

A bill for an act
relating to health; requiring health plans to provide coverage for certain infertility
treatments; proposing coding for new law in Minnesota Statutes, chapter 62Q.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[62Q.81] COVERAGE FOR INFERTILITY.**

Subdivision 1. Definitions. For purposes of this section, the following terms have
the meanings given.

(a) "Commissioner" has the meaning given in section 62Q.01, subdivision 2.

(b) "Experimental infertility procedure" means a procedure not yet recognized as
nonexperimental.

(c) "Infertile or infertility" means a disease or condition that results in the abnormal
function of the reproductive system such that:

(1) a person is unable to impregnate his or her partner;

(2) a female under 35 years of age is unable to conceive after one year of unprotected
sexual intercourse;

(3) a female 35 years of age and over is unable to conceive after six months of
unprotected sexual intercourse;

(4) the male or female is medically sterile; or

(5) the female is unable to carry a pregnancy to live birth.

Infertility does not mean a person who has been voluntarily sterilized regardless of
whether the person has attempted to reverse the sterilization.

(d) "Insured" means a subscriber, member, policyholder, certificate holder, or the
insured's covered spouse or other covered dependent.

(e) "Insurer" means a health plan, health plan company, or managed care organization as defined in section 62Q.01.

(f) "Nonexperimental infertility procedure" means a procedure which is:
(1) recognized as such by the American Society for Reproductive Medicine (ASRM) or the American College of Obstetrics and Gynecology (ACOG); and
(2) incorporated in this section by the commissioner.

Subd. 2. Scope of coverage. Insurers shall provide benefits for required infertility procedures, as specified in subdivision 3, which are furnished to an insured, covered partner, or other covered dependent without regard to whether the person is infertile or otherwise unable to have children due to social conditions or sexual orientation. Insurers shall not be required to provide benefits for services furnished to a partner, or dependent if the partner or dependent is not otherwise covered by the insurer, except as provided in subdivision 3, clause (4).

Subd. 3. Required infertility benefits. Subject to limitations as described in subdivision 6, insurers shall provide benefits for all nonexperimental infertility procedures including, but not limited to:

- (1) assisted hatching;
- (2) blastocyst culturing;
- (3) cryopreservation of eggs, sperm, or inseminated eggs for the period of one year;
- (4) egg retrieval;
- (5) gamete intrafallopian transfer (GIFT);
- (6) intracytoplasmic sperm injection (ICSI) for the treatment of male factor infertility;
- (7) intrauterine insemination (IUI);
- (8) in vitro fertilization and fresh and frozen embryo transfer (IVF-ET);
- (9) low tubal ovum transfer;
- (10) medical costs of egg retrieval from a live donor where a live donor is used;
- (11) preimplantation genetic diagnosis to avoid transmission of familial dominant or recessive gene diseases or structural chromosome defects like translocations or inversions;
- (12) sperm, egg, or inseminated egg procurement and processing, and banking of sperm or inseminated eggs, to the extent such costs are not covered by the donor's insurer, if any; and
- (13) zygote intrafallopian transfer (ZIFT).

Subd. 4. Prescription drugs. Insurers shall not impose exclusions, limitations, or other restrictions on coverage for infertility-related drugs that are different from those imposed on any other prescription drugs.

3.1 Subd. 5. **Optional infertility benefits.** No insurer shall be required to provide
3.2 benefits for:

3.3 (1) any experimental infertility procedure, until the procedure becomes recognized
3.4 as nonexperimental and is recognized by ASRM or ACOG; or

3.5 (2) reversal of voluntary sterilization.

3.6 Subd. 6. **Prohibited limitations on coverage.** (a) An insurer shall not impose
3.7 deductibles, co-payments, coinsurance, benefit maximums, waiting periods, or any other
3.8 limitations on coverage for required infertility benefits which are different from those
3.9 imposed upon benefits for services not related to infertility.

3.10 (b) An insurer shall not impose preexisting condition exclusions or preexisting
3.11 condition waiting periods on coverage for required infertility benefits. An insurer shall not
3.12 use any prior diagnosis of or prior treatment for infertility as a basis for excluding, limiting,
3.13 or otherwise restricting the availability of coverage for required infertility benefits.

3.14 Subd. 7. **Permissible limitations on coverage.** Insurers may establish reasonable
3.15 eligibility requirements based upon the insured's medical history and reasonable provider
3.16 contracting standards. Eligibility requirements based solely on arbitrary factors including,
3.17 but not limited to, number of attempts or dollar amounts shall be presumed invalid. These
3.18 requirements and standards shall be maintained in written form and shall be available to
3.19 any insured and the commissioner upon request. Standards or guidelines developed by
3.20 ASRM or ACOG shall serve as a basis for eligibility and contracting requirements.

3.21 Subd. 8. **Recognition of additional nonexperimental procedures.** Any person
3.22 may petition the commissioner for the recognition of a procedure as nonexperimental.

3.23 Subd. 9. **Effective date.** This section shall apply to any contract, policy, or plan
3.24 offering hospital, surgical, or medical expense coverage and which is issued or renewed,
3.25 within or outside the state of Minnesota, on or after August 1, 2008, and providing
3.26 coverage for any Minnesota resident. This section is necessary to afford full coverage to
3.27 those with a need for infertility benefits.

3.28 Subd. 10. **Severability.** If any part of this section or the applicability thereof to any
3.29 person, entity, or circumstance is held invalid by a court, the remainder of this section
3.30 or the applicability of remaining provisions to other persons, entities, or circumstances
3.31 shall not be affected.