

Introduced by

Senators Grabinger, Heckaman, Oban

Representatives Brandenburg, Hanson, Mitskog

1 A BILL for an Act to create and enact a new section to chapter 26.1-36 and a new section to  
2 chapter 54-52.1 of the North Dakota Century Code, relating to health insurance coverage for  
3 infertility treatment; and to provide for application.

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

5 **SECTION 1.** A new section to chapter 26.1-36 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Infertility treatment coverage.**

8 1. As used in this section:

- 9 a. "Iatrogenic infertility" means an impairment of fertility due to surgery, radiation,  
10 chemotherapy, or other medical treatment.
- 11 b. "Infertility" means a disease or condition that results in impaired function of the  
12 reproductive system as a result of which an individual is unable to procreate or to  
13 carry a pregnancy to live birth, including:
- 14 (1) Absent or incompetent uterus.
- 15 (2) Damaged, blocked, or absent fallopian tubes.
- 16 (3) Damaged, blocked, or absent male reproductive tract.
- 17 (4) Damaged, diminished, or absent sperm.
- 18 (5) Damaged, diminished, or absent oocytes.
- 19 (6) Damaged, diminished, or absent ovarian function.
- 20 (7) Endometriosis.
- 21 (8) Hereditary genetic disease or condition that would be passed to offspring.
- 22 (9) Adhesions.
- 23 (10) Uterine fibroids.
- 24 (11) Sexual dysfunction impeding intercourse.

- 1           (12) Teratogens or idiopathic causes.
- 2           (13) Polycystic ovarian syndrome.
- 3           (14) Inability to become pregnant or cause pregnancy of unknown etiology.
- 4           (15) Two or more pregnancy losses, including ectopic pregnancies.
- 5           (16) Uterine congenital anomalies, including those caused by diethylstilbestrol.
- 6           (17) Surgical sterilization if no living children have been conceived with the
- 7                     current partner.
- 8           c. "Policy" means an accident and health insurance policy, contract, or evidence of
- 9                     coverage on a group, individual, blanket, franchise, or association basis.
- 10          d. "Standard fertility preservation services" means fertility preservation procedures
- 11                     consistent with established medical practices and professional guidelines
- 12                     published by professional medical organizations, such as the American society
- 13                     for clinical oncology and the American society for reproductive medicine.
- 14          2. An insurer may not deliver, issue, execute, or renew a policy that provides medical,
- 15                     hospital, or prescription drug benefits coverage for pregnancy-related claims unless
- 16                     that policy provides medical or hospital or prescription drug coverage for fertility care
- 17                     services, including in vitro fertilization services for individuals who suffer from a
- 18                     disease or condition that results in the inability to procreate or to carry a pregnancy to
- 19                     live birth and standard fertility preservation services for individuals who must undergo
- 20                     medically necessary treatment that may cause iatrogenic infertility. The benefits must
- 21                     be provided to insureds to the same extent as other pregnancy-related benefits and as
- 22                     medically appropriate must include coverage for:
- 23           a. Intrauterine insemination.
- 24           b. Assisted hatching.
- 25           c. Cryopreservation and thawing of eggs, sperm, and embryos.
- 26           d. Cryopreservation of ovarian tissue.
- 27           e. Cryopreservation of testicular tissue.
- 28           f. Embryo biopsy.
- 29           g. Consultation and diagnostic testing.
- 30           h. Fresh and frozen embryo transfers.

- 1           i. Four completed egg retrievals per lifetime, with unlimited embryo transfers in  
2           accordance with best practices for reproductive medicine, using single embryo  
3           transfer.
- 4           j. In vitro fertilization, including in vitro fertilization using donor eggs, sperm, or  
5           embryos, and in vitro fertilization through which the embryo is transferred to a  
6           gestational carrier or surrogate.
- 7           k. Intracytoplasmic sperm injection.
- 8           l. Medications.
- 9           m. Ovulation induction.
- 10          n. Storage of oocytes, sperm, embryos, and tissue.
- 11          o. Surgery, including microsurgical sperm aspiration.
- 12          p. Medical and laboratory services, including use of preimplantation genetic testing,  
13          which reduce excess embryo creation through egg cryopreservation and thawing  
14          in accordance with an individual's religious or ethical beliefs.
- 15         3. An insured qualifies for coverage under this section if all of the following requirements  
16          are met:
  - 17           a. A board-certified or board-eligible obstetrician-gynecologist, subspecialist in  
18           reproductive endocrinology, oncologist, urologist, or andrologist verifies the  
19           insured is diagnosed with infertility or is at risk of iatrogenic infertility.
  - 20           b. If the insured is diagnosed with infertility, the insured has not been able to obtain  
21           a successful pregnancy through reasonable effort with less costly infertility  
22           treatments covered by the policy, except as follows:
    - 23               (1) No more than three treatment cycles of ovulation induction or intrauterine  
24               inseminations may be required before in vitro fertilization services are  
25               covered.
    - 26               (2) If in vitro fertilization is medically necessary, cycles of ovulation induction or  
27               intrauterine inseminations may not be required before in vitro fertilization  
28               services are covered.
    - 29               (3) In vitro fertilization procedure must be performed at a practice that conforms  
30               to American society for reproductive medicine and American congress of  
31               obstetricians and gynecologists guidelines.

1           c. For in vitro fertilization services, retrievals are completed before the insured is  
2           forty-five years old and transfers are completed before the insured is fifty years  
3           old.

4           4. A policy may not impose any exclusions, limitations, or other restrictions on coverage  
5           of fertility medications different from those imposed on any other prescription  
6           medications, and may not impose deductibles, copayments, coinsurance, benefit  
7           maximums, waiting periods, or any other limitations on coverage for required fertility  
8           care services, which are different from those imposed upon benefits for services not  
9           related to infertility.

10          5. A policy is not required to cover experimental fertility care services, monetary  
11          payments to gestational carriers or surrogates, or the reversal of voluntary sterilization  
12          undergone after the insured successfully procreated with the insured's partner at the  
13          time the reversal is desired.

14          **SECTION 2.** A new section to chapter 54-52.1 of the North Dakota Century Code is created  
15 and enacted as follows:

16          **Insurance to cover infertility treatments.**

17          The board shall provide medical and prescription drug benefits coverage under a contract  
18 for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section  
19 54-52.1-04.2 for infertility treatment in the same manner as provided under section 1 of this Act.

20          **SECTION 3. APPLICATION.** This Act is not subject to section 54-03-28, and therefore is  
21 not required to be accompanied by a cost-benefit analysis; is not limited in application to the  
22 public employees retirement system's uniform group health benefits programs; does not require  
23 the public employees retirement system study the effect of the fertility treatment coverage  
24 during the 2019-20 interim; and does not expire in two years. This Act applies to insurance  
25 policies and health benefits programs that are issued or renewed on and after the effective date  
26 of this Act.