

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 213

H.P. 172

House of Representatives, January 21, 2003

An Act To Assist Maine's Infertile Citizens

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARRACHÉ of Waterville.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: DUDLEY of Portland, GAGNE-FRIEL of Buckfield, LAVERRIERE-
BOUCHER of Biddeford, LORING of the Penobscot Nation, McKEE of Wayne, PINGREE of
North Haven, RICHARDSON of Brunswick, SMITH of Van Buren.

Be it enacted by the People of the State of Maine as follows:

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

6 16-B. Title 24-A, sections 2847-L and 4252. Group coverage
of infertility treatment, Title 24-A, sections 2847-L and 4252;

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

10 §2847-L. Infertility coverage

12 1. Definition. For the purposes of this section,
14 "infertility" means the disease or condition that results in the
16 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.

18 2. Coverage. All group health insurance policies and
20 contracts that provide coverage for pregnancy-related benefits
22 must provide coverage for the diagnosis and treatment of
24 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.

26 3. Limits. The coverage required by this section is
28 subject to the following conditions:

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

34 B. For a policy that provides prescription drug coverage,
36 the policy may not impose special restrictions on
prescription medications or a restriction or limitation on
the number of procedures used for infertility diagnosis or
treatment, except as provided in this subsection;

38 C. Coverage for procedures for intrauterine insemination
40 with ovarian stimulation and procedures requiring oocyte
retrieval may be limited in accordance with the following.

42 (1) The policy may require that the covered individual
44 has been unable to attain or sustain a successful
46 pregnancy through reasonable, less costly medically
appropriate infertility treatments for which coverage
is available under the policy or contract.

48 (2) The policy may limit the covered individual to a
50 maximum of 6 completed intrauterine inseminations with
ovarian stimulation, except that if the individual has

2 a living child, then the policy may limit coverage to 3
3 completed intrauterine inseminations with ovarian
4 stimulation.

5 (3) The policy may limit the covered individual to a
6 maximum of 4 completed oocyte retrievals, except that
7 if the individual has a living child, then the policy
8 may limit coverage to 2 completed oocyte retrievals.

9 (4) For procedures for intrauterine inseminations and
10 procedures requiring oocyte retrievals that also
11 involve the use of donor gametes or a gestational
12 carrier, the policy may cover only medical expenses and
13 the number of procedures may be limited as permitted in
14 this subsection.

15 (5) The policy may require that procedures be performed
16 at medical facilities that conform to the American
17 Society for Reproductive Medicine guidelines as
18 outlined by the Society for Assisted Reproductive
19 Technology or a successor organization;

20 D. For procedures using cryopreserved embryos, all costs,
21 except for storage costs, must be covered; and

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

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

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

2 **§4252. Infertility coverage**

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

16 **2. Coverage.** All group health maintenance organization
18 contracts that provide for coverage for pregnancy-related
20 benefits must provide coverage for the diagnosis and treatment of
22 infertility, including, but not limited to, in vitro
24 fertilization, embryo transfer, artificial insemination, gamete
26 intrafallopian tube transfer, zygote intrafallopian tube transfer
28 and low tubal ovum transfer.

30 **3. Limits.** The coverage required by this section is
32 subject to the following conditions:

34 **A.** The female partner must be 21 years of age or older and
36 under 45 years of age;

38 **B.** For a policy that provides prescription drug coverage,
40 the policy may not impose special restrictions on
42 prescription medications or a restriction or limitation on
44 the number of procedures used for infertility diagnosis or
46 treatment, except as provided in this subsection;

48 **C.** Coverage for procedures for intrauterine insemination
50 with ovarian stimulation and procedures requiring oocyte
 retrieval may be limited in accordance with the following.

(1) The policy may require that the covered individual
 has been unable to attain or sustain a pregnancy
 through reasonable, less costly medically appropriate
 infertility treatments for which coverage is available
 under the policy or contract.

(2) The policy may limit the covered individual to a
 maximum of 6 completed intrauterine inseminations with
 ovarian stimulation, except that if the individual has
 a living child, then the policy may limit coverage to 3
 completed intrauterine inseminations with ovarian
 stimulation.

(3) The policy may limit the covered individual to a
 maximum of 4 completed oocyte retrievals, except that
 if the individual has a living child, then the policy
 may limit coverage to 2 completed oocyte retrievals.

2 (4) For procedures for intrauterine inseminations and
4 procedures requiring oocyte retrievals that also
6 involve the use of donor gametes or a gestational
8 carrier, the policy may cover only medical expenses and
 the number of procedures may be limited as permitted in
 this subsection.

10 (5) The policy may require that procedures be performed
12 at medical facilities that conform to the American
14 Society for Reproductive Medicine guidelines as
 outlined by the Society for Assisted Reproductive
 Technology or a successor organization;

16 D. For procedures using cryopreserved embryos, all costs,
 except for storage costs, must be covered; and

18 E. The policy may not include coverage for procedures
20 defined by the American Society for Reproductive Medicine or
 a successor organization as experimental or investigational.

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

42 **Sec. 4. Application.** The requirements of this Act apply to
44 all group policies, contracts and certificates executed,
46 delivered, issued for delivery, continued or renewed in this
 State on or after January 1, 2004. For purposes of this Act,
 all contracts are deemed to be renewed no later than the next
 yearly anniversary of the contract date.

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SUMMARY

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This bill requires group health insurance policies, contracts and certificates to include coverage for infertility treatment if pregnancy-related benefits are provided. It applies to all group policies issued or renewed on or after January 1, 2004.

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