

By Senator Wasserman Schultz

32-323-01

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.

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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 must 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 is 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 is 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) Before a patient may undergo in vitro
30 fertilization, gamete intrafallopian transfer, or zygote
31 intrafallopian transfer, a supporting second opinion is

1 required by a certified reproductive endocrinologist who is
2 actively experienced in assisted reproductive technologies but
3 is not in the same group as the 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:

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 which 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. Section 627.65742, Florida Statutes, is
7 created to read:

8 627.65742 Coverage of diagnosis and treatment of
9 infertility.--

10 (1) Any group, franchise, or blanket health insurance
11 policy that provides coverage for pregnancy-related benefits
12 must also provide coverage for the diagnosis and treatment of
13 infertility, including all nonexperimental assisted
14 reproductive technology procedures and artificial insemination
15 with partner or donor sperm.

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

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

22 (b) Coverage for procedures for in vitro
23 fertilization, gamete intrafallopian transfer, or zygote
24 intrafallopian transfer is required only if:

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

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

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1 3. The covered individual has not undergone 4 complete
2 oocyte retrievals.

3 4. The procedures are performed at medical facilities
4 that conform to the standards of the American Society for
5 Reproductive Medicine, the Society for Assisted Reproductive
6 Technology, and the American College of Obstetricians and
7 Gynecologists.

8 5. The laboratory or facility has received
9 accreditation from the Reproductive Laboratory Accreditation
10 Program of the College of American Pathologists or another
11 accreditation organization approved by the Society for
12 Assisted Reproductive Medicine.

13 (c) Before a patient may undergo in vitro
14 fertilization, gamete intrafallopian transfer, or zygote
15 intrafallopian transfer, a supporting second opinion is
16 required by a certified reproductive endocrinologist who is
17 actively experienced in assisted reproductive technologies but
18 is not in the same group as the treating physician.

19 (d) The provider must include at least one certified
20 reproductive endocrinologist or a physician with fellowship
21 training and subspecialty board eligibility in reproductive
22 endocrinology and infertility.

23 (3) As used in this section:

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

27 (b) "Infertility" means a disease or condition
28 affecting the reproductive system which interferes with the
29 ability of a man or woman to achieve a pregnancy or of a woman
30 to carry a pregnancy to live birth. The duration of the
31 failure to conceive must span 12 or more months before an

1 investigation is undertaken, unless medical history and
2 physical findings dictate earlier evaluation and treatment.

3 (c) "Nonexperimental procedure" means any clinical
4 treatment or procedure the safety and efficacy of which is
5 recognized as such by the American Society for Reproductive
6 Medicine or the American College of Obstetricians and
7 Gynecologists.

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

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

20 Section 3. Subsection (40) is added to section 641.31,
21 Florida Statutes, to read:

22 641.31 Health maintenance contracts.--

23 (40)(a) Any health maintenance contract that provides
24 coverage for pregnancy-related benefits must also provide
25 coverage for the diagnosis and treatment of infertility,
26 including all nonexperimental assisted reproductive technology
27 procedures and artificial insemination with partner or donor
28 sperm.

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

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1 1. Coverage is subject to any deductible and
2 coinsurance conditions and all other terms and conditions
3 applicable to other benefits.

4 2. Coverage for procedures for in vitro fertilization,
5 gamete intrafallopian transfer, or zygote intrafallopian
6 transfer is required only if:

7 a. The covered individual has been unable to carry a
8 pregnancy to live birth.

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

13 c. The covered individual has not undergone 4 complete
14 oocyte retrievals.

15 d. The procedures are performed at medical facilities
16 that conform to the standards of the American Society for
17 Reproductive Medicine, the Society for Assisted Reproductive
18 Technology, and the American College of Obstetricians and
19 Gynecologists.

20 e. The laboratory or facility has received
21 accreditation from the Reproductive Laboratory Accreditation
22 Program of the College of American Pathologists or another
23 accreditation organization approved by the Society for
24 Assisted Reproductive Medicine.

25 3. Before a patient may undergo in vitro
26 fertilization, gamete intrafallopian transfer, or zygote
27 intrafallopian transfer, a supportive second opinion is
28 required by a certified reproductive endocrinologist who is
29 actively experienced in assisted reproductive technologies but
30 is not in the same group as the treating physician.

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1 4. The provider must include at least one certified
2 reproductive endocrinologist or a physician with fellowship
3 training and subspecialty board eligibility in reproductive
4 endocrinology and infertility.

5 (c) As used in this subsection:

6 1. "Pregnancy-related benefits" means benefits that
7 cover any related medical condition that may be associated
8 with pregnancy, including complications of pregnancy.

9 2. "Infertility" means a disease or condition
10 affecting the reproductive system which interferes with the
11 ability of a man or woman to achieve a pregnancy or of a woman
12 to carry a pregnancy to live birth. The duration of the
13 failure to conceive must be 12 or more months before an
14 investigation is undertaken unless medical history and
15 physical findings dictate earlier evaluation and treatment.

16 3. "Nonexperimental procedure" means any clinical
17 treatment or procedure whose safety and efficacy is recognized
18 as such by the American Society for Reproductive Medicine or
19 the American College of Obstetricians and Gynecologists.

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

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

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

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

6 627.651 Group contracts and plans of self-insurance
7 must meet group requirements.--

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

19 Section 5. Paragraph (c) of subsection (2) of section
20 627.6515, Florida Statutes, is amended to read:

21 627.6515 Out-of-state groups.--

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

25 (c) The policy provides the benefits specified in ss.
26 627.419, 627.6574, 627.65742, 627.6575, 627.6579, 627.6612,
27 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691,
28 and 627.66911.

29 Section 6. Paragraph (b) of subsection (12) of section
30 627.6699, Florida Statutes, is amended to read:

31 627.6699 Employee Health Care Access Act.--

1 (12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT
2 PLANS.--

3 (b)1. Each small employer carrier issuing new health
4 benefit plans shall offer to any small employer, upon request,
5 a standard health benefit plan and a basic health benefit plan
6 that meet ~~meets~~ the criteria set forth in this section.

7 2. For purposes of this subsection, the terms
8 "standard health benefit plan" and "basic health benefit plan"
9 mean policies or contracts that a small employer carrier
10 offers to eligible small employers which ~~that~~ contain:

11 a. An exclusion for services that are not medically
12 necessary or that are not covered preventive health services;
13 and

14 b. A procedure for preauthorization by the small
15 employer carrier, or its designees.

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

19 a. A preferred provider arrangement or exclusive
20 provider organization or any combination thereof, in which a
21 small employer carrier enters into a written agreement with
22 the provider to provide services at specified levels of
23 reimbursement or to provide reimbursement to specified
24 providers. Any such written agreement between a provider and a
25 small employer carrier must contain a provision under which
26 the parties agree that the insured individual or covered
27 member has no obligation to make payment for any medical
28 service rendered by the provider which is determined not to be
29 medically necessary. A carrier may use preferred provider
30 arrangements or exclusive provider arrangements to the same

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1 extent as allowed in group products that are not issued to
2 small employers.

3 b. A procedure for utilization review by the small
4 employer carrier or its designees.

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6 This subparagraph does not prohibit a small employer carrier
7 from including in its policy or contract additional managed
8 care and cost containment provisions, subject to the approval
9 of the department, which have potential for controlling costs
10 in a manner that does not result in inequitable treatment of
11 insureds or subscribers. The carrier may use such provisions
12 to the same extent as authorized for group products that are
13 not issued to small employers.

14 4. The standard health benefit plan shall include:

15 a. Coverage for inpatient hospitalization;

16 b. Coverage for outpatient services;

17 c. Coverage for newborn children pursuant to s.

18 627.6575;

19 d. Coverage for child care supervision services

20 pursuant to s. 627.6579;

21 e. Coverage for adopted children upon placement in the
22 residence pursuant to s. 627.6578;

23 f. Coverage for mammograms pursuant to s. 627.6613;

24 g. Coverage for handicapped children pursuant to s.

25 627.6615;

26 h. Emergency or urgent care out of the geographic
27 service area; and

28 i. Coverage for services provided by a hospice
29 licensed under s. 400.602 in cases where such coverage would
30 be the most appropriate and the most cost-effective method for
31 treating a covered illness.

1 5. The standard health benefit plan and the basic
2 health benefit plan may include a schedule of benefit
3 limitations for specified services and procedures. If the
4 committee develops such a schedule of benefits limitation for
5 the standard health benefit plan or the basic health benefit
6 plan, a small employer carrier offering the plan must offer
7 the employer an option for increasing the benefit schedule
8 amounts by 4 percent annually.

9 6. The basic health benefit plan shall include all of
10 the benefits specified in subparagraph 4.; however, the basic
11 health benefit plan shall place additional restrictions on the
12 benefits and utilization and may also impose additional cost
13 containment measures.

14 7. Sections 627.419(2), (3), and (4), 627.6574,
15 627.65742, 627.6612, 627.66121, 627.66122, 627.6616, 627.6618,
16 627.668, and 627.66911 apply to the standard health benefit
17 plan and to the basic health benefit plan. However,
18 notwithstanding said provisions, the plans may specify limits
19 on the number of authorized treatments, if such limits are
20 reasonable and do not discriminate against any type of
21 provider.

22 8. Each small employer carrier that provides for
23 inpatient and outpatient services by allopathic hospitals may
24 provide as an option of the insured similar inpatient and
25 outpatient services by hospitals accredited by the American
26 Osteopathic Association when such services are available and
27 the osteopathic hospital agrees to provide the service.

28 Section 7. This act shall take effect October 1, 2001.
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LEGISLATIVE 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.)