

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

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

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

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

### **§ 2847-M. Infertility coverage**

**1. Definition.** For the purposes of this section, "infertility" means a 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 and contracts 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.

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

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

B. For a policy that provides prescription drug coverage, 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;

C. Coverage for procedures for intrauterine insemination 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 successful 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.

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

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

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

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

**4. Exclusion for religious employer.** A religious employer may request and an insurer shall grant an exclusion under the policy or contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains an exclusion under this subsection shall provide prospective insureds and those individuals insured under its policy written notice of the exclusion. This subsection may not be construed as authorizing an insurer 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).

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

**§ 4253. Infertility coverage**

**1. Definition.** For the purposes of this section, "infertility" means a 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 maintenance organization contracts that provide for 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.

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

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

B. For a policy that provides prescription drug coverage, 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;

C. Coverage for procedures for intrauterine insemination 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.

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

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

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

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

**4. Exclusion for religious employer.** A religious employer may request and a health maintenance organization shall grant an exclusion under the policy or contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains an exclusion under this subsection shall provide prospective enrollees and those individuals covered under its policy written notice of the exclusion. This

subsection may not be construed as authorizing a 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).

**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, 2008. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

## SUMMARY

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, 2008.