

119TH CONGRESS  
1ST SESSION

# S. 2408

To require health insurance plans to provide coverage for fertility treatment,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 23, 2025

Mr. BOOKER introduced the following bill; which was read twice and referred  
to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require health insurance plans to provide coverage for  
fertility treatment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Fertility  
5 Treatment and Care Act”.

6 **SEC. 2. STANDARDS RELATING TO BENEFITS FOR FER-**  
7 **TILITY TREATMENT.**

8 (a) IN GENERAL.—

1           (1) PHSA.—Part D of title XXVII of the Pub-  
2       lic Health Service Act (42 U.S.C. 300gg–111 et  
3       seq.) is amended by adding at the end the following:

4       **“SEC. 2799A–11. STANDARDS RELATING TO BENEFITS FOR**  
5               **FERTILITY TREATMENT.**

6       “(a) IN GENERAL.—A group health plan or a health  
7       insurance issuer offering group or individual health insur-  
8       ance coverage shall provide coverage for fertility treat-  
9       ment, if such plan or coverage provides coverage for ob-  
10      stetrical services.

11      “(b) DEFINITION.—In this section, the term ‘fertility  
12      treatment’ includes the following:

13           “(1) Preservation of human oocytes, sperm, or  
14      embryos.

15           “(2) Artificial insemination, including  
16      intravaginal insemination, intracervical insemination,  
17      and intrauterine insemination.

18           “(3) Assisted reproductive technology, including  
19      in vitro fertilization and other treatments or proce-  
20      dures in which reproductive genetic material, such as  
21      oocytes, sperm, and embryos, are handled, when  
22      clinically appropriate.

23           “(4) Genetic testing of embryos.

24           “(5) Medications prescribed or obtained over-  
25      the-counter, as indicated for fertility.

1 “(6) Gamete donation.

2 “(7) Such other information, referrals, treat-  
3 ments, procedures, medications, laboratory testing,  
4 technologies, and services relating to fertility as the  
5 Secretary determines appropriate.

6 “(c) REQUIRED COVERAGE.—A group health plan  
7 and a health insurance issuer offering group or individual  
8 health insurance coverage that includes coverage for ob-  
9 stetrical services shall provide coverage for fertility treat-  
10 ment determined appropriate by the health care provider,  
11 regardless of whether the participant, beneficiary, or en-  
12 rollee receiving such treatment has been diagnosed with  
13 infertility as defined by the American Society for Repro-  
14 ductive Medicine, if the treatment is performed at, or pre-  
15 scribed by, a medical facility that is in compliance with  
16 relevant standards set by an appropriate Federal agency.

17 “(d) LIMITATION.—Cost-sharing, including  
18 deductibles and coinsurance, or other limitations for fer-  
19 tility treatment may not be imposed with respect to the  
20 services required to be covered under subsection (c) to the  
21 extent that such cost-sharing exceeds the cost-sharing ap-  
22 plied to other medical services under the group health plan  
23 or health insurance coverage or such other limitations are  
24 different from limitations imposed with respect to such  
25 medical services, except where such limitation is more fa-

1 vorable with respect to fertility treatment. The Secretary  
2 shall promulgate interim final regulations to carry out this  
3 subsection, notwithstanding the notice and comment re-  
4 quirements of section 553 of title 5, United States Code.

5 “(e) PROHIBITIONS.—A group health plan and a  
6 health insurance issuer offering group or individual health  
7 insurance coverage may not—

8 “(1) provide incentives (monetary or otherwise)  
9 to a participant, beneficiary, or enrollee to encourage  
10 such participant, beneficiary, or enrollee not to seek  
11 or obtain fertility treatment to which such partici-  
12 pant, beneficiary, or enrollee is entitled under this  
13 section or to providers to induce such providers not  
14 to provide medically appropriate fertility treatments  
15 to participants, beneficiaries, or enrollees;

16 “(2) prohibit a provider from discussing with a  
17 participant, beneficiary, or enrollee fertility treat-  
18 ment relating to this section;

19 “(3) penalize or otherwise reduce or limit the  
20 reimbursement of a provider because such provider  
21 provided fertility treatment to a qualified partici-  
22 pant, beneficiary, or enrollee in accordance with this  
23 section; or

24 “(4) on the ground prohibited under title VI of  
25 the Civil Rights Act of 1964, title IX of the Edu-

1 cation Amendments of 1972, the Age Discrimination  
2 Act of 1975, section 504 of the Rehabilitation Act  
3 of 1973, or section 1557 of the Patient Protection  
4 and Affordable Care Act, exclude any individual  
5 from coverage in accordance with this section, or  
6 discriminate against any individual with respect to  
7 such coverage.

8 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
9 tion shall be construed to require a participant, bene-  
10 ficiary, or enrollee to undergo fertility treatment.

11 “(g) NOTICE.—A group health plan and a health in-  
12 surance issuer offering group or individual health insur-  
13 ance coverage shall provide notice to each participant, ben-  
14 eficiary, and enrollee under such plan or coverage regard-  
15 ing the coverage required by this section in accordance  
16 with regulations promulgated by the Secretary. Such no-  
17 tice shall be in writing and prominently positioned in any  
18 literature or correspondence made available or distributed  
19 by the plan or issuer and shall be transmitted—

20 “(1) not later than the earlier of—

21 “(A) in the first standard mailing made by  
22 the plan or issuer to the participant, bene-  
23 ficiary, or enrollee following the effective date of  
24 such regulations;

1           “(B) as part of any yearly informational  
 2           packet sent to the participant, beneficiary, or  
 3           enrollee; or

4           “(C) January 1, 2027;

5           “(2) in the case of a participant, beneficiary, or  
 6           enrollee not enrolled in the plan or coverage on the  
 7           date of transmission under paragraph (1), upon ini-  
 8           tial enrollment of such participant, beneficiary, or  
 9           enrollee; and

10          “(3) on an annual basis after the transmission  
 11          under paragraph (1) or (2).

12          “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—  
 13          Nothing in this section shall be construed to prevent a  
 14          group health plan or a health insurance issuer offering  
 15          group or individual health insurance coverage from negoti-  
 16          ating the level and type of reimbursement with a provider  
 17          for care provided in accordance with this section.”.

18          (2) ERISA.—

19                 (A) IN GENERAL.—Subpart B of part 7 of  
 20                 subtitle B of title I of the Employee Retirement  
 21                 Income Security Act of 1974 (29 U.S.C. 1185  
 22                 et seq.) is amended by adding at the end the  
 23                 following:

1   **“SEC. 726. STANDARDS RELATING TO BENEFITS FOR FER-**  
2                           **TILITY TREATMENT.**

3           “(a) IN GENERAL.—A group health plan or a health  
4 insurance issuer offering group health insurance coverage  
5 shall provide coverage for fertility treatment, if such plan  
6 or coverage provides coverage for obstetrical services.

7           “(b) DEFINITION.—In this section, the term ‘fertility  
8 treatment’ includes the following:

9                   “(1) Preservation of human oocytes, sperm, or  
10                  embryos.

11                  “(2) Artificial insemination, including  
12 intravaginal insemination, intracervical insemination,  
13 and intrauterine insemination.

14                  “(3) Assisted reproductive technology, including  
15 in vitro fertilization and other treatments or proce-  
16 dures in which reproductive genetic material, such as  
17 oocytes, sperm, and embryos, are handled, when  
18 clinically appropriate.

19                  “(4) Genetic testing of embryos.

20                  “(5) Medications prescribed or obtained over-  
21 the-counter, as indicated for fertility.

22                  “(6) Gamete donation.

23                  “(7) Such other information, referrals, treat-  
24 ments, procedures, medications, laboratory testing,  
25 technologies, and services relating to fertility as the

1 Secretary of Health and Human Services determines  
2 appropriate.

3 “(c) REQUIRED COVERAGE.—A group health plan  
4 and a health insurance issuer offering group health insur-  
5 ance coverage that includes coverage for obstetrical serv-  
6 ices shall provide coverage for fertility treatment deter-  
7 mined appropriate by the health care provider, regardless  
8 of whether the participant or beneficiary receiving such  
9 treatment has been diagnosed with infertility as defined  
10 by the American Society for Reproductive Medicine, if the  
11 treatment is performed at, or prescribed by, a medical fa-  
12 cility that is in compliance with relevant standards set by  
13 an appropriate Federal agency.

14 “(d) LIMITATION.—Cost-sharing, including  
15 deductibles and coinsurance, or other limitations for fer-  
16 tility treatment may not be imposed with respect to the  
17 services required to be covered under subsection (c) to the  
18 extent that such cost-sharing exceeds the cost-sharing ap-  
19 plied to other medical services under the group health plan  
20 or health insurance coverage or such other limitations are  
21 different from limitations imposed with respect to such  
22 medical services, except where such limitation is more fa-  
23 vorable with respect to fertility treatment. The Secretary  
24 shall promulgate interim final regulations to carry out this



1 subsection, notwithstanding the notice and comment re-  
 2 quirements of section 553 of title 5, United States Code.

3 “(e) PROHIBITIONS.—A group health plan and a  
 4 health insurance issuer offering group health insurance  
 5 coverage may not—

6 “(1) provide incentives (monetary or otherwise)  
 7 to a participant or beneficiary to encourage such  
 8 participant or beneficiary not to seek or obtain fer-  
 9 tility treatment to which such participant or bene-  
 10 ficiary is entitled under this section or to providers  
 11 to induce such providers not to provide medically ap-  
 12 propriate fertility treatments to participants or bene-  
 13 ficiaries;

14 “(2) prohibit a provider from discussing with a  
 15 participant or beneficiary fertility treatment relating  
 16 to this section;

17 “(3) penalize or otherwise reduce or limit the  
 18 reimbursement of a provider because such provider  
 19 provided fertility treatment to a qualified participant  
 20 or beneficiary in accordance with this section; or

21 “(4) on the ground prohibited under title VI of  
 22 the Civil Rights Act of 1964 (42 U.S.C. 2000d et  
 23 seq.), title IX of the Education Amendments of 1972  
 24 (20 U.S.C. 1681 et seq.), the Age Discrimination  
 25 Act of 1975 (42 U.S.C. 6101 et seq.), section 504

1 of the Rehabilitation Act of 1973 (29 U.S.C. 794),  
2 or section 1557 of the Patient Protection and Af-  
3 fordable Care Act (42 U.S.C. 18116), exclude any  
4 individual from coverage in accordance with this sec-  
5 tion, or discriminate against any individual with re-  
6 spect to such coverage.

7 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
8 tion shall be construed to require a participant or bene-  
9 ficiary to undergo fertility treatment.

10 “(g) NOTICE.—A group health plan and a health in-  
11 surance issuer offering group health insurance coverage  
12 shall provide notice to each participant and beneficiary  
13 under such plan or coverage regarding the coverage re-  
14 quired by this section in accordance with regulations pro-  
15 mulgated by the Secretary. Such notice shall be in writing  
16 and prominently positioned in any literature or cor-  
17 respondence made available or distributed by the plan or  
18 issuer and shall be transmitted—

19 “(1) not later than the earlier of—

20 “(A) in the first standard mailing made by  
21 the plan or issuer to the participant or bene-  
22 ficiary following the effective date of such regu-  
23 lations;

24 “(B) as part of any yearly informational  
25 packet sent to the participant or beneficiary; or

1 “(C) January 1, 2027;

2 “(2) in the case of a participant or beneficiary  
3 not enrolled in the plan or coverage on the date of  
4 transmission under paragraph (1), upon initial en-  
5 rollment of such participant or beneficiary; and

6 “(3) on an annual basis after the transmission  
7 under paragraph (1) or (2).

8 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—  
9 Nothing in this section shall be construed to prevent a  
10 group health plan or a health insurance issuer offering  
11 group health insurance coverage from negotiating the level  
12 and type of reimbursement with a provider for care pro-  
13 vided in accordance with this section.”.

14 (B) CLERICAL AMENDMENT.—The table of  
15 contents in section 1 of the Employee Retirement  
16 Income Security Act of 1974 (29 U.S.C.  
17 1001 et seq.) is amended by inserting after the  
18 item relating to section 725 the following new  
19 item:

“Sec. 726. Standards relating to benefits for fertility treatment.”.

20 (3) IRC.—

21 (A) IN GENERAL.—Subchapter B of chap-  
22 ter 100 of the Internal Revenue Code of 1986  
23 is amended by adding at the end the following:

1   **“SEC. 9826. STANDARDS RELATING TO BENEFITS FOR FER-**  
2                   **TILITY TREATMENT.**

3           “(a) IN GENERAL.—A group health plan shall pro-  
4   vide coverage for fertility treatment, if such plan provides  
5   coverage for obstetrical services.

6           “(b) DEFINITION.—In this section, the term ‘fertility  
7   treatment’ includes the following:

8                   “(1) Preservation of human oocytes, sperm, or  
9           embryos.

10                  “(2) Artificial insemination, including  
11       intravaginal insemination, intracervical insemination,  
12       and intrauterine insemination.

13                  “(3) Assisted reproductive technology, including  
14       in vitro fertilization and other treatments or proce-  
15       dures in which reproductive genetic material, such as  
16       oocytes, sperm, and embryos, are handled, when  
17       clinically appropriate.

18                  “(4) Genetic testing of embryos.

19                  “(5) Medications prescribed or obtained over-  
20       the-counter, as indicated for fertility.

21                  “(6) Gamete donation.

22                  “(7) Such other information, referrals, treat-  
23       ments, procedures, medications, laboratory testing,  
24       technologies, and services relating to fertility as the  
25       Secretary of Health and Human Services determines  
26       appropriate.

1       “(c) REQUIRED COVERAGE.—A group health plan  
 2 that includes coverage for obstetrical services shall provide  
 3 coverage for fertility treatment determined appropriate by  
 4 the health care provider, regardless of whether the partici-  
 5 pant or beneficiary receiving such treatment has been di-  
 6 agnosed with infertility as defined by the American Society  
 7 for Reproductive Medicine, if the treatment is performed  
 8 at, or prescribed by, a medical facility that is in compli-  
 9 ance with relevant standards set by an appropriate Fed-  
 10 eral agency.

11       “(d) LIMITATION.—Cost-sharing, including  
 12 deductibles and coinsurance, or other limitations for fer-  
 13 tility treatment may not be imposed with respect to the  
 14 services required to be covered under subsection (c) to the  
 15 extent that such cost-sharing exceeds the cost-sharing ap-  
 16 plied to other medical services under the group health plan  
 17 or health insurance coverage or such other limitations are  
 18 different from limitations imposed with respect to such  
 19 medical services, except where such limitation is more fa-  
 20 vorable with respect to fertility treatment. The Secretary  
 21 shall promulgate interim final regulations to carry out this  
 22 subsection, notwithstanding the notice and comment re-  
 23 quirements of section 553 of title 5, United States Code.

24       “(e) PROHIBITIONS.—A group health plan may not—

1           “(1) provide incentives (monetary or otherwise)  
2           to a participant or beneficiary to encourage such  
3           participant or beneficiary not to seek or obtain fer-  
4           tility treatment to which such participant or bene-  
5           ficiary is entitled under this section or to providers  
6           to induce such providers not to provide medically ap-  
7           propriate fertility treatments to participants or bene-  
8           ficiaries;

9           “(2) prohibit a provider from discussing with a  
10          participant or beneficiary fertility treatment relating  
11          to this section;

12          “(3) penalize or otherwise reduce or limit the  
13          reimbursement of a provider because such provider  
14          provided fertility treatment to a qualified participant  
15          or beneficiary in accordance with this section; or

16          “(4) on the ground prohibited under title VI of  
17          the Civil Rights Act of 1964 (42 U.S.C. 2000d et  
18          seq.), title IX of the Education Amendments of 1972  
19          (20 U.S.C. 1681 et seq.), the Age Discrimination  
20          Act of 1975 (42 U.S.C. 6101 et seq.), section 504  
21          of the Rehabilitation Act of 1973 (29 U.S.C. 794),  
22          or section 1557 of the Patient Protection and Af-  
23          fordable Care Act (42 U.S.C. 18116), exclude any  
24          individual from coverage in accordance with this sec-

1       tion, or discriminate against any individual with re-  
 2       spect to such coverage.

3       “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
 4       tion shall be construed to require a participant or bene-  
 5       ficiary to undergo fertility treatment.

6       “(g) NOTICE.—A group health plan shall provide no-  
 7       tice to each participant and beneficiary under such plan  
 8       regarding the coverage required by this section in accord-  
 9       ance with regulations promulgated by the Secretary. Such  
 10      notice shall be in writing and prominently positioned in  
 11      any literature or correspondence made available or distrib-  
 12      uted by the plan and shall be transmitted—

13               “(1) not later than the earlier of—

14                       “(A) in the first standard mailing made by  
 15                       the plan to the participant or beneficiary fol-  
 16                       lowing the effective date of such regulations;

17                       “(B) as part of any yearly informational  
 18                       packet sent to the participant or beneficiary; or

19                       “(C) January 1, 2027;

20               “(2) in the case of a participant or beneficiary  
 21       not enrolled in the plan on the date of transmission  
 22       under paragraph (1), upon initial enrollment of such  
 23       participant or beneficiary; and

24               “(3) on an annual basis after the transmission  
 25       under paragraph (1) or (2).

1       “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—  
 2 Nothing in this section shall be construed to prevent a  
 3 group health plan from negotiating the level and type of  
 4 reimbursement with a provider for care provided in ac-  
 5 cordance with this section.”.

6               (B) CLERICAL AMENDMENT.—The table of  
 7 sections for subchapter B of chapter 100 of the  
 8 Internal Revenue Code of 1986 is amended by  
 9 adding at the end the following new item:

“Sec. 9826. Standards relating to benefits for fertility treatment.”.

10       (b) CONFORMING AMENDMENTS.—

11           (1) PHSA.—Section 2724(c) of the Public  
 12 Health Service Act (42 U.S.C. 300gg-23(c)) is  
 13 amended by striking “section 2704” and inserting  
 14 “sections 2704 and 2799A-11”.

15           (2) ERISA.—Section 731(c) of the Employee  
 16 Retirement Income Security Act of 1974 (29 U.S.C.  
 17 1191(c)) is amended by striking “section 711” and  
 18 inserting “sections 711 and 726”.

19       (c) EFFECTIVE DATES.—

20           (1) IN GENERAL.—The amendments made by  
 21 subsections (a) and (b) shall apply for plan years be-  
 22 ginning on or after the date that is 6 months after  
 23 the date of enactment of this Act.

24           (2) COLLECTIVE BARGAINING EXCEPTION.—



1           (A) IN GENERAL.—In the case of a group  
2 health plan maintained pursuant to one or more  
3 collective bargaining agreements between em-  
4 ployee representatives and one or more employ-  
5 ers ratified before the date of enactment of this  
6 Act, the amendments made by subsection (a)  
7 shall not apply to plan years beginning before  
8 the later of—

9           (i) the date on which the last collec-  
10 tive bargaining agreements relating to the  
11 plan terminates (determined without re-  
12 gard to any extension thereof agreed to  
13 after the date of enactment of this Act), or

14           (ii) the date occurring 6 months after  
15 the date of the enactment of this Act.

16       (B) CLARIFICATION.—For purposes of  
17 subparagraph (A), any plan amendment made  
18 pursuant to a collective bargaining agreement  
19 relating to the plan which amends the plan sole-  
20 ly to conform to any requirement added by sub-  
21 section (a) shall not be treated as a termination  
22 of such collective bargaining agreement.

1 **SEC. 3. FEDERAL EMPLOYEES HEALTH BENEFITS PRO-**  
2 **GRAM.**

3 (a) IN GENERAL.—Section 8902 of title 5, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(q)(1) In this subsection, the term ‘fertility treat-  
7 ment’ has the meaning given the term in section 2799A–  
8 11(b) of the Public Health Service Act.

9 “(2) A contract under this chapter shall provide, in  
10 a manner consistent with section 2799A–11 of the Public  
11 Health Service Act, coverage for fertility treatment, if that  
12 contract covers obstetrical benefits.

13 “(3) Coverage for fertility treatment under a health  
14 benefits plan described in section 8903 or 8903a may not  
15 be subject to any copayment or deductible greater than  
16 the copayment or deductible, respectively, applicable to ob-  
17 stetrical benefits under the plan.

18 “(4) Subsection (m)(1) shall not, with respect to a  
19 contract under this chapter, prevent the inclusion of any  
20 terms that, under paragraph (2) of this subsection, are  
21 required by reason of section 2799A–11 of the Public  
22 Health Service Act.”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply with respect to—

25 (1) any contract entered into or renewed for a  
26 contract year beginning on or after the date that is

1 180 days after the date of enactment of this Act;  
 2 and

3 (2) any health benefits plan offered under a  
 4 contract described in paragraph (1).

5 **SEC. 4. BENEFITS FOR FERTILITY TREATMENT UNDER THE**  
 6 **TRICARE PROGRAM.**

7 (a) IN GENERAL.—Chapter 55 of title 10, United  
 8 States Code, is amended by adding at the end the fol-  
 9 lowing new section:

10 **“§ 1110c. Obstetrical and fertility benefits**

11 “(a) IN GENERAL.—Any health care plan under this  
 12 chapter shall provide, in a manner consistent with section  
 13 2799A–11 of the Public Health Service Act, coverage for  
 14 fertility treatment, if such plan covers obstetrical benefits.

15 “(b) COPAYMENT.—The Secretary of Defense shall  
 16 establish cost-sharing requirements for the coverage of fer-  
 17 tility treatment that are consistent with the cost-sharing  
 18 requirements applicable to health plans and health insur-  
 19 ance coverage under section 2799A–11(d) of the Public  
 20 Health Service Act.

21 “(c) REGULATIONS.—The Secretary of Defense shall  
 22 prescribe any regulations necessary to carry out this sec-  
 23 tion.

1 “(d) DEFINITIONS.—In this section, the term ‘fer-  
 2 tility treatment’ has the meaning given the term in section  
 3 2799A–11(b) of the Public Health Service Act.”.

4 (b) CLERICAL AMENDMENT.—The table of sections  
 5 at the beginning of chapter 55 of such title is amended  
 6 by adding at the end the following new item:

“1110e. Obstetrical and fertility benefits.”.

7 **SEC. 5. FERTILITY TREATMENT FOR VETERANS AND**  
 8 **SPOUSES OR PARTNERS OF VETERANS.**

9 (a) IN GENERAL.—Subchapter II of chapter 17 of  
 10 title 38, United States Code, is amended by adding at the  
 11 end the following new section:

12 **“§ 1720M. Fertility treatment for veterans and**  
 13 **spouses or partners of veterans**

14 “(a) IN GENERAL.—The Secretary shall furnish fer-  
 15 tility treatment services to a veteran or a spouse or part-  
 16 ner of a veteran if the veteran, and the spouse or partner  
 17 of the veteran, as applicable, apply jointly for such fertility  
 18 treatment through a process prescribed by the Secretary  
 19 for purposes of this section.

20 “(b) DEFINITIONS.—In this section, the term ‘fer-  
 21 tility treatment’ has the meaning given the term in section  
 22 2799A–11(b) of the Public Health Service Act.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
 24 at the beginning of chapter 17 of such title is amended

1 by inserting after the item relating to section 1720L the  
 2 following new item:

“1720M. Fertility treatment for veterans and spouses or partners of veterans.”.

3 (c) REGULATIONS.—Not later than 18 months after  
 4 the date of the enactment of this Act, the Secretary of  
 5 Veterans Affairs shall prescribe regulations to carry out  
 6 section 1720M of title 38, United States Code, as added  
 7 by subsection (a).

8 **SEC. 6. REQUIREMENT FOR STATE MEDICAID PLANS TO**  
 9 **PROVIDE MEDICAL ASSISTANCE FOR FER-**  
 10 **TILITY TREATMENT.**

11 (a) IN GENERAL.—Section 1905 of the Social Secu-  
 12 rity Act (42 U.S.C. 1396d) is amended—

13 (1) in subsection (a)(4)(C), by inserting  
 14 “(which shall include fertility treatment provided in  
 15 accordance with subsection (kk))” after “family  
 16 planning services and supplies”; and

17 (2) by adding at the end the following new sub-  
 18 section:

19 “(kk) REQUIREMENTS FOR COVERAGE OF FERTILITY  
 20 TREATMENT.—For purposes of subsection (a)(4)(C), a  
 21 State shall ensure that the medical assistance provided  
 22 under the State plan (or waiver of such plan) for fertility  
 23 treatment complies with the requirements of section  
 24 2799A–11(b) of the Public Health Service Act in the same  
 25 manner as such requirements and limitations apply to

1 health insurance coverage offered by a group health plan  
2 or health insurance issuer.”.

3 (b) TECHNICAL AMENDMENT.—Section 1903(a)(5)  
4 of the Social Security Act (42 U.S.C. 1396b(a)(5)) is  
5 amended by inserting “described in section  
6 1905(a)(4)(C)” after “family planning services and sup-  
7 plies”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), the amendments made by this section  
11 shall take effect on October 1, 2026.

12 (2) DELAY PERMITTED IF STATE LEGISLATION  
13 REQUIRED.—In the case of a State plan approved  
14 under title XIX of the Social Security Act which the  
15 Secretary of Health and Human Services determines  
16 requires State legislation (other than legislation ap-  
17 propriating funds) in order for the plan to meet the  
18 additional requirement imposed by this section, the  
19 State plan shall not be regarded as failing to comply  
20 with the requirements of such title solely on the  
21 basis of the failure of the plan to meet such addi-  
22 tional requirement before the first day of the first  
23 calendar quarter beginning after the close of the  
24 first regular session of the State legislature that  
25 ends after the 1-year period beginning with the date

1 of the enactment of this section. For purposes of the  
 2 preceding sentence, in the case of a State that has  
 3 a 2-year legislative session, each year of the session  
 4 is deemed to be a separate regular session of the  
 5 State legislature.

6 **SEC. 7. MEDICARE COVERAGE OF FERTILITY TREATMENT.**

7 (a) COVERAGE.—Section 1861(s)(2) of the Social Se-  
 8 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

9 (1) in subparagraph (JJ), by inserting “and”  
 10 after the semicolon at the end; and

11 (2) by adding at the end the following new sub-  
 12 paragraph:

13 “(KK) fertility treatment (as defined in section  
 14 2799A–11(b) of the Public Health Service Act);”.

15 (b) PAYMENT AND WAIVER OF COINSURANCE.—Sec-  
 16 tion 1833(a)(1) of the Social Security Act (42 U.S.C.  
 17 1395l(a)(1)) is amended—

18 (1) by striking “and” before “(HH)”; and

19 (2) by inserting before the semicolon at the end  
 20 the following: “, and (II) with respect to fertility  
 21 treatment (as described in section 1861(s)(2)(KK)),  
 22 the amount paid shall be equal to 100 percent of the  
 23 lesser of the actual charge for the treatment or the  
 24 amount determined under the payment basis deter-  
 25 mined under section 1848”.

1 (c) WAIVER OF APPLICATION OF DEDUCTIBLE.—The  
 2 first sentence of section 1833(b) of the Social Security Act  
 3 (42 U.S.C. 1395l(b)) is amended—

4 (1) by striking “, and (13)” and inserting  
 5 “(13)”; and

6 (2) by striking “1861(n).” and inserting  
 7 “1861(n), and (14) such deductible shall not apply  
 8 with respect to fertility treatment (as described in  
 9 section 1861(s)(2)(KK)).”.

10 (d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—  
 11 Section 1848(j)(3) of the Social Security Act (42 U.S.C.  
 12 1395w-4(j)(3)) is amended by inserting “(2)(KK),” after  
 13 “risk assessment),”.

14 (e) CONFORMING AMENDMENT REGARDING COV-  
 15 ERAGE.—Section 1862(a)(1)(A) of the Social Security Act  
 16 (42 U.S.C. 1395y(a)(1)(A)) is amended—

17 (1) by striking “or additional” and inserting “,  
 18 additional”; and

19 (2) by inserting “, or fertility treatment (as de-  
 20 scribed in section 1861(s)(2)(KK))” after  
 21 “1861(ddd)(1))”.

22 (f) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to services furnished on or after  
 24 January 1, 2026.

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