;

(3) The [patient's] oocytes are fertilized with the patient's spouse's sperm or sperm of the subscriber or member or of the subscriber's or member's dependent spouse are used in the in vitro fertilization procedures;

(4) The:

(A) [Patient and the patient's spouse have]

Subscriber or member or the subscriber's or member's dependent spouse has a history of infertility of at least [five years' duration, or] twelve months;

(B) Infertility is associated with one or more of the following medical conditions:

(i) Endometriosis;
(ii) Exposure in utero to diethylstilbestrol, commonly known as DES;

(iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or

(iv) Abnormal male factors contributing to the infertility; or

(C) Subscriber or member and the subscriber's or member's spouse are of the same sex;

(5) The [patient] subscriber or member or the subscriber's or member's dependent spouse has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the contract; and

(6) The in vitro fertilization procedures are performed at medical facilities that conform to the American College of Obstetricians and Gynecologists guidelines for in vitro fertilization clinics or to the American Society for Reproductive Medicine minimal standards for programs of in vitro fertilization.
The benefits available under this subsection shall be covered expenses directly related to in vitro fertilization services, and shall not include other pregnancy-related or other post-in vitro fertilization outpatient services."

SECTION 4. The coverage for in vitro fertilization services required under sections 2 and 3 of this Act is not intended to apply to the medicaid program.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2050.
Report Title:
In Vitro Fertilization; Required Insurance Coverage

Description:
Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor. Effective 07/01/2050. (SD1)

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