

TESTIMONY OF REBECCA FRICKE

House Bill 1284 – Fertility Preservation Treatment

Good Afternoon, Mr. Chairman and members of the committee. My name is Rebecca Fricke and I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1284, which requires a pilot program under the NDPERS health insurance plan related to fertility preservation health benefits. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

House Bill 1284 does the following:

- Adds definitions for “medically necessary” and “standard fertility preservation services”
- Requires the Board to provide coverage for standard fertility preservation services, if recommended and medically necessary, for covered individual that has a diagnosed medical condition or genetic condition that may cause impairment of fertility affecting the reproductive organs or processes
- Sets specific coverage requirements
 - Currently, NDPERS health insurance plan does not provide cryopreservation services, so this would be an enhancement in coverage
- Restricts benefits for fertility preservation from having a separate copayment, deductible, coinsurance or other benefit maximum that is separate from other benefits provided in the plan
- Coverage cannot be limited in certain areas, such as benefit maximums; may contradict other provisions of the bill that place limitations on coverage
 - May contradict other provisions of the bill that place limitations on coverage
 - Example of certain number of intrauterine insemination or completed oocyte retrievals
 - Does not clarify if limitations are per plan year or lifetime
- Coverage must be available to those who obtain coverage during special enrollment windows or open enrollment
 - Effective date of coverage varies for special enrollment windows and open enrollment
 - Example – Open enrollment window in fall with coverage effective January 1

Under the provisions of NDCC 54-03-28, the bill applies to NDPERS health insurance plan for a pilot program during the 2025-2027 biennium.

Our consultant estimates that the bill would have a financial impact on the NDPERS health insurance plan and estimates an increase in premium of .04%, or \$345,000, in the 2025-2027 biennium. This cost assumes four cycles of cryopreservation per utilizer.

An amendment, which is attached to this testimony, that we ask be considered is to exclude the NDPERS Medicare Part D Plan. Given retirees pay 100% of the premium, we ask that they be excluded from the pilot program under NDPERS by adopting this amendment.

House Bill 1284 was a bill introduced during the interim, with the analysis provided to the Employee Benefits Programs Committee, which gave the bill a favorable recommendation. The consultant and legal analysis provided to the committee is included as an attachment to the end of my testimony (please note this was draft bill 70 during the interim session).

Mr. Chairman, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I'd be happy to answer any questions the committee may have.

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1284

Introduced by

Representatives Brandenburg, Grueneich, Hanson, Satrom, Schauer, Schneider, Warrey
Senators Erbele, Hogan

1 A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota
2 Century Code, relating to public employee fertility preservation health benefits; to provide for a
3 report to the legislative assembly; to provide for application; and to provide an expiration date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Health insurance benefits coverage - Fertility preservation health care.**

8 1. As used in this section:

9 a. "Medically necessary" means a health care service or a product provided in a
10 manner:

11 (1) Consistent with the findings and recommendations of a licensed physician,
12 based on a patient's medical history, sexual and reproductive history, age,
13 partner, physical findings, or diagnostic testing;

14 (2) Consistent with generally accepted standards of medical practice as
15 established by a professional medical organization with a specialization in
16 any aspect of reproductive health, including the American society for
17 reproductive medicine or the American society of clinical oncology; or

18 (3) Clinically appropriate in terms of type, frequency, extent, site, and duration.

19 b. "Standard fertility preservation services" means services, procedures, testing,
20 medications, treatments, cryopreservation of eggs, sperm, embryos, and
21 products consistent with established best medical practices or professional
22 guidelines including those published by the American society for reproductive
23 medicine or the American society of clinical oncology for an individual who has a
24 medical condition or is expected to undergo medication therapy, surgery,

- 1 radiation, chemotherapy, or other medical treatment recognized by medical
2 professionals to result in, or increase the risk of, impaired fertility.
- 3 2. If the covered individual has a diagnosed medical condition or genetic condition that
4 may cause impairment of fertility affecting the reproductive organs or processes, the
5 board shall provide health insurance benefits coverage that provides for standard
6 fertility preservation services if recommended and medically necessary. As used in this
7 section, "may cause" means the disease itself, or the necessary treatment, has a
8 potential side effect of infertility as established by best practices, including the
9 American society for reproductive medicine or the American society of clinical
10 oncology. Coverage must include:
- 11 a. Consultation, evaluation, laboratory assessment, and medication.
12 b. The procurement and storage of gametes, embryos, or other reproductive tissue,
13 and all procedures and treatment needed for cryopreservation services.
14 c. Four preservation cycles.
- 15 3. Coverage under this section must be made available to all covered individuals,
16 including covered individuals who have entered coverage during special enrollment or
17 open enrollment.
- 18 4. Benefits under this section may not be limited based on a copayment, deductible,
19 coinsurance, benefit maximum, waiting period, or other limitation on coverage different
20 from other medical or surgical benefits provided under the health benefits.
- 21 5. This section does not apply to the Medicare part D prescription drug coverage plan.

22 **SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - FERTILITY**

23 **PRESERVATION HEALTH BENEFITS - REPORT TO LEGISLATIVE ASSEMBLY.** Pursuant to
24 section 54-03-28, the public employees retirement system shall prepare and submit for
25 introduction a bill to the seventieth legislative assembly to repeal the expiration date for this Act
26 and to extend the coverage of fertility preservation health benefits to all group and individual
27 health insurance policies. The public employees retirement system shall append a report to the
28 bill regarding the effect of the fertility preservation health benefits requirement on the system's
29 health insurance programs, information on the utilization and costs relating to the coverage, and
30 a recommendation regarding whether the coverage should be continued.

31 **SECTION 3. APPLICATION.** This Act applies to health benefits coverage that begins after
31 June 30, 2025, and which does not extend past June 30, 2027.

1 **SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2027, and after that
2 date is ineffective.

Memo

Date: June 11, 2024

To: Rebecca Fricke - Executive Director, North Dakota Public Employees Retirement System
Representative Austen Schauer - Chair, Legislative Employee Benefits Programs Committee, North Dakota State Government

From: Tim Egan, Dan Plante, Ford Edgerton, and Karno Sarkar - Deloitte Consulting LLP

Subject: **FINANCIAL REVIEW OF PROPOSED BILL 25.0070.03000**

Deloitte Consulting LLP (Deloitte 'l') was engaged to review the proposed legislation and the potential financial impact to the Uniform Group Insurance Program (Program) administered by the North Dakota Public Employees Retirement System (NDPERS), as well as other considerations that may contribute to the evaluation of the legislation.

The information included in the review relies on data provided by NDPERS, as well as publicly available data and industry studies. From the data provided by NDPERS, some of these data sources were developed by NDPERS, while others were prepared or created by third parties and delivered to NDPERS.

As part of the review, all data was reviewed for reasonableness, but an audit was not performed on the data. To the extent the data contains errors or anomalies that were unknown at the time the data was provided, the analysis may be affected by those issues.

OVERVIEW OF PROPOSED BILL

The Bill would create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employee fertility preservation health benefits. The legislation does the following:

- defines "medically necessary" and "standard fertility preservation services"
- mandates that the board shall provide coverage for standard fertility preservation services if deemed medically necessary
 - coverage will include diagnosis, testing, and medication related to fertility preservation as well as storage of embryos through cryopreservation
- ensures that coverage for fertility preservation will be available for all covered individuals
- restricts benefits for fertility preservation from having a separate copayment, deductible, coinsurance, or other benefit maximum that is separate from other benefits provided in the plan

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ESTIMATED FINANCIAL IMPACT

Based on the analysis, it is anticipated the proposed legislation will have a financial impact on the Uniform Group Insurance Program. It is estimated the financial impact of the proposed legislation on the Uniform Group Insurance Program is approximately \$345,000 in the 2025-2027 biennium ending 6/30/2027.

The Uniform Group Insurance Program currently has a lifetime dollar limit of \$20,000 for fertility services. These services include diagnosis and treatment for infertility but do not cover cryopreservation itself. Further, Sanford Health currently does not cover cryopreservation across its book-of-business. This bill would require Sanford Health to change their plan design to include cryopreservation as a covered service.

Fertility preservation diagnostic and treatment services are already covered under the current plan design. Based on the analysis of current covered services, individuals on average do not exceed the \$20,000 lifetime limit, therefore, it is not anticipated that the proposed legislation will impact costs related to fertility preservation diagnostic and treatment services.

To estimate the potential cost of the cryopreservation benefit, Sanford provided billed charges and utilization information on covered Uniform Group Insurance Program members that paid for cryopreservation services out-of-pocket for calendar years 2022 and 2023. This out-of-pocket claims information was paired with an estimate of the average billed charges discount across covered fertility preservation services to develop an estimated allowed cost per cycle of cryopreservation.

Based on the analysis, the estimated cost per cycle for cryopreservation is \$1,315. Using an annual medical trend of 5.7%, it is estimated that the cost of four cycles of cryopreservation is approximately \$6,380 per utilizer for the 2025-2027 biennium. Based on the current utilization of fertility preservation services, it is estimated that the addition of cryopreservation to fertility preservation services will increase costs by 0.04% or approximately \$345,000 for the 2025-2027 biennium.

OTHER CONSIDERATIONS

The financial analysis includes the following assumptions that may result in a more conservative impact estimate:

- All utilizers of fertility preservation will also utilize cryopreservation services
- All utilizers will maximize their cryopreservation cycles by fully utilizing four cycles
- The cryopreservation cycles will all occur in the same biennium period
- The billed charges discount for cryopreservation is similar to other fertility preservation services

It is unlikely that every utilizer of fertility preservation services will utilize all four cycles of cryopreservation. It is also unlikely that all four cryopreservation cycles will occur within the same biennium. If this is the case, then actual costs may be less than the \$345,000 financial impact estimate for the 2025-2027 biennium.

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