

By Senator Geller

29-115-01

1 A bill to be entitled
2 An act relating to health insurance coverage
3 for infertility; creating ss. 627.64062 and
4 627.65742, F.S., and amending s. 641.31, F.S.;
5 requiring coverage by health insurance
6 policies, group, franchise, and blanket health
7 insurance policies, and health maintenance
8 contracts for diagnosis and treatment of
9 infertility under certain circumstances;
10 providing requirements and criteria; providing
11 limitations; providing definitions; providing
12 an exception for certain religious
13 organizations; providing application; excluding
14 payments for donor eggs or certain medical
15 services; amending ss. 627.651, 627.6515, and
16 627.6699, F.S.; providing for application to
17 group contracts and plans of self-insurance,
18 out-of-state groups, and standard, basic, and
19 limited health benefit plans; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 627.64062, Florida Statutes, is
25 created to read:

26 627.64062 Coverage of diagnosis and treatment of
27 infertility.--

28 (1) Any health insurance policy that provides coverage
29 for pregnancy-related benefits shall also provide coverage for
30 the diagnosis and treatment of infertility, including all

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1 nonexperimental assisted reproductive technology procedures
2 and artificial insemination with partner or donor sperm.

3 (2) The coverage required under this section is
4 subject to the following conditions:

5 (a) Coverage shall be subject to any deductible and
6 coinsurance conditions and all other terms and conditions
7 applicable to other benefits.

8 (b) Coverage for procedures for in vitro
9 fertilization, gamete intrafallopian transfer, or zygote
10 intrafallopian transfer shall be required only if:

11 1. The covered individual has been unable to carry a
12 pregnancy to live birth.

13 2. The covered individual has been unable to carry a
14 pregnancy to live birth through less costly medically
15 appropriate infertility treatments for which coverage is
16 available under the policy, plan, or contract.

17 3. The covered individual has not undergone 4 complete
18 oocyte retrievals.

19 4. The procedures are performed at medical facilities
20 that conform to the standards of the American Society for
21 Reproductive Medicine, the Society for Assisted Reproductive
22 Technology, and the American College of Obstetricians and
23 Gynecologists.

24 5. The laboratory or facility has received
25 accreditation from the Reproductive Laboratory Accreditation
26 Program of the College of American Pathologists or another
27 accreditation organization approved by the Society for
28 Assisted Reproductive Medicine.

29 (c) In order to undergo in vitro fertilization, gamete
30 intrafallopian transfer, or zygote intrafallopian transfer, a
31 second opinion is required by a certified reproductive

1 endocrinologist who is actively experienced in assisted
2 reproductive technologies but is not in the same group as the
3 treating physician.

4 (d) The provider must include at least one certified
5 reproductive endocrinologist or a physician with fellowship
6 training and subspecialty board eligibility in reproductive
7 endocrinology and infertility.

8 (3) As used in this section, the term:

9 (a) "Pregnancy-related benefits" means benefits that
10 cover any related medical condition that may be associated
11 with pregnancy, including complications of pregnancy.

12 (b) "Infertility" means a disease or condition
13 affecting the reproductive system that interferes with the
14 ability of a man or woman to achieve a pregnancy or of a woman
15 to carry a pregnancy to live birth. The duration of the
16 failure to conceive should be 12 or more months before an
17 investigation is undertaken unless medical history and
18 physical findings dictate earlier evaluation and treatment.

19 (c) "Nonexperimental procedure" means any clinical
20 treatment or procedure the safety and efficacy of which is
21 recognized as such by the American Society for Reproductive
22 Medicine or the American College of Obstetricians and
23 Gynecologists.

24 (4) This section does not apply to any health
25 insurance policy that is purchased by an entity, group, or
26 order that is directly affiliated with a bona fide religious
27 denomination that includes as an integral part of its beliefs
28 and practices the tenet that drug therapy for infertility or
29 in vitro fertilization services are contrary to the moral
30 principles that the religious denomination considers to be an
31 essential part of its beliefs.

1 (5) This section applies to benefits for the state
2 group insurance program under s. 110.123.

3 (6) This section does not apply to payment for donor
4 eggs or medical services rendered to a surrogate for purposes
5 of child birth.

6 Section 2. Subsection (4) of section 627.651, Florida
7 Statutes, is amended to read:

8 627.651 Group contracts and plans of self-insurance
9 must meet group requirements.--

10 (4) This section does not apply to any plan which is
11 established or maintained by an individual employer in
12 accordance with the Employee Retirement Income Security Act of
13 1974, Pub. L. No. 93-406, or to a multiple-employer welfare
14 arrangement as defined in s. 624.437(1), except that a
15 multiple-employer welfare arrangement shall comply with ss.
16 627.419, 627.657, 627.65742, 627.6575, 627.6578, 627.6579,
17 627.6612, 627.66121, 627.66122, 627.6615, 627.6616, and
18 627.662(6). This subsection does not allow an authorized
19 insurer to issue a group health insurance policy or
20 certificate which does not comply with this part.

21 Section 3. Paragraph (c) of subsection (2) of section
22 627.6515, Florida Statutes, is amended to read:

23 627.6515 Out-of-state groups.--

24 (2) This part does not apply to a group health
25 insurance policy issued or delivered outside this state under
26 which a resident of this state is provided coverage if:

27 (c) The policy provides the benefits specified in ss.
28 627.419, 627.6574, 627.65742, 627.6575, 627.6579, 627.6612,
29 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691,
30 and 627.66911.

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1 Section 4. Section 627.65742, Florida Statutes, is
2 created to read:

3 627.65742 Coverage of diagnosis and treatment of
4 infertility.--

5 (1) Any group, franchise, or blanket health insurance
6 policy that provides coverage for pregnancy-related benefits
7 shall also provide coverage for the diagnosis and treatment of
8 infertility, including all nonexperimental assisted
9 reproductive technology procedures and artificial insemination
10 with partner or donor sperm.

11 (2) The coverage required under this section is
12 subject to the following conditions:

13 (a) Coverage may not be subject to copayments or
14 deductible requirements that are greater than those applied to
15 pregnancy-related benefits under the insured's policy, plan,
16 or contract.

17 (b) Coverage for procedures for in vitro
18 fertilization, gamete intrafallopian transfer, or zygote
19 intrafallopian transfer shall be required only if:

20 1. The covered individual has been unable to carry a
21 pregnancy to live birth.

22 2. The covered individual has been unable to carry a
23 pregnancy to live birth through less costly medically
24 appropriate infertility treatments for which coverage is
25 available under the policy, plan, or contract.

26 3. The covered individual has not undergone 4 complete
27 oocyte retrievals.

28 4. The procedures are performed at medical facilities
29 that conform to the standards of the American Society for
30 Reproductive Medicine, the Society for Assisted Reproductive
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1 Technology, and the American College of Obstetricians and
2 Gynecologists.

3 5. The laboratory or facility has received
4 accreditation from the Reproductive Laboratory Accreditation
5 Program of the College of American Pathologists or another
6 accreditation organization approved by the Society for
7 Assisted Reproductive Medicine.

8 (c) In order to undergo in vitro fertilization, gamete
9 intrafallopian transfer, or zygote intrafallopian transfer, a
10 second opinion is required by a certified reproductive
11 endocrinologist who is actively experienced in assisted
12 reproductive technologies but is not in the same group as the
13 treating physician.

14 (d) The provider must include at least one certified
15 reproductive endocrinologist or a physician with fellowship
16 training and subspecialty board eligibility in reproductive
17 endocrinology and infertility.

18 (3) As used in this section, the term:

19 (a) "Pregnancy-related benefits" means benefits that
20 cover any related medical condition that may be associated
21 with pregnancy, including complications of pregnancy.

22 (b) "Infertility" means a disease or condition
23 affecting the reproductive system that interferes with the
24 ability of a man or woman to achieve a pregnancy or of a woman
25 to carry a pregnancy to live birth. The duration of the
26 failure to conceive should be 12 or more months before an
27 investigation is undertaken unless medical history and
28 physical findings dictate earlier evaluation and treatment.

29 (c) "Nonexperimental procedure" means any clinical
30 treatment or procedure the safety and efficacy of which is
31 recognized as such by the American Society for Reproductive

1 Medicine or the American College of Obstetricians and
2 Gynecologists.

3 (4) This section does not apply to any group,
4 franchise, or blanket health insurance policy that is
5 purchased by an entity, group, or order that is directly
6 affiliated with a bona fide religious denomination that
7 includes as an integral part of its beliefs and practices the
8 tenet that drug therapy for infertility or in vitro
9 fertilization services are contrary to the moral principles
10 that the religious denomination considers to be an essential
11 part of its beliefs.

12 (5) This section does not apply to payment for donor
13 eggs or medical services rendered to a surrogate for purposes
14 of child birth.

15 Section 5. Paragraph (b) of subsection (12) of section
16 627.6699, Florida Statutes, is amended to read:

17 627.6699 Employee Health Care Access Act.--

18 (12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT
19 PLANS.--

20 (b)1. Each small employer carrier issuing new health
21 benefit plans shall offer to any small employer, upon request,
22 a standard health benefit plan and a basic health benefit plan
23 that meets the criteria set forth in this section.

24 2. For purposes of this subsection, the terms
25 "standard health benefit plan" and "basic health benefit plan"
26 mean policies or contracts that a small employer carrier
27 offers to eligible small employers that contain:

28 a. An exclusion for services that are not medically
29 necessary or that are not covered preventive health services;
30 and
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1 b. A procedure for preauthorization by the small
2 employer carrier, or its designees.

3 3. A small employer carrier may include the following
4 managed care provisions in the policy or contract to control
5 costs:

6 a. A preferred provider arrangement or exclusive
7 provider organization or any combination thereof, in which a
8 small employer carrier enters into a written agreement with
9 the provider to provide services at specified levels of
10 reimbursement or to provide reimbursement to specified
11 providers. Any such written agreement between a provider and a
12 small employer carrier must contain a provision under which
13 the parties agree that the insured individual or covered
14 member has no obligation to make payment for any medical
15 service rendered by the provider which is determined not to be
16 medically necessary. A carrier may use preferred provider
17 arrangements or exclusive provider arrangements to the same
18 extent as allowed in group products that are not issued to
19 small employers.

20 b. A procedure for utilization review by the small
21 employer carrier or its designees.

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23 This subparagraph does not prohibit a small employer carrier
24 from including in its policy or contract additional managed
25 care and cost containment provisions, subject to the approval
26 of the department, which have potential for controlling costs
27 in a manner that does not result in inequitable treatment of
28 insureds or subscribers. The carrier may use such provisions
29 to the same extent as authorized for group products that are
30 not issued to small employers.

31 4. The standard health benefit plan shall include:

- 1 a. Coverage for inpatient hospitalization;
2 b. Coverage for outpatient services;
3 c. Coverage for newborn children pursuant to s.
4 627.6575;
5 d. Coverage for child care supervision services
6 pursuant to s. 627.6579;
7 e. Coverage for adopted children upon placement in the
8 residence pursuant to s. 627.6578;
9 f. Coverage for mammograms pursuant to s. 627.6613;
10 g. Coverage for handicapped children pursuant to s.
11 627.6615;
12 h. Emergency or urgent care out of the geographic
13 service area; and
14 i. Coverage for services provided by a hospice
15 licensed under s. 400.602 in cases where such coverage would
16 be the most appropriate and the most cost-effective method for
17 treating a covered illness.
- 18 5. The standard health benefit plan and the basic
19 health benefit plan may include a schedule of benefit
20 limitations for specified services and procedures. If the
21 committee develops such a schedule of benefits limitation for
22 the standard health benefit plan or the basic health benefit
23 plan, a small employer carrier offering the plan must offer
24 the employer an option for increasing the benefit schedule
25 amounts by 4 percent annually.
- 26 6. The basic health benefit plan shall include all of
27 the benefits specified in subparagraph 4.; however, the basic
28 health benefit plan shall place additional restrictions on the
29 benefits and utilization and may also impose additional cost
30 containment measures.
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1 7. Sections 627.419(2), (3), and (4), 627.6574,
2 627.65742, 627.6612, 627.66121, 627.66122, 627.6616, 627.6618,
3 627.668, and 627.66911 apply to the standard health benefit
4 plan and to the basic health benefit plan. However,
5 notwithstanding said provisions, the plans may specify limits
6 on the number of authorized treatments, if such limits are
7 reasonable and do not discriminate against any type of
8 provider.

9 8. Each small employer carrier that provides for
10 inpatient and outpatient services by allopathic hospitals may
11 provide as an option of the insured similar inpatient and
12 outpatient services by hospitals accredited by the American
13 Osteopathic Association when such services are available and
14 the osteopathic hospital agrees to provide the service.

15 Section 6. Subsection (39) is added to section 641.31,
16 Florida Statutes, to read:

17 641.31 Health maintenance contracts.--

18 (39)(a) Any health maintenance contract that provides
19 coverage for pregnancy-related benefits shall also provide
20 coverage for the diagnosis and treatment of infertility,
21 including all nonexperimental assisted reproductive technology
22 procedures and artificial insemination with partner or donor
23 sperm.

24 (b) The coverage required under this subsection is
25 subject to the following conditions:

26 1. Coverage shall be subject to any deductible and
27 coinsurance conditions and all other terms and conditions
28 applicable to other benefits.

29 2. Coverage for procedures for in vitro fertilization,
30 gamete intrafallopian transfer, or zygote intrafallopian
31 transfer shall be required only if:

1 a. The covered individual has been unable to carry a
2 pregnancy to live birth.

3 b. The covered individual has been unable to carry a
4 pregnancy to live birth through less costly medically
5 appropriate infertility treatments for which coverage is
6 available under the policy, plan, or contract.

7 c. The covered individual has not undergone 4 complete
8 oocyte retrievals.

9 d. The procedures are performed at medical facilities
10 that conform to the standards of the American Society for
11 Reproductive Medicine, the Society for Assisted Reproductive
12 Technology, and the American College of Obstetricians and
13 Gynecologists.

14 e. The laboratory or facility has received
15 accreditation from the Reproductive Laboratory Accreditation
16 Program of the College of American Pathologists or another
17 accreditation organization approved by the Society for
18 Assisted Reproductive Medicine.

19 3. In order to undergo in vitro fertilization, gamete
20 intrafallopian transfer, or zygote intrafallopian transfer, a
21 second opinion is required by a certified reproductive
22 endocrinologist who is actively experienced in assisted
23 reproductive technologies but is not in the same group as the
24 treating physician.

25 4. The provider must include at least one certified
26 reproductive endocrinologist or a physician with fellowship
27 training and subspecialty board eligibility in reproductive
28 endocrinology and infertility.

29 (c) As used in this subsection, the term:
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1 1. "Pregnancy-related benefits" means benefits that
2 cover any related medical condition that may be associated
3 with pregnancy, including complications of pregnancy.

4 2. "Infertility" means a disease or condition
5 affecting the reproductive system that interferes with the
6 ability of a man or woman to achieve a pregnancy or of a woman
7 to carry a pregnancy to live birth. The duration of the
8 failure to conceive should be 12 or more months before an
9 investigation is undertaken unless medical history and
10 physical findings dictate earlier evaluation and treatment.

11 3. "Nonexperimental procedure" means any clinical
12 treatment or procedure the safety and efficacy of which is
13 recognized as such by the American Society for Reproductive
14 Medicine or the American College of Obstetricians and
15 Gynecologists.

16 (d) This subsection does not apply to any health
17 maintenance contract that is purchased by an entity, group, or
18 order that is directly affiliated with a bona fide religious
19 denomination that includes as an integral part of its beliefs
20 and practices the tenet that drug therapy for infertility or
21 in vitro fertilization services are contrary to the moral
22 principles that the religious denomination considers to be an
23 essential part of its beliefs.

24 (e) This subsection applies to benefits for the state
25 group insurance program under s. 110.123.

26 (f) This subsection does not apply to payment for
27 donor eggs or medical services rendered to a surrogate for
28 purposes of child birth.

29 Section 7. This act shall take effect October 1, 2001.

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SENATE SUMMARY

Requires coverage by health insurance policies, group, franchise, and blanket health insurance policies, and health maintenance contracts for diagnosis and treatment of infertility. Provides an exception for religious organizations. Applies the requirement to group contracts and plans of self-insurance, out-of-state groups, and standard, basic, and limited health benefit plans. (See bill for details.)