

1 S.63

2 Introduced by Senators Hardy, Lyons, Perchlik, Ram Hinsdale, Vyhovsky,  
3 Watson and White

4 Referred to Committee on

5 Date:

6 Subject: Health; health insurance; fertility services

7 Statement of purpose of bill as introduced: This bill proposes to require health  
8 insurance plans and Vermont Medicaid to provide coverage for fertility-related  
9 services. It would also direct the Agency of Human Services to seek federal  
10 approval of an amendment to Vermont's Medicaid state plan to permit the  
11 Medicaid coverage.

12 An act relating to health insurance and Medicaid coverage for fertility-  
13 related services

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 8 V.S.A. § 4099m is added to read:

16 § 4099m. FERTILITY-RELATED SERVICES

17 (a) Definitions. As used in this section:

18 (1) "Experimental fertility procedure" means a procedure for which the  
19 published medical evidence is not sufficient for the American Society for

1 Reproductive Medicine, its successor organization, or a comparable  
2 organization to regard the procedure as established medical practice.

3 (2) “Fertility diagnostic care” means procedures, products, medications,  
4 and services intended to provide information about an individual’s fertility,  
5 including laboratory assessments and imaging studies.

6 (3) “Fertility preservation services” means procedures, products,  
7 medications, and services intended to preserve fertility, consistent with  
8 established medical practice and professional guidelines published by the  
9 American Society for Reproductive Medicine, its successor organization, or a  
10 comparable organization, for an individual who has a medical or genetic  
11 condition or who is expected to undergo treatment that may directly or  
12 indirectly cause a risk of impairment of fertility. “Fertility preservation  
13 services” includes the procurement and cryopreservation of gametes, embryos,  
14 and reproductive material and storage from the time of cryopreservation for a  
15 period of five years. Storage may be offered for a longer period of time.

16 (4) “Health care provider” has the same meaning as in 18 V.S.A.  
17 § 9402.

18 (5) “Health insurance plan” means any individual or group health  
19 insurance policy; any hospital or medical service corporation or health  
20 maintenance organization subscriber contract; or any other health benefit plan  
21 offered, issued, or renewed for any person in this State by a health insurer.

1 The term shall not include benefit plans providing coverage for specific  
2 diseases or other limited benefit coverage.

3 (6) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

4 (b) Required coverage. A health insurance plan shall provide coverage for  
5 the following fertility-related services for all insureds:

6 (1) Fertility diagnostic care.

7 (2) Intrauterine insemination treatment with donor or partner semen.

8 (3) At least three rounds of in vitro fertilization (IVF) with donor or  
9 partner semen or egg, including appropriate medications for ovarian  
10 stimulation; retrieval of oocytes under anesthesia; embryo transfer; and IVF-  
11 related laboratory procedures, ultrasounds, and hormones. A health insurance  
12 plan may, but shall not be required to, provide coverage for preimplantation  
13 genetic testing as a component of IVF.

14 (4) Clinically appropriate fertility-related medications as ordered or  
15 prescribed by the insured’s treating health care providers.

16 (c) Optional coverage. A health insurance plan may provide coverage for  
17 fertility preservation services for all insureds.

18 (d) Access to services; limitations on coverage.

19 (1) A health insurance plan shall not establish any rate, term, or  
20 condition that places a greater financial burden on an insured for access to

1 fertility-related services than for access to treatment for any other health  
2 condition.

3 (2) A health insurance plan shall not impose any limitations on coverage  
4 for any fertility services based on an insured's use of donor sperm or eggs,  
5 donor embryos, or surrogacy.

6 (3) A health insurance plan is not required to provide coverage for:

7 (A) any experimental fertility procedure; or

8 (B) any nonmedical costs related to donor sperm or eggs, donor  
9 embryos, or surrogacy.

10 Sec. 2. 33 V.S.A. § 19011 is added to read:

11 § 19011. COVERAGE OF FERTILITY-RELATED SERVICES

12 (a) Definitions. As used in this section:

13 (1) "Fertility diagnostic care" and "fertility preservation services" have  
14 the same meanings as in 8 V.S.A. § 4099e.

15 (2) "Health care provider" has the same meaning as in 18 V.S.A.  
16 § 9402.

17 (b) The Agency of Human Services shall provide Medicaid coverage for  
18 the following fertility-related services for all Medicaid beneficiaries:

19 (1) Fertility diagnostic care.

20 (2) Intrauterine insemination treatment with donor or partner semen.

1           (3) At least three rounds of in vitro fertilization (IVF) with donor or  
2           partner semen or egg, including appropriate medications for ovarian  
3           stimulation; retrieval of oocytes under anesthesia; embryo transfer; and IVF-  
4           related laboratory procedures, ultrasounds, and hormones. The Agency may,  
5           but shall not be required to, provide Medicaid coverage for preimplantation  
6           genetic testing as a component of IVF.

7           (4) Clinically appropriate fertility-related medications as ordered or  
8           prescribed by the beneficiary's treating health care providers.

9           (5) The Agency may, but shall not be required to, provide Medicaid  
10          coverage for fertility preservation services.

11          Sec. 3. COVERAGE FOR FERTILITY-RELATED SERVICES; MEDICAID

12                          STATE PLAN AMENDMENT

13          On or before September 1, 2023, the Agency of Human Services shall  
14          request approval from the Centers for Medicare and Medicaid Services to  
15          amend Vermont's Medicaid state plan to include coverage for fertility-related  
16          services as set forth in Sec. 2 of this act.

17          Sec. 4. EFFECTIVE DATES

18          (a) Sec. 1 (8 V.S.A. § 4099m) shall take effect on January 1, 2024 and shall  
19          apply to all health insurance plans issued on and after January 1, 2024 on such  
20          date as a health insurer offers, issues, or renews the health insurance plan, but  
21          in no event later than January 1, 2025.

1        (b) Sec. 2 (33 V.S.A. § 19011) shall take effect upon approval by the  
2        Centers for Medicare and Medicaid Services of Vermont's request to provide  
3        coverage of fertility-related services as set forth in that section.

4        (c) Sec. 3 (coverage for fertility-related services; Medicaid state plan  
5        amendment) and this section shall take effect on passage.