

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2142 Session of 2021

INTRODUCED BY MALAGARI, INNAMORATO, O'MARA, SANCHEZ, DELLOSO, KINSEY, D. MILLER, T. DAVIS, MULLINS, SCHLOSSBERG, FREEMAN, WEBSTER, HOWARD, N. NELSON, OTTEN, ROZZI, GUENST, LEE, CEPHAS, SHUSTERMAN, DALEY, KRUEGER, McNEILL, FIEDLER, CIRESI AND SIMS, DECEMBER 8, 2021

REFERRED TO COMMITTEE ON INSURANCE, DECEMBER 8, 2021

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," in casualty insurance, providing  
12 for infertility care coverage.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
16 as The Insurance Company Law of 1921, is amended by adding a  
17 section to read:

18 Section 635.8. Infertility Care Coverage.--(a) A health  
19 insurance policy covered under this section shall include  
20 coverage for infertility care and shall waive cost-sharing  
21 requirements related to infertility care.

1     (b) Infertility care coverage under this section shall be  
2 provided to covered individuals, including covered spouses and  
3 covered nonspouse dependents. Infertility care coverage under  
4 this section shall be provided without discrimination on the  
5 basis of age, ancestry, color, disability, domestic partner  
6 status, gender, gender expression, gender identity, genetic  
7 information, marital status, national origin, race, religion,  
8 sex or sexual orientation. Nothing in this subsection shall be  
9 construed to interfere with the clinical judgment of a  
10 physician.

11     (c) Infertility care coverage under this section shall be  
12 for the consultation, diagnosis and treatment of infertility,  
13 including the following:

14     (1) Intrauterine insemination.

15     (2) Cryopreservation and thawing of eggs, sperm and embryos.

16     (3) Cryopreservation of ovarian tissue.

17     (4) Cryopreservation of testicular tissue.

18     (5) Embryo biopsy.

19     (6) Diagnostic testing.

20     (7) Fresh and frozen embryo transfers.

21     (8) Egg retrievals with unlimited embryo transfers in  
22 accordance with the guidelines of the American Society for  
23 Reproductive Medicine, including the use of single embryo  
24 transfers when recommended and medically appropriate.

25     (9) In vitro fertilization, including in vitro fertilization  
26 through the use of donor eggs, sperm or embryos and in vitro  
27 fertilization that involves the transfer of embryos to a  
28 gestational carrier or surrogate.

29     (10) Assisted hatching.

30     (11) Intracytoplasmic sperm injection.

1     (12) Infertility medications.

2     (13) Ovulation induction.

3     (14) Storage of oocytes, sperm, embryos and tissue.

4     (15) Surgery to address disorders of the female reproductive  
5 tract that impair fertility and to address disorders of sperm  
6 production or anatomic disorders of the male reproductive tract  
7 that impair fertility.

8     (16) Medical and laboratory services that reduce excess  
9 embryo creation through egg cryopreservation and thawing.

10    (17) Surrogacy, including the costs associated with the  
11 preparation for reception or introduction of embryos, oocytes or  
12 donor sperm into a surrogate or gestational carrier.

13    (18) Gamete intrafallopian transfers.

14    (19) Therapeutic devices.

15    (20) Standard fertility preservation services for an  
16 individual who has a medical condition and is expected to  
17 undergo medication therapy, surgery, radiation, chemotherapy or  
18 other medical treatment that is recognized by a medical  
19 professional to cause a risk of impairment to fertility.

20    (21) Any nonexperimental procedure for infertility  
21 recognized by the American Society for Reproductive Medicine,  
22 the American College of Obstetricians and Gynecologists or the  
23 Society for Assisted Reproductive Technology or by an  
24 infertility expert identified by the Department of Health.

25    (22) Any other services, procedures, medications or devices  
26 related to the consultation, diagnosis and treatment of  
27 infertility.

28    (d) A health insurance policy covered under this section may  
29 not:

30    (1) contain preexisting condition exclusions, preexisting

condition waiting periods to access the infertility care  
coverage required under this section;

(2) use the prior diagnosis of infertility or prior  
treatment for infertility as a basis for excluding, limiting or  
otherwise restricting the availability of infertility care  
coverage required under this section; or

(3) contain limitations on coverage for infertility benefits  
based solely on arbitrary factors, including the number of  
infertility care attempts or cost of infertility care.

(e) As used in this section, the following words and phrases  
shall have the meanings given to them in this subsection unless  
the context clearly indicates otherwise:

"Cost-sharing." The share of costs covered by the patient,  
including a deductible, coinsurance, copayment or similar  
charge. The term does not include the payment of a health  
insurance policy premium.

"Health insurance policy." Any individual or group health  
insurance policy, subscriber contract, certificate or plan that  
provides medical or health care coverage by a health care  
facility or licensed health care provider on an expense-incurred  
service or prepaid basis and that is offered by or is governed  
under any of the following:

(1) This act, including section 630.

(2) The children's health insurance program under Article  
XXIII-A.

(3) Subdivision (f) of Article IV of the act of June 13,  
1967 (P.L.31, No.21), known as the "Human Services Code."

(4) The act of December 29, 1972 (P.L.1701, No.364), known  
as the "Health Maintenance Organization Act."

(5) 40 Pa.C.S. Chs. 61 (relating to hospital plan

1 corporations) and 63 (relating to professional health services  
2 plan corporations).

3 (6) The term does not include any of the following:

4 (i) Accident only.

5 (ii) Credit only.

6 (iii) Long-term care or disability income.

7 (iv) Specified disease.

8 (v) Medicare supplement.

9 (vi) Tricare, including the Civilian Health and Medical  
10 Program of the Uniformed Services (CHAMPUS) supplement.

11 (vii) Fixed indemnity.

12 (viii) Dental only.

13 (ix) Vision only.

14 (x) Workers' compensation.

15 (xi) An automobile medical payment under 75 Pa.C.S.  
16 (relating to vehicles).

17 "Infertility." A disease historically defined by the failure  
18 to achieve a successful pregnancy after six (6) to twelve (12)  
19 months or more of regular, unprotected sexual intercourse or due  
20 to an individual's status and capacity to reproduce as an  
21 individual or with a partner.

22 "Physician." An individual licensed as a medical doctor by  
23 the State Board of Medicine to practice in this Commonwealth.

24 Section 2. This act shall take effect in 60 days.