

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0621.01 Brita Darling x2241

HOUSE BILL 22-1008

HOUSE SPONSORSHIP

Tipper and Baisley, Ortiz, Soper

SENATE SPONSORSHIP

Fenberg and Winter,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE FEDERAL REQUIREMENTS FOR THE
102 IMPLEMENTATION OF FERTILITY COVERAGE UNDER HEALTH
103 BENEFIT PLANS.

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>.)

With respect to coverage for fertility diagnosis and treatment and fertility preservation services (fertility services) under health benefit plans, the bill clarifies that coverage for fertility services under large employer policies and contracts is not subject to a determination as to whether federal law requires the state to defray the costs of the coverage,

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.

and, therefore, large employer plans issued or renewed in this state must cover fertility services, and the division of insurance in the department of regulatory agencies (division) must implement the coverage requirement.

In addition, for individual and small group policies and contracts, the bill:

- Requires coverage for fertility services under individual and small group policies and contracts issued on or after the January 1 following the calendar year in which the division receives confirmation from the federal department of health and human services (federal department), or the federal department otherwise determines, that coverage for fertility services does not require defrayal by the state; and
- Requires the division to implement the fertility services coverage requirement once effective.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-104, **amend**
3 (23)(f) as follows:

4 **10-16-104. Mandatory coverage provisions - definitions -**
5 **rules. (23) Infertility diagnosis and treatment - fertility preservation**
6 **services. (f) (I)** Within one hundred twenty days after April 1, 2020, the
7 division shall submit to the federal department of health and human
8 services its determination as to whether the coverage specified in this
9 subsection (23) is in addition to essential health benefits and would be
10 subject to defrayal by the state pursuant to 42 U.S.C. sec. 18031 (d)(3)(B)
11 and a request that the federal department confirm the division's
12 determination within sixty days after receipt of the division's request and
13 submission of its determination. THE REQUIREMENT TO SUBMIT TO THE
14 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR A
15 DETERMINATION PURSUANT TO THIS SUBSECTION (23)(f)(I) ONLY APPLIES
16 TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS.

17 (I.5) THIS SUBSECTION (23) APPLIES TO, AND THE DIVISION SHALL

1 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (23) FOR, LARGE
2 EMPLOYER POLICIES AND CONTRACTS ISSUED OR RENEWED IN THIS STATE
3 THAT ARE SUBJECT TO THIS SUBSECTION (23).

4 (II) This subsection (23) applies to, ~~health benefit plans~~ AND THE
5 DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (23)
6 FOR, INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS issued or
7 renewed in this state ~~that are subject to this subsection (23), and the~~
8 ~~division shall implement the requirements of this subsection (23),~~ if ON
9 OR AFTER THE JANUARY 1 FOLLOWING THE CALENDAR YEAR IN WHICH:

10 (A) The division receives confirmation from the federal
11 department of health and human services that the coverage specified in
12 this subsection (23) does not constitute an additional benefit that requires
13 defrayal by the state pursuant to 42 U.S.C. sec. 18031 (d)(3)(B); or

14 (B) ~~More than three hundred sixty-five days have passed since the~~
15 ~~division submitted its determination and request for confirmation that the~~
16 ~~coverage specified in this subsection (23) is not an additional benefit that~~
17 ~~requires state defrayal pursuant to 42 U.S.C. sec. 18031 (d)(3)(B), and the~~
18 ~~federal department of health and human services has failed to respond to~~
19 ~~the request within that period, in which case the division shall consider~~
20 ~~the federal department's unreasonable delay a preclusion from requiring~~
21 ~~defrayal by the state~~ THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN
22 SERVICES HAS OTHERWISE DETERMINED THAT THE COVERAGE SPECIFIED
23 IN THIS SUBSECTION (23) DOES NOT REQUIRE STATE DEFAYAL PURSUANT
24 TO 42 U.S.C. SEC. 18031 (d)(3)(B).

25 **SECTION 2. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.