A BILL FOR AN ACT

RELATING TO CANCER PATIENTS.

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

SECTION 1. The legislature finds that each year,
approximately 165,000 Americans under age forty-five are
diagnosed with cancer. In Hawaii, regardless of age,
approximately six thousand individuals are diagnosed with cancer
each year. According to the Hawaii Tumor Registry, between 2007
and 2011, the average number of newly diagnosed cancer cases
annually among those aged eighteen through forty-five was seven
hundred thirty-one.

Improvements in cancer screening have resulted in an
increase in cancer diagnosis among people in their reproductive
years, many of whom are at risk for premature gonadal failure
and permanent infertility due to chemotherapy or radiation
therapy. For example, women with cancer who are less than forty
years of age have a twenty to ninety per cent chance of
premature ovarian failure resulting from cancer treatment.

Advances in cancer treatment have resulted in decreased
mortality and patients having longer survival rates for many
types of cancer. As cancer survival rates increase, many national cancer organizations, such as the President's Cancer Panel and the National Cancer Institute, acknowledge that more attention should be directed to ensuring quality of life as it relates to survivorship.

The legislature further finds that cancer treatment can contribute to reproductive damage, resulting in subsequent infertility. In males, chemotherapy or radiation can adversely affect sperm number, morphology, and motility and can result in DNA damage. Surgery to reproductive organs such as testes can affect fertility and pelvic surgery can result in nerve damage, interfering with ejaculation. In females, cancer treatment can damage or destroy oocytes and follicles, cause hormone imbalance, and interfere with the functioning of the ovaries, fallopian tubes, uterus, or cervix. Surgery to remove female reproductive organs hinders the ability to become pregnant or carry a pregnancy. Total body, abdominal, or pelvic radiation can cause ovarian and uterine damage, increasing the risk of miscarriage or low-birth weight infants.

Medical literature indicates that infertility can be a devastating consequence of cancer treatment, thus adversely
affecting the quality of life of cancer survivors. Infertility can have long-term psychological effects among survivors, which may be experienced years after treatment. Cancer patients report that the possible or actual loss of fertility causes immense psychosocial distress. Thus, having options for fertility preservation can ultimately reduce distress and improve quality of life.

The legislature further finds that although reproductive medicine offers several methods to preserve fertility, two successful and established methods for fertility preservation are sperm cryopreservation for males and oocyte cryopreservation for females. There are other fertility preservation alternatives that are still considered experimental and therefore should only be offered in a research setting as part of an institutional review board-approved protocol, according to the American Society for Reproductive Medicine. For these reasons, this Act only mandates insurance coverage for standard fertility preservation procedures, specifically sperm cryopreservation for adult males and oocyte cryopreservation for adult females.
Sperm cryopreservation for males is a procedure to preserve sperm cells through freezing semen. It is recommended that the semen specimen should be collected prior to the start of chemotherapy because there is a higher risk of genetic damage in sperm collected after chemotherapy has commenced.

Similarly, oocyte cryopreservation for females is the process of preserving egg cells through freezing techniques. The technique involves the stimulation of ovaries to produce eggs, which are subsequently frozen and stored for future use.

The legislature further finds that cancer patients have a right to be informed of accurate information on cancer treatment-associated risks of infertility, options available in preserving their fertility, and the costs involved. The literature shows that there is an increasing interest among cancer patients in preserving their fertility. However, fertility-sparing options are often not pursued due to financial barriers. The American Society of Clinical Oncology and the American Society for Reproductive Medicine recommend that health care providers address the possibility of infertility and options for fertility preservation with patients who are anticipating cancer treatment during their reproductive years.
However, the cost and lack of insurance coverage are major reasons cited by oncologists to explain why information on fertility preservation options is not provided to their patients. A person of reproductive age, newly diagnosed with cancer, has to consider not only how to finance the cancer treatment but also the daunting possibility of permanent infertility as a result and the additional stressor of the costs for fertility preservation, if considering having children in the future.

Hawaii's current insurance code mandates insurance coverage for one cycle of in vitro fertilization procedures for married couples experiencing infertility. According to several national and international health organizations, infertility is defined as the failure to achieve pregnancy over a specified period of time, usually one year, when engaging in regular, unprotected sexual intercourse. However, people diagnosed with cancer do not meet the criteria for any definition of infertility because they have not technically been diagnosed as infertile at the time of their cancer diagnosis, as they do not yet meet the time requirement for unsuccessful conception. Therefore, if persons of reproductive age who are diagnosed with cancer want to
preserve their fertility prior to starting cancer treatment, for
the purpose of future parenting, they would have to bear the
full costs. In Hawaii, sperm cryopreservation costs between
$300 and $700. Oocyte cryopreservation costs can range from
$10,000 to $15,000, with variations due to individual
reproductive clinic costs and medication regimens used.

The purpose of this Act is to require Hawaii insurance
companies to include as a covered benefit oocyte and sperm
cryopreservation procedures for:

(1) Adult females of reproductive potential; and
(2) Adult males,
who are diagnosed with cancer and have not started cancer
treatment.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is
amended by adding a new section to part I of article 10A to be
appropriately designated and to read as follows:

"§431:10A- Oocyte and sperm cryopreservation procedure
coverage. (a) Each policy of accident and health or sickness
insurance providing coverage for health care, except for
policies that provide coverage only for specified diseases or
other limited benefit coverage, shall provide coverage for
oocyte and sperm cryopreservation procedures for insureds and covered dependents; provided that:

(1) The patient is an:

(A) Adult female of reproductive potential; or

(B) Adult male; and

(2) The patient has been diagnosed with cancer and has not started cancer treatment, including chemotherapy, biotherapy, or radiation therapy.

(b) Utilization of coverage under this section shall be limited as follows:

(1) For a patient who is an adult female of reproductive potential, one oocyte cryopreservation procedure per lifetime; and

(2) For a patient who is an adult male, one sperm cryopreservation procedure per lifetime.

(c) The costs of oocyte and sperm cryopreservation procedures that shall be covered under this section include all outpatient expenses arising from oocyte and sperm cryopreservation, including evaluations, laboratory assessments, medications, and treatments associated with the procedure, and cryopreservation costs.
(d) This section shall not require coverage for:

1. Costs for initial or annual storage of oocytes or sperm;
2. Subsequent medical costs, including evaluations, diagnostic studies, medical treatment, or medications, for the future use of cryopreserved oocytes or sperm to attempt a pregnancy; and
3. Services that are not clinically appropriate.

(e) Upon the completion of the covered cryopreservation procedure:

1. The duties and obligations of the hospital, provider, and its medical staff or representatives, performing the covered cryopreservation procedure, are immediately discharged; and
2. The patient requesting the cryopreservation services shall execute an agreement with the selected cryobank for storage services, which may include:
   A. Transport (chain of custody) and storage procedures;
   B. Withdrawal and consent to release to any other designated agent; and
(C) Storage fees."

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to part VI of article 1 to be appropriately designated and to read as follows:

"§432:1- Oocyte and sperm cryopreservation procedure coverage. (a) All individual and group hospital and medical service contracts providing health care coverage shall provide coverage for oocyte and sperm cryopreservation procedures for subscribers, members, and covered dependents, provided that:

(1) The patient is an:

(A) Adult female of reproductive potential; or

(B) Adult male; and

(2) The patient has been diagnosed with cancer and has not started cancer treatment, including chemotherapy, biotherapy, or radiation therapy.

(b) Utilization of coverage under this section shall be limited as follows:

(1) For a patient who is an adult female of reproductive potential, one oocyte cryopreservation procedure per lifetime; and
(2) For a patient who is an adult male, one sperm cryopreservation procedure per lifetime.

(c) The costs of oocyte and sperm cryopreservation procedures that shall be covered under this section include all outpatient expenses arising from oocyte and sperm cryopreservation, including evaluations, laboratory assessments, medications, and treatments associated with the procedure, and cryopreservation costs.

(d) This section shall not require coverage for:

(1) Costs for initial or annual storage of oocytes or sperm;

(2) Subsequent medical costs, including evaluations, diagnostic studies, medical treatment, or medications, for the future use of cryopreserved oocytes or sperm to attempt a pregnancy; and

(3) Services that are not clinically appropriate.

(e) Upon the completion of the covered cryopreservation procedure:

(1) The duties and obligations of the hospital, provider, and its medical staff or representatives, performing
the covered cryopreservation procedure, are
immediately discharged; and

(2) The patient requesting the cryopreservation services
shall execute an agreement with the selected cryobank
for storage services, which may include:

(A) Transport (chain of custody) and storage
procedures;

(B) Withdrawal and consent to release to any other
designated agent; and

(C) Storage fees."

SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
amended to read as follows:

"§432D-23 Required provisions and benefits.

Notwithstanding any provision of law to the contrary, each
policy, contract, plan, or agreement issued in the State after
January 1, 1995, by health maintenance organizations pursuant to
this chapter, shall include benefits provided in sections
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, 2018.

INTRODUCED BY:

[Signatures]

JAN 24 2018
Report Title:
Oocyte and Sperm Cryopreservation; Insurance

Description:
Requires insurance coverage for oocyte and sperm cryopreservation procedures to preserve the fertility of adults diagnosed with cancer who have not yet started cancer treatment.

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