

HB0192S02 compared with HB0192S01

~~text~~ shows text that was in HB0192S01 but was deleted in HB0192S02.

text shows text that was not in HB0192S01 but was inserted into HB0192S02.

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Representative Raymond P. Ward proposes the following substitute bill:

FERTILITY TREATMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill expands ~~insurance~~Medicaid coverage for fertility preservation and criminalizes improper conduct related to fertility treatment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the department to apply for a Medicaid waiver or state plan amendment with the Centers for Medicare and Medicaid Services to provide coverage for fertility preservation treatments for an individual diagnosed with cancer or other disease;

~~requires the Public Employees Health Program to provide coverage for fertility preservation treatments for an eligible member diagnosed with cancer or other~~

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disease;

- ‡ ▶ imposes a reporting ~~{requirements}~~requirement; and
- ▶ establishes a criminal penalty for a health care provider that:
 - provides "assisted reproductive treatment" to a patient; and
 - uses the health care provider's own gamete without the written consent of the patient.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-420.1, Utah Code Annotated 1953

~~{ 49-20-420.1, Utah Code Annotated 1953 }~~

‡ 76-07-401, Utah Code Annotated 1953

76-07-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-18-420.1** is enacted to read:

26-18-420.1. Medicaid waiver for fertility preservation services.

(1) As used in this section:

(a) "Iatrogenic infertility" means an impairment of fertility or reproductive functioning caused by surgery, chemotherapy, radiation, or other medical treatment.

(b) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~{ (c) "Standard fertility preservation service" means a fertility preservation procedure and service that:~~

~~—— (i) is not considered experimental or investigational by the American Society for Reproductive Medicine or the American Society of Clinical Oncology; and~~

~~—— (ii) is consistent with established medical practices or professional guidelines published by the American Society for Reproductive Medicine or the American Society of~~

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Clinical Oncology, including:

- ~~— (A) sperm banking;~~
- ~~— (B) oocyte banking;~~
- ~~— (C) embryo banking;~~
- ~~— (D) banking of reproductive tissues; and~~
- ~~— (E) storage of reproductive cells and tissues.~~

† ~~(d)~~(c) "Qualified enrollee" means an individual who:

- (i) is enrolled in the Medicaid program;
- (ii) has been diagnosed with a form of cancer or other disease by a physician; and
- (iii) ~~the~~needs treatment for that cancer or other disease ~~includes surgery, radiation, chemotherapy, or other medical treatment that is recognized by medical professionals to cause a~~that may cause a substantial risk of sterility or iatrogenic infertility, including surgery, radiation, or chemotherapy.

(d) (i) "Standard Fertility Preservation Services" means a fertility preservation procedure and service that is consistent with established medical practices or professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology.

(ii) "Standard Fertility Preservation Services" includes:

(A) the retrieval and storage of two complete oocyte cycles; and

(B) the collection and storage of two sperm samples.

(2) Before January 1, 2022, the department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the coverage described in Subsection (3).

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for standard fertility preservation services.

(4) The Medicaid program may not provide the coverage described in Subsection (3) before the later of:

(a) the day on which the waiver described in Subsection (2) is approved; and

(b) January 1, 2023.

(5) Before November 1, 2023, and before November 1 of each third year after 2023, the department shall:

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(a) calculate the change in state spending attributable to the coverage described in this section; and

(b) report the amount described in Subsection (5)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

Section 2. Section ~~{49-20-420.}~~76-07-401 is enacted to read:

~~{49-20-420.1. Coverage for fertility preservation services:~~

~~(1) As used in this section:~~

~~(a) "Iatrogenic infertility" means an impairment of fertility or reproductive functioning caused by surgery, chemotherapy, radiation, or other medical treatment;~~

~~(b) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.~~

~~(c) "Standard fertility preservation service" means a fertility preservation procedure and service that:~~

~~(i) is not considered experimental or investigational by the American Society for Reproductive Medicine or the American Society of Clinical Oncology; and~~

~~(ii) is consistent with established medical practices or professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology, including:~~

~~(A) sperm banking;~~

~~(B) oocyte banking;~~

~~(C) embryo banking;~~

~~(D) banking of reproductive tissues; and~~

~~(E) storage of reproductive cells and tissues.~~

~~(d) "Qualified individual" means a covered individual who:~~

~~(i) has been diagnosed with a form of cancer or another disease by a physician; and~~

~~(ii) the treatment for that cancer or other disease includes surgery, radiation, chemotherapy, or other medical treatment that is recognized by medical professionals to cause a risk of sterility or iatrogenic infertility.~~

~~(2) For a plan year that begins on or after July 1, 2021, the program shall provide coverage to a qualified individual for standard fertility preservation services:~~

~~(3) Before November 1, 2023, and before November 1 of each third year after 2023, the~~

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program shall:

(a) calculate the change in state spending attributable to the coverage described in this section;

and

(b) report the amount described in Subsection (3)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

~~Section 3. Section 76-07-401 is enacted to read:~~

~~Part 4. Genetic Material Misuse~~

76-07-401. Definitions.

As used in this part:

(1) "Assisted reproductive treatment" means a method of causing pregnancy by any means other than through sexual intercourse, including:

- (a) intrauterine or intracervical insemination;
- (b) donation of eggs or sperm;
- (c) donation of embryos;
- (d) in vitro fertilization and embryo transfer; and
- (e) intracytoplasmic sperm injection.

(2) "Gamete" means a cell containing a haploid complement of DNA that has the potential to form an embryo when combined with another gamete, including:

- (a) a sperm;
- (b) an egg; or
- (c) nuclear DNA from one individual combined with the:
 - (i) cytoplasm of another individual; or
 - (ii) cytoplasmic DNA of another individual.

(3) "Health care provider" means an individual listed in Subsection 78B-3-403(12).

~~Section {4}3. Section 76-07-402 is enacted to read:~~

76-07-402. Genetic material misuse.

(1) A health care provider may not knowingly use the health care provider's own gamete, when providing assisted reproductive treatment to a patient, without the patient's written consent.

(2) A health care provider who violates Subsection (1) is guilty of a third degree felony.

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