

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 22-0621.01 Brita Darling x2241

HOUSE BILL 22-1008

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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.*

SENATE
2nd Reading Unamended
March 25, 2022

HOUSE
3rd Reading Unamended
February 15, 2022

HOUSE
Amended 2nd Reading
February 14, 2022

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~~ THIS SUBSECTION (23) APPLIES TO, AND
14 THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION

15 (23) FOR, LARGE EMPLOYER HEALTH BENEFIT PLANS ISSUED OR RENEWED
16 IN THIS STATE ON OR AFTER JANUARY 1, 2023.

17 (II) This subsection (23) applies to, AND THE DIVISION SHALL

1 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (23) FOR,
2 INDIVIDUAL AND SMALL GROUP health benefit plans issued or renewed in
3 this state that are subject to this subsection (23), and the division shall
4 implement the requirements of this subsection (23), if:

5 (A) ~~The division receives confirmation from~~ TWELVE MONTHS
6 AFTER the federal department of health and human services DETERMINES
7 that the coverage specified in this subsection (23) does not constitute an
8 additional benefit that requires defrayal by the state pursuant to 42 U.S.C.
9 sec. 18031 (d)(3)(B). ~~or~~

10 (B) ~~More than three hundred sixty-five days have passed since the~~
11 ~~division submitted its determination and request for confirmation that the~~
12 ~~coverage specified in this subsection (23) is not an additional benefit that~~
13 ~~requires state defrayal pursuant to 42 U.S.C. sec. 18031 (d)(3)(B), and the~~
14 ~~federal department of health and human services has failed to respond to~~
15 ~~the request within that period, in which case the division shall consider~~
16 ~~the federal department's unreasonable delay a preclusion from requiring~~
17 ~~defrayal by the state.~~ ■

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