

118TH CONGRESS
1ST SESSION

H. R. 4731

To require health insurance coverage for the treatment of infertility.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2023

Ms. DELAURO (for herself, Mr. CLEAVER, Ms. JACOBS, Ms. CHU, Ms. MENG, Mr. CONNOLLY, Mr. POCAN, Ms. PINGREE, Ms. ROSS, and Mr. NADLER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Ways and Means, Oversight and Accountability, Veterans' Affairs, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require health insurance coverage for the treatment of infertility.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Infertility
5 Treatment and Care Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) Infertility is a medical disease recognized by
2 the World Health Organization, the American Soci-
3 ety for Reproductive Medicine, and the American
4 Medical Association that affects men and women
5 equally.

6 (2) According to the Centers for Disease Con-
7 trol and Prevention, 1 in 8 couples have difficulty
8 getting pregnant or sustaining a pregnancy.

9 (3) Infertility affects a broad spectrum of pro-
10 spective parents. No matter what race, religion, sex-
11 ual orientation, or economic status one is, infertility
12 does not discriminate.

13 (4) According to the Centers for Disease Con-
14 trol and Prevention, 11 percent of women in the
15 United States between the ages of 15 and 44 have
16 difficulty getting pregnant or staying pregnant.
17 Similarly, 9 percent of men in the United States be-
18 tween the ages of 15 and 44 experience infertility.

19 (5) Infertility disproportionately affects individ-
20 uals with particular health complications. For cancer
21 patients and others who must undergo treatments
22 such as chemotherapy, radiation therapy, hormone
23 therapy, or surgery that are likely to harm the re-
24 productive system and organs, fertility preservation
25 becomes necessary.

1 (6) Leading causes of infertility include chronic
2 conditions and diseases of the endocrine or metabolic
3 systems, such as primary ovarian insufficiency, poly-
4 cystic ovarian syndrome, endometriosis, thyroid dis-
5 orders, menstrual cycle defects, autoimmune dis-
6 orders, hormonal imbalances, testicular disorders,
7 and urological health issues. Other causes include
8 structural problems or blockages within the repro-
9 ductive system, exposure to infectious diseases, occu-
10 pational or environmental hazards, or genetic influ-
11 ences.

12 (7) Recent improvements in therapy and
13 cryopreservation make pregnancy possible for more
14 people than in past years.

15 (8) Like all other diseases, infertility and its
16 treatments should be covered by health insurance.

17 (9) A 2017 national survey of employer-spon-
18 sored health plans found that 44 percent of employ-
19 ers with at least 500 employees did not cover infer-
20 tility services, and 25 percent of companies with
21 20,000 or more employees did not cover infertility
22 services.

23 (10) Coverage for infertility services under
24 State Medicaid programs is limited. The Medicaid
25 programs of only 5 States provide diagnostic testing

1 for women and men in all of their program eligibility
 2 pathways; the Medicaid program of only one State
 3 provides coverage for certain medications for women
 4 experiencing infertility; and no State Medicaid pro-
 5 grams cover intrauterine insemination or in vitro
 6 fertilization.

7 (11) States that do not require private insur-
 8 ance coverage of assisted reproductive technology
 9 have higher rates of multiple births.

10 (12) The ability to have a family should not be
 11 denied to anyone on account of a lack of insurance
 12 coverage for medically necessary treatment.

13 **SEC. 3. STANDARDS RELATING TO BENEFITS FOR TREAT-**
 14 **MENT OF INFERTILITY AND PREVENTION OF**
 15 **IATROGENIC INFERTILITY.**

16 (a) IN GENERAL.—

17 (1) PHSA.—Part D of title XXVII of the Pub-
 18 lic Health Service Act (42 U.S.C. 300gg–111 et
 19 seq.) is amended by adding at the end the following:

20 **“SEC. 2799A–11. STANDARDS RELATING TO BENEFITS FOR**
 21 **TREATMENT OF INFERTILITY AND PREVEN-**
 22 **TION OF IATROGENIC INFERTILITY.**

23 “(a) IN GENERAL.—A group health plan or a health
 24 insurance issuer offering group or individual health insur-

1 ance coverage shall ensure that such plan or coverage pro-
2 vides coverage for—

3 “(1) the treatment of infertility, including non-
4 experimental assisted reproductive technology proce-
5 dures, if such plan or coverage provides coverage for
6 obstetrical services; and

7 “(2) standard fertility preservation services
8 when a medically necessary treatment may directly
9 or indirectly cause iatrogenic infertility.

10 “(b) DEFINITIONS.—In this section:

11 “(1) the term ‘assisted reproductive technology’
12 means treatments or procedures that involve the
13 handling of human egg, sperm, and embryo outside
14 of the body with the intent of facilitating a preg-
15 nancy, including in vitro fertilization, egg, embryo,
16 or sperm cryopreservation, egg or embryo donation,
17 and gestational surrogacy;

18 “(2) the term ‘infertility’ means a disease, char-
19 acterized by the failure to establish a clinical preg-
20 nancy—

21 “(A) after 12 months of regular, unpro-
22 tected sexual intercourse; or

23 “(B) due to a person’s incapacity for re-
24 production either as an individual or with his or
25 her partner, which may be determined after a

1 period of less than 12 months of regular, un-
2 protected sexual intercourse, or based on med-
3 ical, sexual and reproductive history, age, phys-
4 ical findings, or diagnostic testing; and

5 “(3) the term ‘iatrogenic infertility’ means an
6 impairment of fertility due to surgery, radiation,
7 chemotherapy, or other medical treatment.

8 “(c) REQUIRED COVERAGE.—

9 “(1) COVERAGE FOR INFERTILITY.—Subject to
10 paragraph (3), a group health plan and a health in-
11 surance issuer offering group or individual health in-
12 surance coverage that includes coverage for obstet-
13 rical services shall provide coverage for treatment of
14 infertility determined appropriate by the treating
15 provider, including, as appropriate, ovulation induc-
16 tion, egg retrieval, sperm retrieval, artificial insemi-
17 nation, in vitro fertilization, genetic screening,
18 intracytoplasmic sperm injection, and any other non-
19 experimental treatment, as determined by the Sec-
20 retary in consultation with appropriate professional
21 and patient organizations.

22 “(2) COVERAGE FOR IATROGENIC INFER-
23 TILITY.—A group health plan and a health insur-
24 ance issuer offering group or individual health insur-
25 ance coverage shall provide coverage of fertility pres-

1 ervation services for individuals who undergo medi-
2 cally necessary treatment that may cause iatrogenic
3 infertility, as determined by the treating provider,
4 including cryopreservation of gametes and other pro-
5 cedures, as determined by the Secretary, consistent
6 with established medical practices and professional
7 guidelines published by professional medical organi-
8 zations.

9 “(3) LIMITATION ON COVERAGE OF ASSISTED
10 REPRODUCTIVE TECHNOLOGY.—A group health plan
11 and a health insurance issuer offering group or indi-
12 vidual health insurance coverage shall provide cov-
13 erage for assisted reproductive technology as re-
14 quired under paragraph (1) if—

15 “(A) the individual is unable to bring a
16 pregnancy to a live birth through minimally
17 invasive infertility treatments, as determined
18 appropriate by the treating provider, with con-
19 sideration given to participant’s, beneficiary’s,
20 or enrollee’s specific diagnoses or condition for
21 which coverage is available under the plan or
22 coverage; and

23 “(B) the treatment is performed at a med-
24 ical facility that is in compliance with any

1 standards set by an appropriate Federal agen-
2 cy.

3 “(d) LIMITATION.—Cost-sharing, including
4 deductibles and coinsurance, or other limitations for infer-
5 tility and services to prevent iatrogenic infertility may not
6 be imposed with respect to the services required to be cov-
7 ered under subsection (c) to the extent that such cost-
8 sharing exceeds the cost-sharing applied to similar services
9 under the group health plan or health insurance coverage
10 or such other limitations are different from limitations im-
11 posed with respect to such similar services.

12 “(e) PROHIBITIONS.—A group health plan and a
13 health insurance issuer offering group or individual health
14 insurance coverage may not—

15 “(1) provide incentives (monetary or otherwise)
16 to a participant, beneficiary, or enrollee to encourage
17 such participant, beneficiary, or enrollee not to be
18 provided infertility treatments or fertility preserva-
19 tion services to which such participant, beneficiary,
20 or enrollee is entitled under this section or to pro-
21 viders to induce such providers not to provide such
22 treatments to qualified participants, beneficiaries, or
23 enrollees;

24 “(2) prohibit a provider from discussing with a
25 participant, beneficiary, or enrollee infertility treat-

1 ments or fertility preservation technology or medical
2 treatment options relating to this section; or

3 “(3) penalize or otherwise reduce or limit the
4 reimbursement of a provider because such provider
5 provided infertility treatments or fertility preserva-
6 tion services to a qualified participant, beneficiary,
7 or enrollee in accordance with this section.

8 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to require a participant, bene-
10 ficiary, or enrollee to undergo infertility treatments or fer-
11 tility preservation services.

12 “(g) NOTICE.—A group health plan and a health in-
13 surance issuer offering group or individual health insur-
14 ance coverage shall provide notice to each participant, ben-
15 eficiary, and enrollee under such plan or coverage regard-
16 ing the coverage required by this section in accordance
17 with regulations promulgated by the Secretary. Such no-
18 tice shall be in writing and prominently positioned in any
19 literature or correspondence made available or distributed
20 by the plan or issuer and shall be transmitted—

21 “(1) in the next mailing made by the plan or
22 issuer to the participant, beneficiary, or enrollee;

23 “(2) as part of any yearly informational packet
24 sent to the participant, beneficiary, or enrollee; or

25 “(3) not later than January 1, 2024,

1 whichever is earlier.

2 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
3 Nothing in this section shall be construed to prevent a
4 group health plan or a health insurance issuer offering
5 group or individual health insurance coverage from negoti-
6 ating the level and type of reimbursement with a provider
7 for care provided in accordance with this section.”.

8 (2) ERISA.—

9 (A) IN GENERAL.—Subpart B of part 7 of
10 subtitle B of title I of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C. 1185
12 et seq.) is amended by adding at the end the
13 following:

14 **“SEC. 726. STANDARDS RELATING TO BENEFITS FOR**
15 **TREATMENT OF INFERTILITY AND PREVEN-**
16 **TION OF IATROGENIC INFERTILITY.**

17 “(a) IN GENERAL.—A group health plan or a health
18 insurance issuer offering group health insurance coverage
19 shall ensure that such plan or coverage provides coverage
20 for—

21 “(1) the treatment of infertility, including non-
22 experimental assisted reproductive technology proce-
23 dures, if such plan or coverage provides coverage for
24 obstetrical services; and

1 “(2) standard fertility preservation services
2 when a medically necessary treatment may directly
3 or indirectly cause iatrogenic infertility.

4 “(b) DEFINITIONS.—In this section:

5 “(1) the term ‘assisted reproductive technology’
6 means treatments or procedures that involve the
7 handling of human egg, sperm, and embryo outside
8 of the body with the intent of facilitating a preg-
9 nancy, including in vitro fertilization, egg, embryo,
10 or sperm cryopreservation, egg or embryo donation,
11 and gestational surrogacy;

12 “(2) the term ‘infertility’ means a disease, char-
13 acterized by the failure to establish a clinical preg-
14 nancy—

15 “(A) after 12 months of regular, unpro-
16 tected sexual intercourse; or

17 “(B) due to a person’s incapacity for re-
18 production either as an individual or with his or
19 her partner, which may be determined after a
20 period of less than 12 months of regular, un-
21 protected sexual intercourse, or based on med-
22 ical, sexual and reproductive history, age, phys-
23 ical findings, or diagnostic testing; and

1 “(3) the term ‘iatrogenic infertility’ means an
2 impairment of fertility due to surgery, radiation,
3 chemotherapy, or other medical treatment.

4 “(c) REQUIRED COVERAGE.—

5 “(1) COVERAGE FOR INFERTILITY.—Subject to
6 paragraph (3), a group health plan and a health in-
7 surance issuer offering group health insurance cov-
8 erage that includes coverage for obstetrical services
9 shall provide coverage for treatment of infertility de-
10 termined appropriate by the treating provider, in-
11 cluding, as appropriate, ovulation induction, egg re-
12 trieval, sperm retrieval, artificial insemination, in
13 vitro fertilization, genetic screening, intracytoplasmic
14 sperm injection, and any other non-experimental
15 treatment, as determined by the Secretary in con-
16 sultation with appropriate professional and patient
17 organizations.

18 “(2) COVERAGE FOR IATROGENIC INFER-
19 TILITY.—A group health plan and a health insur-
20 ance issuer offering group health insurance coverage
21 shall provide coverage of fertility preservation serv-
22 ices for individuals who undergo medically necessary
23 treatment that may cause iatrogenic infertility, as
24 determined by the treating provider, including
25 cryopreservation of gametes and other procedures,

1 as determined by the Secretary, consistent with es-
2 tablished medical practices and professional guide-
3 lines published by professional medical organiza-
4 tions.

5 “(3) LIMITATION ON COVERAGE OF ASSISTED
6 REPRODUCTIVE TECHNOLOGY.—A group health plan
7 and a health insurance issuer offering group health
8 insurance coverage shall provide coverage for as-
9 sisted reproductive technology as required under
10 paragraph (1) if—

11 “(A) the individual is unable to bring a
12 pregnancy to a live birth through minimally
13 invasive infertility treatments, as determined
14 appropriate by the treating provider, with con-
15 sideration given to participant’s or beneficiary’s
16 specific diagnoses or condition for which cov-
17 erage is available under the plan or coverage;
18 and

19 “(B) the treatment is performed at a med-
20 ical facility that is in compliance with any
21 standards set by an appropriate Federal agen-
22 cy.

23 “(d) LIMITATION.—Cost-sharing, including
24 deductibles and coinsurance, or other limitations for infer-
25 tility and services to prevent iatrogenic infertility may not

1 be imposed with respect to the services required to be cov-
2 ered under subsection (c) to the extent that such cost-
3 sharing exceeds the cost-sharing applied to similar services
4 under the group health plan or health insurance coverage
5 or such other limitations are different from limitations im-
6 posed with respect to such similar services.

7 “(e) PROHIBITIONS.—A group health plan and a
8 health insurance issuer offering group health insurance
9 coverage may not—

10 “(1) provide incentives (monetary or otherwise)
11 to a participant or beneficiary to encourage such
12 participant or beneficiary not to be provided infer-
13 tility treatments or fertility preservation services to
14 which such participant or beneficiary is entitled
15 under this section or to providers to induce such
16 providers not to provide such treatments to qualified
17 participants or beneficiaries;

18 “(2) prohibit a provider from discussing with a
19 participant or beneficiary infertility treatments or
20 fertility preservation technology or medical treat-
21 ment options relating to this section; or

22 “(3) penalize or otherwise reduce or limit the
23 reimbursement of a provider because such provider
24 provided infertility treatments or fertility preserva-

1 tion services to a qualified participant or beneficiary
2 in accordance with this section.

3 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to require a participant or bene-
5 ficiary to undergo infertility treatments or fertility preser-
6 vation services.

7 “(g) NOTICE.—A group health plan and a health in-
8 surance issuer offering group health insurance coverage
9 shall provide notice to each participant and beneficiary
10 under such plan or coverage regarding the coverage re-
11 quired by this section in accordance with regulations pro-
12 mulgated by the Secretary. Such notice shall be in writing
13 and prominently positioned in any literature or cor-
14 respondence made available or distributed by the plan or
15 issuer and shall be transmitted—

16 “(1) in the next mailing made by the plan or
17 issuer to the participant or beneficiary;

18 “(2) as part of any yearly informational packet
19 sent to the participant or beneficiary; or

20 “(3) not later than January 1, 2024,
21 whichever is earlier.

22 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
23 Nothing in this section shall be construed to prevent a
24 group health plan or a health insurance issuer offering
25 group health insurance coverage from negotiating the level

1 and type of reimbursement with a provider for care pro-
 2 vided in accordance with this section.”.

3 (B) CLERICAL AMENDMENT.—The table of
 4 contents in section 1 of the Employee Retirement
 5 Income Security Act of 1974 (29 U.S.C.
 6 1001 et seq.) is amended by inserting after the
 7 item relating to section 725 the following new
 8 item:

“Sec. 726. Standards relating to benefits for treatment of infertility and prevention of iatrogenic infertility.”.

9 (3) IRC.—

10 (A) IN GENERAL.—Subchapter B of chapter
 11 100 of the Internal Revenue Code of 1986
 12 is amended by adding at the end the following:

13 **“SEC. 9826. STANDARDS RELATING TO BENEFITS FOR**
 14 **TREATMENT OF INFERTILITY AND PREVEN-**
 15 **TION OF IATROGENIC INFERTILITY.**

16 “(a) IN GENERAL.—A group health plan shall ensure
 17 that such plan provides coverage for—

18 “(1) the treatment of infertility, including non-
 19 experimental assisted reproductive technology proce-
 20 dures, if such plan provides coverage for obstetrical
 21 services; and

22 “(2) standard fertility preservation services
 23 when a medically necessary treatment may directly
 24 or indirectly cause iatrogenic infertility.

1 “(b) DEFINITIONS.—In this section:

2 “(1) the term ‘assisted reproductive technology’
3 means treatments or procedures that involve the
4 handling of human egg, sperm, and embryo outside
5 of the body with the intent of facilitating a preg-
6 nancy, including in vitro fertilization, egg, embryo,
7 or sperm cryopreservation, egg or embryo donation,
8 and gestational surrogacy;

9 “(2) the term ‘infertility’ means a disease, char-
10 acterized by the failure to establish a clinical preg-
11 nancy—

12 “(A) after 12 months of regular, unpro-
13 tected sexual intercourse; or

14 “(B) due to a person’s incapacity for re-
15 production either as an individual or with his or
16 her partner, which may be determined after a
17 period of less than 12 months of regular, un-
18 protected sexual intercourse, or based on med-
19 ical, sexual and reproductive history, age, phys-
20 ical findings, or diagnostic testing; and

21 “(3) the term ‘iatrogenic infertility’ means an
22 impairment of fertility due to surgery, radiation,
23 chemotherapy, or other medical treatment.

24 “(c) REQUIRED COVERAGE.—

1 “(1) COVERAGE FOR INFERTILITY.—Subject to
2 paragraph (3), a group health plan that includes
3 coverage for obstetrical services shall provide cov-
4 erage for treatment of infertility determined appro-
5 priate by the treating provider, including, as appro-
6 priate, ovulation induction, egg retrieval, sperm re-
7 trieval, artificial insemination, in vitro fertilization,
8 genetic screening, intracytoplasmic sperm injection,
9 and any other non-experimental treatment, as deter-
10 mined by the Secretary in consultation with appro-
11 priate professional and patient organizations.

12 “(2) COVERAGE FOR IATROGENIC INFER-
13 TILITY.—A group health plan shall provide coverage
14 of fertility preservation services for individuals who
15 undergo medically necessary treatment that may
16 cause iatrogenic infertility, as determined by the
17 treating provider, including cryopreservation of
18 gametes and other procedures, as determined by the
19 Secretary, consistent with established medical prac-
20 tices and professional guidelines published by profes-
21 sional medical organizations.

22 “(3) LIMITATION ON COVERAGE OF ASSISTED
23 REPRODUCTIVE TECHNOLOGY.—A group health plan
24 shall provide coverage for assisted reproductive tech-
25 nology as required under paragraph (1) if—

1 “(A) the individual is unable to bring a
2 pregnancy to a live birth through minimally
3 invasive infertility treatments, as determined
4 appropriate by the treating provider, with con-
5 sideration given to participant’s or beneficiary’s
6 specific diagnoses or condition for which cov-
7 erage is available under the plan; and

8 “(B) the treatment is performed at a med-
9 ical facility that is in compliance with any
10 standards set by an appropriate Federal agen-
11 cy.

12 “(d) LIMITATION.—Cost-sharing, including
13 deductibles and coinsurance, or other limitations for infer-
14 tility and services to prevent iatrogenic infertility may not
15 be imposed with respect to the services required to be cov-
16 ered under subsection (c) to the extent that such cost-
17 sharing exceeds the cost-sharing applied to similar services
18 under the group health plan or such other limitations are
19 different from limitations imposed with respect to such
20 similar services.

21 “(e) PROHIBITIONS.—A group health plan may not—

22 “(1) provide incentives (monetary or otherwise)
23 to a participant or beneficiary to encourage such
24 participant or beneficiary not to be provided infer-
25 tility treatments or fertility preservation services to

1 which such participant or beneficiary is entitled
2 under this section or to providers to induce such
3 providers not to provide such treatments to qualified
4 participants or beneficiaries;

5 “(2) prohibit a provider from discussing with a
6 participant or beneficiary infertility treatments or
7 fertility preservation technology or medical treat-
8 ment options relating to this section; or

9 “(3) penalize or otherwise reduce or limit the
10 reimbursement of a provider because such provider
11 provided infertility treatments or fertility preserva-
12 tion services to a qualified participant or beneficiary
13 in accordance with this section.

14 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to require a participant or bene-
16 ficiary to undergo infertility treatments or fertility preser-
17 vation services.

18 “(g) NOTICE.—A group health plan shall provide no-
19 tice to each participant and beneficiary under such plan
20 regarding the coverage required by this section in accord-
21 ance with regulations promulgated by the Secretary. Such
22 notice shall be in writing and prominently positioned in
23 any literature or correspondence made available or distrib-
24 uted by the plan and shall be transmitted—

1 “(1) in the next mailing made by the plan to
2 the participant or beneficiary;

3 “(2) as part of any yearly informational packet
4 sent to the participant or beneficiary; or

5 “(3) not later than January 1, 2024,
6 whichever is earlier.

7 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
8 Nothing in this section shall be construed to prevent a
9 group health plan from negotiating the level and type of
10 reimbursement with a provider for care provided in ac-
11 cordance with this section.”.

12 (B) CLERICAL AMENDMENT.—The table of
13 sections for subchapter B of chapter 100 of the
14 Internal Revenue Code of 1986 is amended by
15 adding at the end the following new item:

 “Sec. 9826. Standards relating to benefits for treatment of infertility and pre-
 vention of iatrogenic infertility.”.

16 (b) CONFORMING AMENDMENT.—Section 2724(c) of
17 the Public Health Service Act (42 U.S.C. 300gg–23(c))
18 is amended by striking “section 2704” and inserting “sec-
19 tions 2704 and 2708”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by
22 subsections (a) and (b) shall apply for plan years be-
23 ginning on or after the date that is 6 months after
24 the date of enactment of this Act.

1 (2) COLLECTIVE BARGAINING EXCEPTION.—

2 (A) IN GENERAL.—In the case of a group
3 health plan maintained pursuant to one or more
4 collective bargaining agreements between em-
5 ployee representatives and one or more employ-
6 ers ratified before the date of enactment of this
7 Act, the amendments made by subsection (a)
8 shall not apply to plan years beginning before
9 the later of—

10 (i) the date on which the last collec-
11 tive bargaining agreements relating to the
12 plan terminates (determined without re-
13 gard to any extension thereof agreed to
14 after the date of enactment of this Act), or

15 (ii) the date occurring 6 months after
16 the date of the enactment of this Act.

17 (B) CLARIFICATION.—For purposes of
18 subparagraph (A), any plan amendment made
19 pursuant to a collective bargaining agreement
20 relating to the plan which amends the plan sole-
21 ly to conform to any requirement added by sub-
22 section (a) shall not be treated as a termination
23 of such collective bargaining agreement.

1 **SEC. 4. FEDERAL EMPLOYEES HEALTH BENEFITS PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Section 8902 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(q)(1) In this subsection, the terms ‘infertility’ and
7 ‘iatrogenic infertility’ have the meanings given those terms
8 in section 2799A–11 of the Public Health Service Act.

9 “(2) A contract under this chapter shall provide, in
10 a manner consistent with section 2799A–11 of the Public
11 Health Service Act, coverage for—

12 “(A) the diagnosis and treatment of infertility,
13 including nonexperimental assisted reproductive
14 technology procedures, if that contract covers obstet-
15 rical benefits; and

16 “(B) standard fertility preservation services
17 when a medically necessary treatment may directly
18 or indirectly cause iatrogenic infertility.

19 “(3) Coverage for the diagnosis or treatment of infer-
20 tility and fertility preservation services under a health ben-
21 efits plan described in section 8903 or 8903a may not be
22 subject to any copayment or deductible greater than the
23 copayment or deductible, respectively, applicable to obstet-
24 rical benefits under the plan.

25 “(4) Subsection (m)(1) shall not, with respect to a
26 contract under this chapter, prevent the inclusion of any

1 terms that, under paragraph (2) of this subsection, are
 2 required by reason of section 2799A–11 of the Public
 3 Health Service Act.”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall apply with respect to—

6 (1) any contract entered into or renewed for a
 7 contract year beginning on or after the date that is
 8 180 days after the date of enactment of this Act;
 9 and

10 (2) any health benefits plan offered under a
 11 contract described in paragraph (1).

12 **SEC. 5. BENEFITS FOR TREATMENT OF INFERTILITY AND**
 13 **PREVENTION OF IATROGENIC INFERTILITY**
 14 **UNDER THE TRICARE PROGRAM.**

15 (a) IN GENERAL.—Chapter 55 of title 10, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing new section:

18 **“§ 1110c. Obstetrical and infertility benefits**

19 “(a) IN GENERAL.—Any health care plan under this
 20 chapter shall provide, in a manner consistent with section
 21 2799A–11 of the Public Health Service Act—

22 “(1) coverage for the diagnosis and treatment
 23 of infertility, including nonexperimental assisted re-
 24 productive technology procedures, if such plan covers
 25 obstetrical benefits; and

1 “(2) coverage for standard fertility preservation
2 services when a medically necessary treatment may
3 directly or indirectly cause iatrogenic infertility.

4 “(b) COPAYMENT.—The Secretary of Defense shall
5 establish cost-sharing requirements for the coverage of di-
6 agnosis and treatment of infertility and fertility preserva-
7 tion services described in subsection (a) that are consistent
8 with the cost-sharing requirements applicable to health
9 plans and health insurance coverage under section 2799A–
10 11(d) of the Public Health Service Act.

11 “(c) REGULATIONS.—The Secretary of Defense shall
12 prescribe any regulations necessary to carry out this sec-
13 tion.

14 “(d) DEFINITIONS.—In this section, the terms ‘as-
15 sisted reproductive technology’, ‘iatrogenic infertility’, and
16 ‘infertility’ have the meanings given those terms in section
17 2799A–11 of the Public Health Service Act.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 55 of such title is amended
20 by adding at the end the following new item:

“1110c. Obstetrical and infertility benefits.”.

1 **SEC. 6. TREATMENT OF INFERTILITY AND PREVENTION OF**
2 **IATROGENIC INFERTILITY FOR VETERANS**
3 **AND SPOUSES OR PARTNERS OF VETERANS.**

4 (a) IN GENERAL.—Subchapter II of chapter 17 of
5 title 38, United States Code, is amended by adding at the
6 end the following new section:

7 **“§ 1720K. Infertility treatment for veterans and**
8 **spouses or partners of veterans.**

9 “(a) IN GENERAL.—The Secretary shall furnish
10 treatment for infertility and fertility preservation services,
11 including through the use of assisted reproductive tech-
12 nology, to a veteran or a spouse or partner of a veteran
13 if the veteran, and the spouse or partner of the veteran,
14 as applicable, apply jointly for such treatment through a
15 process prescribed by the Secretary for purposes of this
16 section.

17 “(b) DEFINITIONS.—In this section, the terms ‘as-
18 sisted reproductive technology’ and ‘infertility’ have the
19 meanings given those terms in section 2799A–11 of the
20 Public Health Service Act.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of subchapter II of chapter 17 of such
23 title is amended by inserting after the item relating to sec-
24 tion 1720J the following new item:

“1720K. Infertility treatment for veterans and spouses or partners of vet-
erans.”.

1 (c) REGULATIONS.—Not later than 18 months after
 2 the date of the enactment of this Act, the Secretary of
 3 Veterans Affairs shall prescribe regulations to carry out
 4 section 1720K of title 38, United States Code, as added
 5 by subsection (a).

6 **SEC. 7. REQUIREMENT FOR STATE MEDICAID PLANS TO**
 7 **PROVIDE MEDICAL ASSISTANCE FOR TREAT-**
 8 **MENT OF INFERTILITY AND PREVENTION OF**
 9 **IATROGENIC INFERTILITY.**

10 (a) IN GENERAL.—Section 1905 of the Social Secu-
 11 rity Act (42 U.S.C. 1396d) is amended—

12 (1) in subsection (a)(4)—

13 (A) by striking “; and (D)” and inserting
 14 “; (D)”;

15 (B) by striking “; and (E)” and inserting
 16 “; (E)”;

17 (C) by striking “; and (F)” and inserting
 18 “; (F)”;

19 (D) by inserting before the semicolon at
 20 the end the following: “; and (G) services and
 21 supplies to treat infertility and prevent iatro-
 22 genic infertility (as such terms are defined in
 23 section 2799A–11(b) of the Public Health Serv-
 24 ice Act) in accordance with subsection (jj)”;
 25 and

1 (2) by adding at the end the following new sub-
2 section:

3 “(jj) REQUIREMENTS FOR COVERAGE OF INFER-
4 TILITY TREATMENT AND PREVENTION OF IATROGENIC
5 INFERTILITY.—For purposes of subsection (a)(4)(G), a
6 State shall ensure that the medical assistance provided
7 under the State plan (or waiver of such plan) for treat-
8 ment of infertility and fertility preservation services com-
9 plies with the requirements and limitations of section
10 2799A–11(c) of the Public Health Service Act in the same
11 manner as such requirements and limitations apply to
12 health insurance coverage offered by a group health plan
13 or health insurance issuer.”.

14 (b) NO COST SHARING FOR INFERTILITY TREAT-
15 MENT.—

16 (1) IN GENERAL.—Subsections (a)(2)(D) and
17 (b)(2)(D) of section 1916 of the Social Security Act
18 (42 U.S.C. 1396o(a)(2)(D)) are amended by insert-
19 ing “, services and supplies to treat infertility and
20 provide fertility preservation services described in
21 section 1905(a)(4)(G)” after “1905(a)(4)(C)” each
22 place it appears.

23 (2) APPLICATION TO ALTERNATIVE COST SHAR-
24 ING.—Section 1916A(b)(3)(B)(vii) of the Social Se-
25 curity Act (42 U.S.C. 1396o–1(b)(3)(B)(vii)) is

1 amended by inserting “ and services and supplies to
2 treat infertility and provide fertility preservation de-
3 scribed in section 1905(a)(4)(G)” before the period.

4 (c) PRESUMPTIVE ELIGIBILITY FOR INFERTILITY
5 TREATMENT.—Section 1920C of the Social Security Act
6 (42 U.S.C. 1396r–1c) is amended—

7 (1) in the section heading, by inserting “AND
8 INFERTILITY TREATMENT” after “FAMILY PLANNING
9 SERVICES”;

10 (2) in subsection (a)—

11 (A) by striking “State plan” and inserting
12 “A State plan”;

13 (B) by striking “1905(a)(4)(C)” and in-
14 serting “section 1905(a)(4)(C), services and
15 supplies to treat infertility and prevent iatro-
16 genic infertility described in section
17 1905(a)(4)(G),”; and

18 (C) by inserting “or in conjunction with an
19 infertility treatment service in an infertility
20 treatment setting” before the period.

21 (d) INCLUSION IN BENCHMARK COVERAGE.—Section
22 1937(b) of the Social Security Act (42 U.S.C. 1396u–
23 7(b)) is amended by adding at the end the following new
24 paragraph:

1 “(9) COVERAGE OF INFERTILITY TREATMENT
2 AND PREVENTION OF IATROGENIC INFERTILITY.—
3 Notwithstanding the previous provisions of this sec-
4 tion, a State may not provide for medical assistance
5 through enrollment of an individual with benchmark
6 coverage or benchmark-equivalent coverage under
7 this section unless such coverage includes medical
8 assistance for services and supplies to treat infer-
9 tility and provide fertility preservation described in
10 section 1905(a)(4)(G) in accordance with such sec-
11 tion.”.

12 (e) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall take effect on October 1, 2024.

16 (2) DELAY PERMITTED IF STATE LEGISLATION
17 REQUIRED.—In the case of a State plan approved
18 under title XIX of the Social Security Act which the
19 Secretary of Health and Human Services determines
20 requires State legislation (other than legislation ap-
21 propriating funds) in order for the plan to meet the
22 additional requirement imposed by this section, the
23 State plan shall not be regarded as failing to comply
24 with the requirements of such title solely on the
25 basis of the failure of the plan to meet such addi-

1 tional requirement before the first day of the first
2 calendar quarter beginning after the close of the
3 first regular session of the State legislature that
4 ends after the 1-year period beginning with the date
5 of the enactment of this section. For purposes of the
6 preceding sentence, in the case of a State that has
7 a 2-year legislative session, each year of the session
8 is deemed to be a separate regular session of the
9 State legislature.

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