

**Arizona Fertility Insurance Coverage**

**Social and Fiscal Impacts of  
Coverage for Infertility Treatments**

In Fulfillment of the Requirements of  
A.R.S. 20- 182 & 183

Provided to Members of the  
Joint Legislative Audit Committee  
July 9, 2019

Prepared and Offered by:

RESOLVE: The National Infertility Association, McLean, Virginia  
and Elizabeth Marshall, Phoenix, AZ

Joint Legislative Audit Committee

Arizona State Senate & House of Representatives  
1700 W. Washington Street  
Phoenix, AZ 85007

July 9, 2019

Dear Audit Committee Members:

Enclosed is the report to introduce a bill to require private insurance companies to cover infertility medical treatments in Arizona.

As the proponent of this bill, the undersigned are pleased to submit the following report pursuant to the requirements set forth in A.R.S 20-181 and 20-182

We thank you for your time and urge you to make Arizona more family friendly by requiring insurance companies to cover infertility medical treatment.

Sincerely,

Elizabeth Marshall

## BACKGROUND

### Infertility

Millions of American men and women who want to have children are unable without medical intervention. According to the Centers for Disease Control and Prevention (CDC), one in eight individuals or couples – 7.3 million Americans of childbearing age – have trouble getting pregnant or sustaining a pregnancy due to an underlying medical condition.<sup>i</sup> Infertility is the inability to conceive after one year of unprotected intercourse (six months if the woman is over age 35) or the inability to carry a pregnancy to live birth.<sup>ii</sup>

The American Medical Association (AMA), the World Health Organization (WHO), the American Society for Reproductive Medicine (ASRM), and the American College of Obstetricians and Gynecologists (ACOG) all recognize infertility as a disease.<sup>iii</sup> Medical conditions, such as endometriosis, ovulation disorders, luteal phase defect, premature ovarian failure, and male factor are just some of the causes of infertility. Infertility doesn't discriminate - women and men of all ages (even those in their 20s) can have structural, hormonal, immunological diseases that impact fertility, or have sperm or egg quality issues. Approximately one-third of infertility is attributed to the female partner, one-third attributed to the male partner and one-third is caused by a combination of problems in both partners, or is unexplained.<sup>iv</sup> In 2014, the AMA passed a resolution stating that the diagnosis and treatment of male and female infertility should be covered by health insurance.<sup>v</sup>

Certain medical treatments, such as cancer treatment, may also cause infertility. Iatrogenic infertility is defined as infertility resulting from surgery, radiation, chemotherapy, or other medical treatment affecting fertility. The American Society of Clinical Oncology (ASCO) has issued guidelines that all at-risk patients should be informed about fertility preservation before the start of potentially sterilizing cancer treatment.<sup>vi</sup> The AMA passed a resolution expressly calling for fertility preservation coverage for cancer patients.<sup>vii</sup> Nearly one-third of male and 20% of female cancer patients diagnosed between 15 and 39 years of age identify cost as the primary reason for not arranging for fertility preservation prior to treatment.<sup>viii</sup> What's more, a cancer diagnosis can also disqualify a couple from adopting.

Infertility is a devastating diagnosis. It cuts across socioeconomic levels, and all racial, ethnic, and religious lines. The desire to procreate is a basic life function and the ability to build a family is part of one's identity. Being unable to have a child affects people physically, emotionally, and financially.

There's enormous inequity in access to care for fertility medical treatment and fertility preservation services due to lack of insurance coverage. Cost is the number one barrier to fertility care for most suffering from this disease.<sup>ix</sup> In particular, because Arizona doesn't require coverage for fertility medical treatments or fertility preservation, when a medical treatment causes future infertility, cost is a driving factor for why many state residents forgo treatment altogether or risk their family's financial security for the chance to build a family. Infertility is a disease and should be covered by health insurance like other diseases.

## Proposed Bill

This bill will require individual health insurance policies or contracts delivered, renewed, extended, or modified in this State to provide coverage for the medically necessary tests and procedures for the diagnosis and treatment of infertility and fertility preservation to protect future fertility.

Infertility is the condition of an individual who's unable to conceive or produce conception during a period of one year if the female is age 35 or younger or during a period of six months if the female is over the age of 35. If a person conceives, but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the one-year or six-month period. Incases of iatrogenic infertility this wait is not required.

Individual and commercially sold health insurance policies covering persons residing in Arizona that provide pregnancy-related benefits must provide coverage - to the same extent that benefits are provided for other pregnancy-related procedures - for medically necessary expenses of diagnosis and treatment of infertility, including the following: artificial insemination, in vitro fertilization (IVF), sperm, egg and/or inseminated egg procurement and processing, and banking of sperm or inseminated eggs, ICSI, assisted hatching, and cryopreservation of eggs, embryos, sperm, and ovarian and testicular tissue. Diagnostic and exploratory procedures shall be covered, including surgical procedures to correct the medically diagnosed disease or condition of the reproductive organs, including but not limited to: endometriosis, disorders affecting the function of the fallopian tubes, testicular failure, uterine anomalies, and pelvic adhesive disease.

Coverage shall include medically necessary expenses for standard fertility preservation services when a necessary medical treatment may directly or indirectly cause iatrogenic infertility to a covered person. As used in this section, "iatrogenic infertility" means an impairment of fertility by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

Infertility treatment benefits, including IVF, shall be subject to the same deductibles, coinsurance, and out-of-pocket limitations as under pregnancy-related benefit provisions.

Coverage for IVF would be provided if the patient hasn't been able to attain or sustain a successful pregnancy to live birth after reasonable attempts with more basic medical interventions covered by insurance, unless IVF is the only medically indicated treatment. IVF would be limited to 3 cycles, with either fresh or frozen embryo transfers. Cryopreservation for inseminated and unfertilized eggs would be covered by insurance. IVF procedures must follow ASRM guidelines and be performed at medical facilities that conform to ACOG and ASRM guidelines.

Every policy that provides for prescription drug coverage shall also include medications for use in the diagnosis and treatment of infertility. Insurers shall not impose any exclusions, limitations, or other restrictions on coverage of fertility drugs that are different from those imposed on any other prescription drugs, nor shall they impose deductibles, copayment, coinsurance, benefit maximums, waiting periods, or any other limitations on

coverage for required fertility benefits, which are different from those imposed upon benefits for services not related to infertility.

Excluded treatment would be experimental infertility treatments, surrogacy, and reversal of voluntary sterilizations.

## **Social Impact**

*The extent to which the treatment or service is generally utilized by a significant portion of the population.*

One in eight couples or more than 137,000 Arizonans are affected by infertility.<sup>x</sup> Approximately 44% of women with infertility have sought medical assistance. Of those, approximately 65% give birth.<sup>xi</sup> Approximately 85-90% of infertility cases are successfully treated with basic medical intervention, such as drug therapy or surgical procedures. Fewer than 15% need advanced reproductive technologies, like in vitro fertilization (IVF), the standard of care for some patients.<sup>xii</sup>

9-10% of all cancer patients – about 3,600 Arizonans annually – are diagnosed in their reproductive years, the majority of which are at risk for iatrogenic (or medically-induced) infertility from their treatment.<sup>xiii</sup> Iatrogenic infertility may also affect people undergoing treatment for sickle cell anemia, lupus, and other autoimmune diseases.

*The extent to which the insurance coverage is already generally available.*

Arizona law doesn't require private health insurance coverage for the treatment of infertility or for fertility preservation for iatrogenic infertility, so the costs must be paid out of pocket by patients who lack coverage. Insurance companies allow medium to large companies to elect for fertility coverage. For businesses to make the election they need to have 100+ employees. Small employers (100 or fewer employees) aren't allowed to make the election to have fertility coverage added to their plan. Small businesses employ 45.1% of the workforce in Arizona.<sup>xiv</sup>

*If coverage is not generally available, the extent to which the lack of coverage results in persons avoiding necessary health care treatments.*

Cost is the number one barrier to fertility care. Only 44% of women and men diagnosed with infertility have sought medical assistance, thus the majority of couples are unable to access treatment in Arizona.

Lack of access to medical treatment costs Arizona employers more. Patients paying out of pocket are more likely to choose less expensive medical treatments that may not be the most effective for their particular diagnosis. These other treatments can result in riskier birth outcomes, such as multiple births, which are more common when IVF isn't the form of treatment.<sup>xv</sup> Premature birth related to multiple pregnancies costs billions in pre-term care and long-term care. Multiple pregnancies add about \$4.2 billion to the costs for singleton pregnancies. The majority of these costs are currently being absorbed by health insurance under obstetric and pediatric

coverage.<sup>xvi</sup> Pregnancies with the delivery of twins cost approximately 5 times as much when compared with singleton pregnancies; pregnancies with delivery of triplets or more cost nearly 20 times as much.<sup>xvii</sup> Patients in states without an infertility insurance law are more likely to ask for multiple embryos to be transferred than patients in states with infertility insurance laws.<sup>xviii</sup> Patients who must pay for IVF out of pocket face economic pressure to transfer more embryos in hopes of achieving pregnancy more rapidly and avoiding reoccurring treatment costs, despite the risks associated with a multiple pregnancy.

For cancer patients, fertility preservation must be decided and done very quickly, so cancer treatment can begin. On average, it takes two weeks for a female to complete an egg retrieval prior to beginning cancer treatment, and often the decision to pursue fertility preservation must be made within days of a cancer diagnosis. There's not time to raise the money, so patients may choose less effective cancer treatments in order to save their fertility. This can lead to disastrous, and costly, results if their cancer isn't cured or treated properly. Others may abandon their dreams of becoming a parent. This can lead to depression and other life-long issues.<sup>xix</sup>

*If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship to a patient.*

The average cost of an IVF cycle in the United States is \$12,400<sup>xx</sup>, and the average cost of egg banking is \$10,000-\$15,000.<sup>xxi</sup>

According to a survey conducted by RESOLVE: The National Infertility Association, 67% of individuals or couples with infertility report spending at least \$10,000 on family building, including adoption and medical treatment.<sup>xxii</sup> A Prosper survey found that women (25-34 years old) accrued \$30,000 of debt on average after undergoing fertility treatment.<sup>xxiii</sup>

*The level of public demand for the treatment or service.*

Infertility affects one in eight couples (more than 137,000 Arizonans) yet one in four cannot afford treatment.<sup>xxiv</sup>

The number of fertility specialists in Arizona has grown from 10 in 2010 to 17 in 2017.<sup>xxv</sup>

The American Society of Clinical Oncology has issued guidelines that all at-risk patients should be informed about fertility preservation before the start of potentially sterilizing cancer treatment.

*The level of public demand for insurance coverage of the treatment or service.*

According to a 2003 Harris Interactive Poll, 80% of the general population believes infertility treatment should be covered by insurance.<sup>xxvi</sup>

16 states have laws requiring insurance coverage for infertility treatment. Delaware passed a comprehensive infertility insurance law in 2018 and New York updated its insurance law in 2019 to include IVF coverage and

fertility preservation for iatrogenic (medically-induced infertility). Since 2017, six states, including DE and NY have passed laws requiring coverage for fertility preservation for iatrogenic (medically-induced) infertility.<sup>xxvii</sup>

RESOLVE: The National Infertility Association believes infertility should be covered by health insurance, like other diseases. More than 90% of constituents surveyed in 2015 said that having health insurance plans cover infertility would have the biggest impact on people with infertility.<sup>xxviii</sup>

The American Society for Reproductive Medicine states that “IVF is required to treat some forms of infertility and is also the standard of care when less invasive forms of treatment have proven unsuccessful. To deny coverage of IVF may result in riskier birth outcomes, such as multiple births, which are more common when IVF isn’t the form of treatment.”<sup>xxix</sup>

The Association of Women’s Health, Obstetric and Neonatal Nurses (AWHONN) “supports the inclusion of all non-experimental infertility treatments as a covered health insurance benefit in public and private plans. Infertility is a disease of the reproductive system, and treatment should not be considered an elective therapy or procedure. Women who require gonadotoxic therapies to treat medical conditions such as cancer should be offered the option to cryopreserve embryos through in vitro fertilization or eggs through ovulation induction and egg retrieval.”<sup>xxx</sup>

The American Medical Association passed Resolutions expressly calling for fertility preservation coverage for cancer patients and for insurance coverage for infertility.

#### *Level of interest of collective bargaining agents*

There’s no known interest in collective bargaining. We believe legislative action is required for the coverage of infertility treatments.

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<sup>iv</sup> American Society for Reproductive Medicine. Causes of infertility. [http://www.asrm.org/Infographic\\_Causes\\_of\\_Infertility](http://www.asrm.org/Infographic_Causes_of_Infertility). Accessed July 14, 2015.

<sup>v</sup> American Medical Association. <https://policysearch.ama-assn.org/policyfinder/detail/Infertility%20and%20Fertility%20Preservation%20Insurance%20Coverage%20H-185.990?uri=%2FAMADoc%2FHOD.xml-0-1168.xml>. 2014.

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