
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 989 Session of
2021

INTRODUCED BY CAPPELLETTI, FONTANA, KANE, COLLETT, STREET,
KEARNEY, SANTARSIERO, MUTH, SAVAL, L. WILLIAMS AND COSTA,
DECEMBER 13, 2021

REFERRED TO BANKING AND INSURANCE, DECEMBER 13, 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.

22 (b) Infertility care coverage under this section shall be

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

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

13 (1) Intrauterine insemination.

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

15 (3) Cryopreservation of ovarian tissue.

16 (4) Cryopreservation of testicular tissue.

17 (5) Embryo biopsy.

18 (6) Diagnostic testing.

19 (7) Fresh and frozen embryo transfers.

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

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

28 (10) Assisted hatching.

29 (11) Intracytoplasmic sperm injection.

30 (12) Infertility medications.

1 (13) Ovulation induction.

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

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

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

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

12 (18) Gamete intrafallopian transfers.

13 (19) Therapeutic devices.

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

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

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

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

29 (1) contain preexisting condition exclusions, preexisting
30 condition waiting periods to access the infertility care

1 coverage required under this section;

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

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

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

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

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

22 (1) This act, including section 630.

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

25 (3) Subdivision (f) of Article IV of the act of June 13,
26 1967 (P.L.31, No.21), known as the "Human Services Code."

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

29 (5) 40 Pa.C.S. Chs. 61 (relating to hospital plan
30 corporations) and 63 (relating to professional health services

1 plan corporations).

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

3 (i) Accident only.

4 (ii) Credit only.

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

6 (iv) Specified disease.

7 (v) Medicare supplement.

8 (vi) Tricare, including the Civilian Health and Medical

9 Program of the Uniformed Services (CHAMPUS) supplement.

10 (vii) Fixed indemnity.

11 (viii) Dental only.

12 (ix) Vision only.

13 (x) Workers' compensation.

14 (xi) An automobile medical payment under 75 Pa.C.S.

15 (relating to vehicles).

16 "Infertility." A disease historically defined by the failure

17 to achieve a successful pregnancy after six (6) to twelve (12)

18 months or more of regular, unprotected sexual intercourse or due

19 to an individual's status and capacity to reproduce as an

20 individual or with a partner.

21 "Physician." An individual licensed as a medical doctor by

22 the State Board of Medicine to practice in this Commonwealth.

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