

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 842

H.P. 641

House of Representatives, February 23, 2007

### **An Act To Require Insurance Coverage for Infertility Treatments**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative ROBINSON of Raymond.  
Cosponsored by Representatives: CAIN of Orono, GILES of Belfast.

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

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

3 **16-B. Title 24-A, sections 2847-M and 4253.** Group coverage of infertility  
4 treatment, Title 24-A, sections 2847-M and 4253;

5 **Sec. 2. 24-A MRSA §2847-M** is enacted to read:

6 **§2847-M. Infertility coverage**

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

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

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

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

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

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

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

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

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

37 (4) For procedures for intrauterine inseminations and procedures requiring  
38 oocyte retrievals that also involve the use of donor gametes or a gestational

1 carrier, the policy may cover only medical expenses and the number of  
2 procedures may be limited as permitted in this subsection.

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

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

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

12 **4. Exclusion for religious employer.** A religious employer may request and an  
13 insurer shall grant an exclusion under the policy or contract for the coverage required by  
14 this section if the required coverage conflicts with the religious employer's bona fide  
15 religious beliefs and practices. A religious employer that obtains an exclusion under this  
16 subsection shall provide prospective insureds and those individuals insured under its  
17 policy written notice of the exclusion. This subsection may not be construed as  
18 authorizing an insurer to exclude coverage for medically necessary procedures or for  
19 prescription drugs prescribed for reasons other than infertility purposes. For the purposes  
20 of this subsection, "religious employer" means an employer that is a church, convention  
21 or association of churches or an elementary or secondary school that is controlled,  
22 operated or principally supported by a church or by a convention or association of  
23 churches as defined in 26 United States Code, Section 3121(w) (3) (A) and that qualifies  
24 as a tax-exempt organization under 26 United States Code, Section 501(c) (3).

25 **Sec. 3. 24-A MRSA §4253** is enacted to read:

26 **§4253. Infertility coverage**

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

31 **2. Coverage.** All group health maintenance organization contracts that provide for  
32 coverage for pregnancy-related benefits must provide coverage for the diagnosis and  
33 treatment of infertility, including, but not limited to, in vitro fertilization, embryo transfer,  
34 artificial insemination, gamete intrafallopian tube transfer, zygote intrafallopian tube  
35 transfer and low tubal ovum transfer.

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

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

39 B. For a policy that provides prescription drug coverage, the policy may not impose  
40 special restrictions on prescription medications or a restriction or limitation on the

1 number of procedures used for infertility diagnosis or treatment, except as provided  
2 in this subsection;

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

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

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

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

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

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

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

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

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

