



2021 ASSEMBLY BILL 747

December 7, 2021 - Introduced by Representatives EMERSON, VINING, ANDERSON, ANDRACA, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, DRAKE, GOYKE, HEBL, HESSELBEIN, HONG, NEUBAUER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SPREITZER, STUBBS and SUBECK, cosponsored by Senators ROYS, AGARD, ERPENBACH, JOHNSON, LARSON, PFAFF, SMITH and L. TAYLOR. Referred to Committee on Insurance.

1 **AN ACT to create** 609.74 and 632.895 (15m) of the statutes; **relating to:** coverage
2 of infertility services under health policies and plans and granting
3 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires health insurance policies and self-insured governmental health plans that cover medical or hospital expenses to cover diagnosis of and treatment for infertility and standard fertility preservation services. Coverage required under the bill must include at least four completed egg retrievals with unlimited embryo transfers in accordance with certain guidelines and single embryo transfer is allowed when recommended and medically appropriate. Policies and plans are prohibited from imposing an exclusion, limitation, or other restriction on coverage of medications of which the bill requires coverage that is not imposed on any other prescription medications covered under the policy or plan. Similarly, policies and plans may not impose any exclusion, limitation, cost-sharing requirement, benefit maximum, waiting period or other restriction on diagnosis, treatment, or services for which coverage is required under the bill that is different from any exclusion, limitation, cost-sharing requirement, benefit maximum, waiting period or other restriction imposed on benefits for other services. Also, policies and plans may not impose an exclusion, limitation, or other restriction on diagnosis, treatment, or services for which coverage is required under the bill on the basis that an insured person participates in fertility services provided by or to a third party. Current law refers to health insurance policies as disability insurance policies.

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This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 609.74 of the statutes is created to read:

2 **609.74 Coverage of infertility services.** Defined network plans and
3 preferred provider plans are subject to s. 632.895 (15m).

4 **SECTION 2.** 632.895 (15m) of the statutes is created to read:

5 **632.895 (15m) COVERAGE OF INFERTILITY SERVICES.** (a) In this subsection:

6 1. “Diagnosis of and treatment for infertility” means any recommended
7 procedure or medication at the direction of a physician that is consistent with
8 established, published, or approved medical practices or professional guidelines
9 from the American College of Obstetricians and Gynecologists, or its successor
10 organization, or the American Society for Reproductive Medicine, or its successor
11 organization.

12 2. “Infertility” means a disease, condition, or status characterized by any of the
13 following:

14 a. The failure to establish a pregnancy or carry a pregnancy to a live birth after
15 regular, unprotected sexual intercourse for, if the woman is under the age of 35, no
16 longer than 12 months or, if the woman is 35 years of age or older, no longer than 6
17 months including any time during those 12 months or 6 months that the woman has
18 a pregnancy that results in a miscarriage.

19 b. An individual’s inability to reproduce either as a single individual or with
20 a partner without medical intervention.

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1 c. A physician's findings based on a patient's medical, sexual, and reproductive
2 history, age, physical findings, or diagnostic testing.

3 3. "Self-insured health plan" means a self-insured health plan of the state or
4 a county, city, village, town, or school district.

5 4. "Standard fertility preservation service" means a procedure that is
6 consistent with established medical practices or professional guidelines published
7 by the American Society for Reproductive Medicine, or its successor organization, or
8 the American Society of Clinical Oncology, or its successor organization, for a person
9 who has a medical condition or is expected to undergo medication therapy, surgery,
10 radiation, chemotherapy, or other medical treatment that is recognized by medical
11 professionals to cause a risk of impairment to fertility.

12 (b) Subject to pars. (c) to (e), every disability insurance policy and self-insured
13 health plan that provides coverage for medical or hospital expenses shall cover
14 diagnosis of and treatment for infertility and standard fertility preservation
15 services. Coverage required under this paragraph includes at least 4 completed
16 oocyte retrievals with unlimited embryo transfers in accordance with the guidelines
17 of the American Society for Reproductive Medicine or its successor organization and
18 single embryo transfer may be used when recommended and medically appropriate.

19 (c) 1. A disability insurance policy or self-insured health plan may not do any
20 of the following:

21 a. Impose any exclusions, limitations, or other restrictions on coverage
22 required under par. (b) based on a covered individual's participation in fertility
23 services provided by or to a 3rd party.

24 b. Impose any exclusion, limitation, or other restriction on coverage of
25 medications that are required to be covered under par. (b) that are different from

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1 those imposed on any other prescription medications covered under the policy or
2 plan.

3 c. Impose any exclusion, limitation, cost sharing requirement, benefit
4 maximum, waiting period or other restriction on coverage that is required under par.
5 (b) of diagnosis of and treatment for infertility and standard fertility preservation
6 services that is different from an exclusion, limitation, cost-sharing requirement,
7 benefit maximum, waiting period or other restriction imposed on benefits for
8 services that are covered by the policy or plan and that are not related to infertility.

9 2. A disability insurance policy or self-insured health plan shall provide
10 coverage required under par. (b) to any covered individual under the policy or plan,
11 including any covered spouse and nonspouse dependent, to the same extent as other
12 pregnancy-related benefits covered under the policy or plan.

13 (d) The commissioner, after consulting with the department of health services
14 on appropriate treatment for infertility, shall promulgate any rules necessary to
15 implement this subsection. Before the promulgation of rules, disability insurance
16 policies and self-insured health plans are considered to comply with the coverage
17 requirements of par. (b) if the coverage conforms to the standards of the American
18 Society for Reproductive Medicine.

19 (e) This subsection does not apply to a disability insurance policy that is a
20 health benefit plan described under s. 632.745 (11) (b).

21 **SECTION 3. Initial applicability.**

22 (1) For policies and plans containing provisions inconsistent with this act, the
23 act first applies to policy or plan years beginning on the effective date of this
24 subsection, except as provided in sub. (2).

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1 (2) For policies and plans that are affected by a collective bargaining agreement
2 containing provisions inconsistent with this act, this act first applies to policy or plan
3 years beginning on the effective date of this subsection or on the day on which the
4 collective bargaining agreement is newly established, extended, modified, or
5 renewed, whichever is later.

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(END)