

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 20-0293.01 Christy Chase x2008

HOUSE BILL 20-1158

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A BILL FOR AN ACT

101 **CONCERNING INSURANCE COVERAGE FOR INFERTILITY, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts the "Colorado Building Families Act", which requires health benefit plans issued or renewed in Colorado on or after January 1, 2022, to cover diagnosis of infertility, treatment for infertility, and fertility preservation services. The coverage for fertility medications must not impose any limits that are not applicable to coverage under the plan for other prescription medications, and the plan cannot impose

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 13, 2020

HOUSE
3rd Reading Unamended
February 19, 2020

HOUSE
Amended 2nd Reading
February 18, 2020

deductibles, copayments, coinsurance, benefit maximums, waiting periods, or other limitations that are not applicable to other medical services covered under the plan.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Colorado Building Families Act".

4 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **add** (23)
5 as follows:

6 **10-16-104. Mandatory coverage provisions - definitions -**
7 **rules. (23) Infertility diagnosis and treatment - fertility preservation**
8 **services. (a) EXCEPT AS PROVIDED IN SUBSECTION (23)(e) OF THIS**
9 **SECTION AND SUBJECT TO SUBSECTION (23)(f) OF THIS SECTION, ALL**
10 INDIVIDUAL AND GROUP HEALTH BENEFIT PLANS ISSUED OR RENEWED IN
11 THIS STATE SHALL PROVIDE COVERAGE FOR THE DIAGNOSIS OF AND
12 TREATMENT FOR INFERTILITY AND STANDARD FERTILITY PRESERVATION
13 SERVICES.

14 (b) THE COVERAGE REQUIRED BY THIS SUBSECTION (23) INCLUDES
15 THREE COMPLETED OOCYTE RETRIEVALS WITH UNLIMITED EMBRYO
16 TRANSFERS IN ACCORDANCE WITH THE GUIDELINES OF THE ASRM, USING
17 SINGLE EMBRYO TRANSFER WHEN RECOMMENDED AND MEDICALLY
18 APPROPRIATE.

19 (c) THE HEALTH BENEFIT PLAN SHALL NOT IMPOSE:

20 (I) ANY EXCLUSIONS, LIMITATIONS, OR OTHER RESTRICTIONS ON
21 COVERAGE OF FERTILITY MEDICATIONS THAT ARE DIFFERENT FROM THE
22 EXCLUSIONS, LIMITATIONS, OR OTHER RESTRICTIONS IMPOSED ON ANY
23 OTHER PRESCRIPTION MEDICATIONS COVERED UNDER THE HEALTH BENEFIT
24 PLAN; OR

1 (II) DEDUCTIBLES, COPAYMENTS, COINSURANCE, BENEFIT
2 MAXIMUMS, WAITING PERIODS, OR OTHER LIMITATIONS ON COVERAGE FOR
3 THE DIAGNOSIS OF AND TREATMENT FOR INFERTILITY AND STANDARD
4 FERTILITY PRESERVATION SERVICES, EXCEPT AS OTHERWISE SPECIFIED IN
5 THIS SUBSECTION (23), THAT ARE DIFFERENT FROM DEDUCTIBLES,
6 COPAYMENTS, COINSURANCE, BENEFIT MAXIMUMS, WAITING PERIODS, OR
7 OTHER LIMITATIONS IMPOSED ON BENEFITS FOR SERVICES COVERED UNDER
8 THE HEALTH BENEFIT PLAN THAT ARE NOT RELATED TO INFERTILITY.

9 (d) THE COMMISSIONER SHALL ADOPT RULES CONSISTENT WITH
10 AND AS ARE NECESSARY TO IMPLEMENT THIS SUBSECTION (23).

11 (e) A RELIGIOUS EMPLOYER MAY REQUEST AND A CARRIER
12 SUBJECT TO THIS SUBSECTION (23) SHALL GRANT AN EXCLUSION FROM THE
13 COVERAGE REQUIRED UNDER THIS SUBSECTION (23) IN A HEALTH BENEFIT
14 PLAN IF THE REQUIRED COVERAGE CONFLICTS WITH THE RELIGIOUS
15 ORGANIZATION'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES. A
16 RELIGIOUS EMPLOYER THAT OBTAINS AN EXCLUSION UNDER THIS
17 SUBSECTION (23)(e) SHALL PROVIDE ITS EMPLOYEES REASONABLE AND
18 TIMELY NOTICE OF THE EXCLUSION OF THE COVERAGE DESCRIBED IN THIS
19 SUBSECTION (23) FROM THE HEALTH BENEFIT PLAN THE RELIGIOUS
20 EMPLOYER OFFERS TO ITS EMPLOYEES.

21 (f) (I) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE
22 DATE OF THIS SUBSECTION (23), THE DIVISION SHALL SUBMIT TO THE
23 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES ITS
24 DETERMINATION AS TO WHETHER THE COVERAGE SPECIFIED IN THIS
25 SUBSECTION (23) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS AND
26 WOULD BE SUBJECT TO DEFRAID BY THE STATE PURSUANT TO 42 U.S.C.
27 SEC. 18031 (d)(3)(B) AND A REQUEST THAT THE FEDERAL DEPARTMENT

1 CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER
2 RECEIPT OF THE DIVISION'S REQUEST AND SUBMISSION OF ITS
3 DETERMINATION.

4 (II) THIS SUBSECTION (23) APPLIES TO HEALTH BENEFIT PLANS
5 ISSUED OR RENEWED IN THIS STATE THAT ARE SUBJECT TO THIS
6 SUBSECTION (23), AND THE DIVISION SHALL IMPLEMENT THE
7 REQUIREMENTS OF THIS SUBSECTION (23), IF:

8 (A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE
10 SPECIFIED IN THIS SUBSECTION (23) DOES NOT CONSTITUTE AN ADDITIONAL
11 BENEFIT THAT REQUIRES DEFRAID BY THE STATE PURSUANT TO 42 U.S.C.
12 SEC. 18031 (d)(3)(B); OR

13 (B) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED
14 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR
15 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (23)
16 IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFRAID
17 PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL
18 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND
19 TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION
20 SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A
21 PRECLUSION FROM REQUIRING DEFRAID BY THE STATE.

22 (f) FOR PURPOSES OF THIS SUBSECTION (23):

23 (I) "ACOG" MEANS THE AMERICAN COLLEGE OF OBSTETRICIANS
24 AND GYNECOLOGISTS OR ITS SUCCESSOR ORGANIZATION.

25 (II) "ASCO" MEANS THE AMERICAN SOCIETY OF CLINICAL
26 ONCOLOGY OR ITS SUCCESSOR ORGANIZATION.

27 (III) "ASRM" MEANS THE AMERICAN SOCIETY FOR

1 REPRODUCTIVE MEDICINE OR ITS SUCCESSOR ORGANIZATION.

2 (IV) "DIAGNOSIS OF AND TREATMENT FOR INFERTILITY" MEANS
3 THE PROCEDURES AND MEDICATIONS RECOMMENDED BY A LICENSED
4 PHYSICIAN THAT ARE CONSISTENT WITH ESTABLISHED, PUBLISHED, OR
5 APPROVED MEDICAL PRACTICES OR PROFESSIONAL GUIDELINES FROM
6 ACOG OR ASRM FOR DIAGNOSING AND TREATING INFERTILITY.

7 (V) "FAILURE TO IMPREGNATE OR CONCEIVE" MEANS THE FAILURE
8 TO ESTABLISH A CLINICAL PREGNANCY AFTER TWELVE MONTHS OF
9 REGULAR, UNPROTECTED SEXUAL INTERCOURSE OR THERAPEUTIC DONOR
10 INSEMINATION FOR A WOMAN UNDER THE AGE OF THIRTY-FIVE, OR AFTER
11 SIX MONTHS OF REGULAR, UNPROTECTED SEXUAL INTERCOURSE OR
12 THERAPEUTIC DONOR INSEMINATION FOR A WOMAN THIRTY-FIVE YEARS OF
13 AGE OR OLDER. CONCEPTION RESULTING IN A MISCARRIAGE DOES NOT
14 RESTART THE TWELVE-MONTH OR SIX-MONTH CLOCK TO QUALIFY AS
15 HAVING INFERTILITY.

16 (VI) "INFERTILITY" MEANS A DISEASE OR CONDITION
17 CHARACTERIZED BY:

18 (A) THE FAILURE TO IMPREGNATE OR CONCEIVE;

19 (B) A PERSON'S INABILITY TO REPRODUCE EITHER AS AN
20 INDIVIDUAL OR WITH THE PERSON'S PARTNER; OR

21 (C) A LICENSED PHYSICIAN'S FINDINGS BASED ON A PATIENT'S
22 MEDICAL, SEXUAL, AND REPRODUCTIVE HISTORY, AGE, PHYSICAL
23 FINDINGS, OR DIAGNOSTIC TESTING.

24 (VII) "LICENSED PHYSICIAN" MEANS A PERSON LICENSED BY THE
25 COLORADO MEDICAL BOARD PURSUANT TO ARTICLE 240 OF TITLE 12 TO
26 PRACTICE MEDICINE IN THIS STATE.

27 (VIII) "STANDARD FERTILITY PRESERVATION SERVICES" MEANS

1 PROCEDURES AND SERVICES THAT ARE CONSISTENT WITH ESTABLISHED
2 MEDICAL PRACTICES OR PROFESSIONAL GUIDELINES PUBLISHED BY ASRM
3 OR ASCO FOR A PERSON WHO HAS A MEDICAL CONDITION OR IS EXPECTED
4 TO UNDERGO MEDICATION THERAPY, SURGERY, RADIATION,
5 CHEMOTHERAPY, OR OTHER MEDICAL TREATMENT THAT IS RECOGNIZED BY
6 MEDICAL PROFESSIONALS TO CAUSE A RISK OF IMPAIRMENT TO FERTILITY.

7 **SECTION 3. Appropriation.** For the 2020-21 state fiscal year,
8 \$3,337 is appropriated to the department of regulatory agencies for use by
9 the division of insurance. This appropriation is from the division of
10 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
11 on an assumption that the division will require an additional 0.1 FTE. To
12 implement this act, the division may use this appropriation for personal
13 services.

14 **SECTION 4. Applicability.** This act applies to health benefit
15 plans issued or renewed on or after January 1, 2022.

16 **SECTION 5. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.