



COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20004

CHRISTINA HENDERSON
Councilmember, At-Large
Chairperson, Committee on Health

Committee Member
Hospital and Health Equity
Judiciary and Public Safety
Transportation and the Environment

Statement of Introduction
Expanding Access to Fertility Treatment Amendment Act of 2023
January 13, 2023

Today, I am proud to introduce the Expanding Access to Fertility Treatment Amendment Act of 2023, along with Councilmembers Kenyan McDuffie, Matthew Frumin, Robert C. White, Jr., Zachary Parker, Brianne K. Nadeau, Brooke Pinto, Janeese Lewis George, and Charles Allen. This legislation would expand coverage provided through private insurers, Medicaid and the DC Healthcare Alliance to include diagnosis and treatment for infertility.

About 11% of women of reproductive age and 9% of men in the United States have experienced fertility problems, delaying their ability to start families. And yet, the cost of diagnosis and treatment is inaccessible for many. The average in-vitro fertilization cycle can cost between \$20,000 to \$25,000. In the United States, 70% of women who undergo IVF go into debt to cover the cost, approximately 30,00 on average, which often causes treatment delays—34% of women stopped treatment because of unaffordability.

We know that women without insurance coverage are 3 times more likely to discontinue treatment after 1 cycle, compared to women with insurance coverage. To combat this unjust and inequitable access to one's human right, 20 states have passed fertility insurance coverage laws, including neighboring Maryland and West Virginia.

State mandated coverage has been shown to increase 3-fold the use of infertility services, which is also linked to better public health outcomes. Additionally, insurance coverage also reduces the likelihood of births of multiples to one mother, given that the financial pressure to transfer more than one to two embryos is reduced. This reduces the risk of complications and adverse health effects for the mother.

In addition to these risks faced by all mothers, Black and brown moms often wade through infertility silently and do not seek treatments like IVF as frequently as white mothers. Specifically, according to the CDC's most recent analysis¹, 8% of Black women age 25 to 44 seek medical help to get pregnant, while 15% of white women do so. As mentioned, state mandated coverage is proved to increase utilization of assisted reproductive technologies.

This bill would mandate private insurers, Medicaid, and the DC Healthcare Alliance to offer coverage for diagnosis and treatment of infertility. This legislation explicitly prohibits health insurers from:

¹ Center for Disease Control and Prevention, "Infertility Service Use in the United States: Data From the National Survey of Family Growth, 1982–2010" 2014. www.cdc.gov/nchs/data/nhsr/nhsr073.pdf



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- Imposing additional costs, waiting periods, or other limitations on coverage for the diagnosis of infertility;
- Placing pre-existing condition exclusions or waiting periods on coverage for the treatment of infertility, or using prior treatment for infertility as a basis for excluding, limiting or otherwise restricting coverage; and
- Limiting on coverage for fertility treatment based on a class protected under the Human Rights Act.

I am glad that this bill received a hearing during Council Period 24 when I first introduced it. Many people expressed their support for the bill and outlined the positive impact it would have for people trying to start a family.

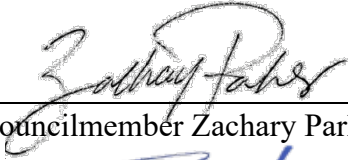
I look forward to working with my colleagues to enhance coverage offered for future mothers and families in the District.

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2 Councilmember Kenyan McDuffie



Councilmember Christina Henderson

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5 Councilmember Zachary Parker



Councilmember Janeese Lewis George

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8 Councilmember Robert C. White, Jr.



Councilmember Charles Allen

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12 Councilmember Matthew Frumin



Councilmember Brianne K. Nadeau

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17 Councilmember Brooke Pinto

19 AN ACT

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24 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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28 To amend the Women’s Health and Cancer Rights Federal Law Conformity Act of 2000 to
29 require an individual health plan, group plan, or health insurer offering health insurance
30 coverage through Medicaid and the D.C. Healthcare Alliance program to provide
31 coverage for the diagnosis and treatment of infertility.

32
33 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
34 act may be cited as the “Expanding Access to Fertility Treatment Amendment Act of 2023”.

35
36 Sec. 2. The Women’s Health and Cancer Rights Federal Law Conformity Act of 2000,
37 effective April 3, 2001 (D.C. Law 13-254; D.C. Official Code § 31-3831 *et seq.*) is amended to
38 add a new section 5f to read as follows:

39 “Sec. 5f. Coverage of Fertility Treatments.

40 “(a)(1) Beginning January 1, 2025, an individual health plan, group health plan, health
41 insurer, and a health insurer offering health insurance coverage through Medicaid and the D.C.
42 Healthcare Alliance program shall provide coverage for the diagnosis and treatment of infertility,
43 including in vitro fertilization.

44 “(2) Every insurer shall communicate the availability of coverage to all
45 policyholders and to all prospective group policyholders with whom they are negotiating.

46 “(b) Coverage for the treatment of infertility shall be provided without discrimination on
47 the basis of age, ancestry, disability, domestic partner status, gender, gender expression, gender
48 identity, genetic information, marital status, national origin, race, religion, sex, or sexual
49 orientation.

50 “(c) A health insurer shall not impose:

51 “(1) Deductibles, copayments, coinsurance, benefit maximums, waiting
52 periods or any other limitations on coverage for the diagnosis and treatment of infertility,
53 including the prescription of fertility medications, different from those imposed upon benefits for
54 services not related to infertility;

55 “(2) Pre-existing condition exclusions or pre-existing condition waiting periods
56 on coverage for the diagnosis and treatment of infertility or use any prior diagnosis of or prior
57 treatment for infertility as a basis for excluding, limiting, or otherwise restricting the availability
58 of coverage for required benefits; or

59 “(3) Limitations on coverage based solely on arbitrary factors including, but not
60 limited to, number of attempts, dollar amounts, age, or provide different benefits to, or impose
61 different requirements upon a class protected under the Human Rights Act of 1977, effective

62 December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*) than that provided
63 to, or required of, other patients.

64 “(d) Nothing in this section shall be construed to interfere with the clinical judgment of a
65 physician and surgeon.

66 “(e)(1) A health insurer offering health insurance coverage to an employer organized and
67 operating as a nonprofit entity and referred to in section 6033(a)(3)(A)(i) or (iii) of the Internal
68 Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2740; 26 U.S.C. §
69 6033(a)(3)(A)(i) or (iii)) may issue a health insurance policy that excludes coverage for methods
70 of diagnosis and treatment of infertility that are contrary to the employer’s bona fide religious
71 tenets.

72 “(2) Any health insurance policy issued pursuant to this subsection shall provide
73 written notice to each insured or prospective insured that methods of diagnosis and treatment of
74 infertility are excluded from the policy coverage.

75 “(f) For the purposes of this section, the term:

76 “(1) “Infertility” means the condition of an individual who is unable to conceive
77 or produce conception or sustain a successful pregnancy during a one-year period or such
78 treatment is medically necessary.

79 “(2) “Treatment for infertility” means procedures consistent with established
80 medical practices in the treatment of infertility by licensed physicians and surgeons, including,
81 but not limited to, diagnosis, diagnostic tests, medication, surgery, and gamete intrafallopian
82 transfer.”

83 Sec. 3. Fiscal impact statement.

84 The Council adopts the fiscal impact statement in the committee report as the fiscal

85 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
86 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

87 Sec. 4. Effective date.

88 This act shall take effect following approval by the Mayor (or in the event of veto by the
89 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
90 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
91 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
92 Columbia Register.