

MAINE STATE LEGISLATURE

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R. 018

L.D. 213

DATE: 1-8-04

(Filing No. H-629)

MINORITY
INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 172, L.D. 213, Bill, "An Act To Assist Maine's Infertile Citizens"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 24 MRSA §2317-B, sub-§16-B is enacted to read:

16-B. Title 24-A, sections 2847-L and 4252. Group coverage of infertility treatment, Title 24-A, sections 2847-L and 4252;

Sec. 2. 24-A MRSA §2847-L is enacted to read:

§2847-L. Infertility coverage

1. Definition. For the purposes of this section, "infertility" means the disease or condition that results in the abnormal function of the reproductive system such that a male is not able to impregnate a female or a female is not able to become pregnant and maintain a pregnancy to full term after one year of attempting pregnancy.

2. Coverage. All group health insurance policies, contracts and certificates that provide coverage for pregnancy-related benefits must provide coverage for the diagnosis and treatment of infertility, including, but not limited to, in vitro fertilization, embryo transfer, artificial insemination, gamete intrafallopian tube transfer, zygote intrafallopian tube transfer and low tubal ovum transfer, in accordance with this section.

COMMITTEE AMENDMENT

2 3. Conditions. The coverage required by this section is
3 subject to the following conditions:

4 A. The female partner must be 21 years of age or older and
5 under 45 years of age;

6 B. The covered person must have a referral for infertility
7 diagnosis and treatment by that person's primary care
8 provider;

9 C. The policy, contract or certificate may not impose a
10 coinsurance requirement for coverage under this section that
11 exceeds 20%;

12 D. The policy, contract or certificate must impose a
13 lifetime maximum limit of \$20,000 for the coverage required
14 under this section;

15 E. For a policy, contract or certificate that provides
16 prescription drug coverage, the policy, contract or
17 certificate may not impose special restrictions on
18 prescription medications or a restriction or limitation on
19 the number of procedures used for infertility diagnosis or
20 treatment;

21 F. The policy, contract or certificate may require that
22 procedures be performed at medical facilities that conform
23 to the American Society for Reproductive Medicine guidelines
24 as outlined by the Society for Assisted Reproductive
25 Technology or a successor organization; and

26 G. The policy, contract or certificate may not include
27 coverage for procedures defined by the American Society for
28 Reproductive Medicine or a successor organization as
29 experimental or investigational.

30 4. Exclusion for religious employer. A religious employer
31 may request and an insurer shall grant an exclusion under the
32 policy, contract or certificate for the coverage required by this
33 section if the required coverage conflicts with the religious
34 employer's bona fide religious beliefs and practices. A
35 religious employer that obtains an exclusion under this
36 subsection shall provide prospective insureds and those
37 individuals insured under its policy, contract or certificate
38 written notice of the exclusion. This subsection may not be
39 construed as authorizing an insurer to exclude coverage for
40 medically necessary procedures or for prescription drugs
41 prescribed for reasons other than infertility treatment
42 purposes. For the purposes of this subsection, "religious
43 employer" means an employer that is a church, convention or
44 association of churches or an elementary or secondary school that
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1 is controlled, operated or principally supported by a church or
2 by a convention or association of churches as defined in 26
3 United States Code, Section 3121(w) (3) (A) and that qualifies as
4 a tax-exempt organization under 26 United States Code, Section
5 501(c) (3).

6
7 **5. Limits; coinsurance; deductibles.** Any policy, contract
8 or certificate that provides coverage for services under this
9 section may contain provisions for maximum benefits and
10 coinsurance and reasonable limitations, deductibles and
11 exclusions to the extent that these provisions are not
12 inconsistent with the requirements of this section.

13
14 **6. Report to superintendent.** An insurer subject to this
15 section shall report its experience for the calendar years 2005,
16 2006 and 2007 to the superintendent not later than February 15,
17 2008. The report must be in a form prescribed by the
18 superintendent and include the amount of claims paid by the
19 insurer in this State for the infertility treatment services
20 required by this section, the total amount of claims paid by the
21 insurer in this State for group health care contracts and the
22 effect of coverage required under this section on the cost of the
23 insurer's group health insurance premiums. The superintendent
24 shall compile this data for all group insurers and submit a
25 report to the joint standing committee of the Legislature having
26 jurisdiction over health insurance matters on or before April 1,
27 2008.

28
29 **Sec. 3. 24-A MRSA §4252 is enacted to read:**

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31 **§4252. Infertility coverage**

32
33 **1. Definition.** For the purposes of this section,
34 "infertility" means the disease or condition that results in the
35 abnormal function of the reproductive system such that a male is
36 not able to impregnate a female or a female is not able to become
37 pregnant and maintain a pregnancy to full term after one year of
38 attempting pregnancy.

39
40 **2. Coverage.** All group health maintenance organization
41 contracts and certificates that provide for coverage for
42 pregnancy-related benefits must provide coverage for the
43 diagnosis and treatment of infertility, including, but not
44 limited to, in vitro fertilization, embryo transfer, artificial
45 insemination, gamete intrafallopian tube transfer, zygote
46 intrafallopian tube transfer and low tubal ovum transfer, in
47 accordance with this section.

48
49 **3. Conditions.** The coverage required by this section is
50 subject to the following conditions:

2 A. The female partner must be 21 years of age or older and
3 under 45 years of age;

4 B. The covered person must have a referral for infertility
5 diagnosis and treatment by that person's primary care
6 provider;

7 C. The contract or certificate may not impose a coinsurance
8 requirement for coverage under this section that exceeds 20%;

9 D. The contract or certificate must impose a lifetime
10 maximum limit of \$20,000 for the coverage required under
11 this section;

12 E. For a contract or certificate that provides prescription
13 drug coverage, the contract or certificate may not impose
14 special restrictions on prescription medications or a
15 restriction or limitation on the number of procedures used
16 for infertility diagnosis or treatment;

17 F. The contract or certificate may require that procedures
18 be performed at medical facilities that conform to the
19 American Society for Reproductive Medicine guidelines as
20 outlined by the Society for Assisted Reproductive Technology
21 or a successor organization; and

22 G. The contract or certificate may not include coverage for
23 procedures defined by the American Society for Reproductive
24 Medicine or a successor organization as experimental or
25 investigational.

26 4. Exclusion for religious employer. A religious employer
27 may request and a health maintenance organization shall grant an
28 exclusion under the contract or certificate for the coverage
29 required by this section if the required coverage conflicts with
30 the religious employer's bona fide religious beliefs and
31 practices. A religious employer that obtains an exclusion under
32 this subsection shall provide prospective enrollees and those
33 covered individuals written notice of the exclusion. This
34 subsection may not be construed as authorizing a health
35 maintenance organization to exclude coverage for medically
36 necessary procedures or for prescription drugs prescribed for
37 reasons other than infertility treatment purposes. For the
38 purposes of this subsection, "religious employer" means an
39 employer that is a church, convention or association of churches
40 or an elementary or secondary school that is controlled, operated
41 or principally supported by a church or by a convention or
42 association of churches as defined in 26 United States Code,

Section 3121(w) (3) (A) and that qualifies as a tax-exempt organization under 26 United States Code, Section 501(c) (3).

5. Limits; coinsurance; deductibles. Any contract or certificate that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

6. Report to superintendent. A health maintenance organization subject to this section shall report its experience for calendar years 2005, 2006 and 2007 to the superintendent not later than February 15, 2008. The report must be in a form prescribed by the superintendent and include the amount of claims paid by the health maintenance organization in this State for the infertility treatment services required by this section, the total amount of claims paid by the health maintenance organization in this State for group health care contracts and the effect of coverage required under this section on the cost of the health maintenance organization's group health maintenance organization premiums. The superintendent shall compile this data for all group health maintenance organizations and submit a report to the joint standing committee of the Legislature having jurisdiction over health insurance matters on or before April 1, 2008.

Sec. 4. Application. The requirements of this Act apply to all group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2005. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 5. Repeal. Unless continued or modified by the Legislature, this Act is repealed July 1, 2008.'

SUMMARY

This amendment replaces the bill. The amendment requires group health insurance policies, contracts and certificates to include coverage for infertility treatment based on the current benefit provided to state employees. Coverage is required for women between ages 21 and 45, if referred by a primary care provider, for 80% of the charges for infertility diagnosis and treatment up to a maximum lifetime limit of \$20,000. Under the amendment, a religious employer may request an exemption if providing the coverage conflicts with the employer's bona fide religious beliefs and practices.

COMMITTEE AMENDMENT "A" to H.P. 172, L.D. 213

2 The amendment applies to all group policies, contracts and
certificates issued or renewed on or after January 1, 2005. It
4 requires group insurers and health maintenance organizations to
report claims experience and cost impact of infertility coverage
6 for calendar years 2005, 2006 and 2007 no later than February 15,
2008 and directs the Superintendent of Insurance to compile this
8 information in a report to the Legislature by April 1, 2008. The
amendment also repeals the provision on July 1, 2008.
10

FISCAL NOTE REQUIRED
(See attached).

COMMITTEE AMENDMENT



**121st Maine Legislature
Office of Fiscal and Program Review**

**LD 213
An Act To Assist Maine's Infertile Citizens**

**LR 0751(02)
Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Insurance and Financial Services
Fiscal Note Required: Yes
Minority Report**

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Department of Professional and Financial Regulation can be absorbed by the Department within existing resources. No fiscal impact on the state employee health plan is expected because the provisions of the bill are consistent with the current coverage for infertility benefits provided under the plan.