The Policymaker's Guide to Fertility Health Benefits
Research-Based Data for Informed Decisions
I can honestly say with 100% certainty that our son Jake would have never been conceived if my employer had not offered us a health insurance plan that included IVF coverage.

Rob Walden
Resident of Mesa, Arizona
Infertility: The Facts
A Silent Problem that You Can Help Address

HOW MANY PEOPLE ARE AFFECTED BY INFERTILITY?

1 in 6 couples in the U.S. are affected by infertility.

WHAT IS INFERTILITY?

Infertility is a disease of the reproductive system, resulting in not being able to conceive after one year of trying (or six months if a woman is 35 or older). Women who can get pregnant but are unable to stay pregnant are also infertile.

WHAT CAUSES INFERTILITY?

Factors that increase risks of infertility can include other medical conditions or exposures (Endometriosis, Polycystic Ovarian Syndrome, Varicocele, Ectopic Pregnancy, Placental Abruption, trauma, chemotherapy, etc.), unhealthy habits (smoking, excessive alcohol use, obesity, etc.), social factors (family building at an older age), environmental toxins (pesticides, lead, PBA, PFCs, etc.), and 20% of infertility is caused by unknown or combined issues.

WHO IS AFFECTED BY INFERTILITY?

Both men and women experience infertility equally. Fertility decreases in women and men with age.

HOW IS INFERTILITY TREATED?

3% of infertility cases require Assisted Reproductive Technology (ART), such as in vitro fertilization (IVF). 97% of infertility cases are treated with conventional drug therapy or surgical procedures.

In 1998, the U.S. Supreme Court stated that reproduction is a “major life activity,” and “conditions that interfere with reproduction should be regarded as disabilities,” as per the Americans with Disabilities Act of 1991.
**INFERTILITY STATS IN THE U.S.**

- **57 Million Women (age 18-44)**
  - **Require fertility service:** 15%
  - **Require basic medical advice or diagnostic tests:** 64%
  - **Receive additional treatment:** 36%
  - **Less than 3% of infertility cases require in vitro fertilization (IVF)**

---

**FERTILITY PRESERVATION**

Cryopreservation of oocytes (eggs) and sperm are considered standard medical care to patients facing chemotherapy or other gonadotoxic therapies, women undergoing ovarian surgery that may compromise her future fertility, as well as those who may object to freezing embryos. It is appropriate for individuals who have gone through puberty.

**WHAT LEGAL PROTECTIONS DO INFERTILITY PATIENTS HAVE?**

U.S. and district courts have ruled individuals with infertility can have accommodations and protections under The Americans with Disabilities Act and The Family Medical Leave Act.

**United States Supreme Court**

*Bragdon v. Abbott, 1998*

In 1998, the Supreme Court of the United States ruled, in Bragdon v. Abbott, that infertility was considered a “major life activity” and could be included within The Americans with Disabilities Act.

**District Courts**

*LaPorta v. Wal-Mart, 2001*

District court case LaPorta v. Wal-Mart, found infertility could constitute a disability under the The Americans with Disabilities Act and employee’s requesting a day off, for infertility service, even with short notice, would be considered a reasonable accommodation.

*Culpeper v. BlueCross BlueShield of Tennessee, 2013*

In Culpeper v. BlueCross BlueShield of Tennessee, the district court found an employee could demonstrate that his or her own infertility, or that of his or her spouse, constitutes a serious health condition under the The Family Medical Leave Act and thus has protection.
Impacts of Infertility Benefits
Societal & Health

SOCIETAL
Achieving family-building goals increases morale and satisfaction. With treatment, patients can avoid the common experience of depression and anxiety. We also know employers offering benefits increase their competitiveness and have happier, healthier, more loyal employees. With optimal health, we have a stronger, more functional society.

HEALTH
With insurance benefits, patients make health care decisions based on appropriate medical advice, not financial concerns, and transfer fewer embryos. Fewer high-risk pregnancies, preterm births, and use of neonatal intensive care units (NICU) result from fewer embryos transferred. Insurance benefits increase access of timely and appropriate health care which provides cost savings. The U.S. Centers for Disease Control and Prevention says the use of single embryo transfers can significantly reduce the risk of high-risk pregnancies and multiple births.

WHAT DO NATIONAL INSURERS SAY?
Insurers such as Aetna and Optum support evidence-based infertility treatment utilizing Elective Single Embryo Transfers (eSET). The incentive of IVF with eSET or rapid progression to IVF with eSET is predicted to be the most cost effective strategy for patients, employers and insurers.

HEALTHCARE COSTS
Associated with Multiple vs Singleton Pregnancies

<table>
<thead>
<tr>
<th>Pregnancy Type</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singleton</td>
<td>$21,458</td>
</tr>
<tr>
<td>Twin</td>
<td>$104,831</td>
</tr>
<tr>
<td>Triplet</td>
<td>$407,199</td>
</tr>
</tbody>
</table>

6,7

8

9
# Including Infertility Benefits vs No Fertility Health Benefits

<table>
<thead>
<tr>
<th>Without Benefits</th>
<th>With Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mental Health</strong></td>
<td>Achieving family-building goals increases morale and satisfaction</td>
</tr>
<tr>
<td>Depression/anxiety associated with untreated infertility[^9]</td>
<td></td>
</tr>
<tr>
<td><strong>Health Insurance Use &amp; Premiums</strong></td>
<td>Financial flexibility to contribute to economy, establish 401Ks, retirement, etc.</td>
</tr>
<tr>
<td>Individuals save only for medical expenses</td>
<td></td>
</tr>
<tr>
<td><strong>Family Relationships</strong></td>
<td>Supportive relationships</td>
</tr>
<tr>
<td>Stress on relationships with spouse, family and friends</td>
<td></td>
</tr>
<tr>
<td><strong>High Risk Pregnancies</strong></td>
<td>Timely and appropriate health care optimizes health and cost outcomes</td>
</tr>
<tr>
<td>Increased risk of complicated pregnancy and outcomes</td>
<td></td>
</tr>
<tr>
<td><strong>Long Term Care of Premature Babies</strong></td>
<td>Premature related costs are dramatically reduced</td>
</tr>
<tr>
<td>Costs related to disabilities, occupational &amp; physical therapies, surgeries, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Making Medical Decisions</strong></td>
<td>Patients’ health care decisions are based on appropriate medical advice, not financial concerns, and transfer fewer embryos[^12]</td>
</tr>
<tr>
<td>Patients transfer more embryos, which can result in multiple births[^11]</td>
<td></td>
</tr>
</tbody>
</table>
Support for Offering Benefits
Misconceptions & Truths

**MISCONCEPTION**
Infertility treatments are excessive. People can have a family if they just relaxed or adopted a child.

**TRUTH**
Timely and appropriate health care is offered to optimize the use of recommended treatment and increase the number of safe pregnancies and healthy babies.

*There is no scientific evidence to support “relaxation” as a reliable treatment to overcome the disease of infertility.*

*Adoption is not a reliable option for all. Private adoption can be extremely expensive; unaffordable to most couples and the goal of foster care is to reunite children with their biological family.*

**MISCONCEPTION**
Insurers are opposed to covering fertility treatments such as IVF, due to cost.

**TRUTH**
“When plan sponsors do choose to cover infertility services, we are proud to support members with access to industry-leading programs and services that follow the best available medical evidence and practices. All clinics in Aetna’s Institutes of Excellence network for infertility services offer Elective Single Embryo Transfer (eSET). Research shows that transferring one embryo at a time results in dramatically lower rates of twins and multiple babies.”

James D. Cross, M.D., Vice President of National Medical Policy and Operations, Aetna

“Multiples are more likely to require long stays in the neonatal intensive care unit (NICU), which increases costs. It’s important for employers and health plans to connect the dots between the cost of the infertility benefit and the significant savings on the maternity and neonatal side.”

Alex Dlugi, National Medical Director, Infertility, Optum

**MISCONCEPTION**
Infertility benefits are not affordable for businesses with fiscally tight budgets.

**TRUTH**
The amount of benefits offered can work within an employer’s budget. A case study with Southwest Airlines, who offered a substantial benefit plan, revealed less than 1% of the workforce utilized benefits, and the costs relating to medical and drug treatments for infertility represented less than 0.5% of total health-care spending.”
WHAT ARE MANDATES?
State laws, or mandates, increase access to reproductive therapies and services by reducing the financial burden to patients seeking treatment.

TYPES OF INFERTILITY MANDATES

**MANDATE TO OFFER**
Insurers are required to offer infertility benefits to employers, but employers may choose whether to add the benefit to the plan.

**MANDATE TO COVER**
Insurers and employers are required to provide infertility health benefits.

**FEDERAL LAWS AND STATE MANDATES**
Employee Retirement Income Security Act (ERISA) states self-insured companies and small businesses are exempt from state mandates. Employers can still provide benefits, and many do, because they see the value and affordability of fertility benefits for their employees.

HOW DOES THE AFFORDABLE CARE ACT IMPACT MANDATES?
Each state has an opportunity to interpret the Essential Health Benefits and determine if they believe infertility health care should be provided within their benchmark plans.
Support for Offering Benefits
State Level Support

HOW STATES CAN OFFER SUPPORT
States that have reviewed evidence from fiscal and medical research, as well as the testimony of insurers, employers and constituents, often conclude that they can save costs and promote greater health and wellness for their citizens by supporting legislation for insurance benefits for Assisted Reproductive Technology for the treatment of infertility.

MISCONCEPTION
New mandates will raise insurance premium costs so it’s not worth adding infertility benefits.

TRUTH
Any service or treatment provided is bound to make an impact on costs; the effect of infertility coverage on the premium cost, as a whole is very insignificant.

- Comprehensive mandate reviews from Massachusetts, Connecticut and Rhode Island show that the increase is less than 1% of the total premium cost.\textsuperscript{17, 18, 19}

- States will not assume the cost of new mandates if the mandate is created to meet the Affordable Care Act’s Essential Health Benefits (EHB). The Affordable Care Act requires non-grandfathered health plans in the individual and small group markets to cover EHB, which include items and services in ten benefit categories. Some interpret infertility benefits as a way to meet (6) prescription drugs and (9) preventive and wellness services and chronic disease management.\textsuperscript{20}

COMPARISON OF THREE STATES WITH MANDATED INFERTILITY BENEFITS

**Massachusetts**  (Established in 1987)
- **Benefit:** Mandate to cover; most comprehensive coverage; not required to cover experimental procedures or surrogacy.
- **Cost Impact:** <1% total premium cost (0.95-0.23%)

**Connecticut**  (Established in 1989)
- **Benefit:** Mandate to cover; lifetime coverage max of 2 IVF cycles.
- **Cost Impact:** <1% total premium cost (0.9%)

**Rhode Island**  (Established in 1989)
- **Benefit:** Mandate to cover diagnosis and treatment of infertility; definition only considers married individuals; co-payment cannot exceed 20%.
- **Cost Impact:** <1% total premium cost (0.36%)
Support for Offering Benefits
Real World Sample Benefit Plans

### SAMPLE COMPREHENSIVE EMPLOYEE BENEFIT PLANS

<table>
<thead>
<tr>
<th>VERIZON COMMUNICATIONS INC.</th>
<th>MASSACHUSETTS GENERAL HOSPITAL</th>
<th>EXCEPTIONAL SOFTWARE STRATEGIES, INC.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-mandated</td>
<td>Self-insured</td>
<td>Mandated to cover</td>
</tr>
<tr>
<td><strong>U.S. Headquarters:</strong> New York, NY</td>
<td><strong>U.S. Headquarters:</strong> Boston, MA</td>
<td><strong>U.S. Headquarters:</strong> Linthicum, MD</td>
</tr>
<tr>
<td><strong>Industry:</strong> Telecommunications</td>
<td><strong>Industry:</strong> Healthcare</td>
<td><strong>Industry:</strong> Information Technology</td>
</tr>
<tr>
<td><strong>U.S. Employees:</strong> 234,971</td>
<td><strong>U.S. Employees:</strong> 20,000</td>
<td><strong>U.S. Employees:</strong> 110</td>
</tr>
<tr>
<td><strong>Fertility Benefits:</strong> $15,000 lifetime cap for treatment, plus unlimited prescription fertility drugs</td>
<td><strong>Fertility Benefits:</strong> No limit on the number of IVF cycles, plus unlimited prescription fertility drugs for approved cycles</td>
<td><strong>Fertility Benefits:</strong> $100,000 for treatments: 3 IUI and 3 IVF cycles max. per live birth (treatment cycles available to reset after each live birth)</td>
</tr>
</tbody>
</table>
What Can I Do?
Summary of what legislators, insurers and employers can do

As Eldridge Cleaver once said, “You’re either part of the solution or you’re part of the problem.”

All policymakers (legislators, insurers, and employers) make health care related decisions based on facts and information available to them. The Policymaker’s Guide for Fertility Health Benefits serves as a tool to communicate the benefits of fertility health benefits and point out the dangers and high costs associated with a lack of insurance coverage.

Without fertility benefits, our outcome costs are higher and health is at greater risk.

Here’s how you can make a difference

✅ Accept
Realize fertility benefits provide access to affordable health care to optimize safe medical care and outcomes.

✅ Adapt
Change policies to create a win/win environment for individuals/employers/insurers.

✅ Act
Implement fertility benefits to better the lives of the individuals you serve and directly reduce health disparity within the United States.
What Can Legislators Do?

UNDERSTAND HOW INFERTILITY IMPACTS CONSTITUENTS
Be aware of your constituents’ needs, and consider their stories when you make healthcare policy decisions.

GAIN INFORMATION FROM EXPERTS
When relying on resources to understand fertility treatment, defer to specialists in the field of Reproductive Endocrinology to learn more about definitions, causes, procedures, and outcomes.

BECOME A CHAMPION FOR THE CAUSE
Protect and defend the rights of infertile patients by standing against bills that go against the practice or funding of fertility treatment.

PROTECT YOUR CONSTITUENTS
Protect the rights of patients seeking insurance coverage for fertility treatment, regardless of race, sex, income, etc.

BACK EXISTING OR NEW BILLS THAT SUPPORT COVERAGE
Share this knowledge with other legislators who can help sponsor or support these bills.

LEGISLATOR TESTIMONIAL
"Providing insurance coverage for fertility is the right thing to do for those affected, because ensuring access to timely and appropriate treatment is vital to preserving reproductive health for both women and men. As a former legislator, I am proud to have supported legislation which promoted patient health and helped people start and expand families."

Sheriff Peter J. Koutoujian
Former Massachusetts State Legislator
What Can Insurers Do?

RECOGNIZE THE AFFORDABILITY OF COVERAGE
Recognize the affordability and value of including fertility benefits in insurance plans and support their inclusion.

SHARE COSTS
Share data with employers and legislators regarding fiscal impacts in your state (i.e. premium costs).

OFFER THE BENEFIT
Offer the benefit in small-business health policies that can be purchased by employers.

CREATE A RIDER POLICY
Develop a rider policy specifically for fertility benefits that individuals can purchase individually.

DEVELOP PLANS FOLLOWING MEDICAL GUIDELINES
By developing plans which follow medical guidelines, you are providing timely and appropriate health care which will minimize the usage of Assisted Reproductive Technologies, such as IVF.

CONTROL COSTS WHILE OPTIMIZING HEALTH OUTCOMES
Providing benefits can reduce costs related to high-risk pregnancy, premature birth, and other related expenses.

INSURER TESTIMONIAL

“This approach (IVF with eSET) strikes the right balance between success and safety, giving women the opportunity to have a family while also reducing the risk of carrying multiple babies, which brings greater health risks for both mother and her babies.”

Joanne Armstrong, M.D.
Ob-Gyn, Senior Medical Director and Head of Women’s Health at Aetna
What Can Employers Do?

UNDERSTANDING YOUR EMPLOYEES’ RIGHTS

U.S. and district courts have ruled infertility patients are entitled to protections under The Americans with Disabilities Act and The Family Medical Leave Act. Employees able to demonstrate a medical need to take time off to treat their infertility, or that of his or her spouse, have the right to such accommodations.

OFFER FERTILITY BENEFITS TO BECOME AN EVEN STRONGER COMPANY

You are able to stay competitive in recruitment efforts, while supporting your employees, as they become parents.

PROVIDE COVERAGE TO SHOW YOU CARE ABOUT YOUR EMPLOYEES HAPPINESS AND WELLBEING

This can help improve your employees work ethic and secure their loyalty.

ADD INFERTILITY BENEFITS TO YOUR EXISTING POLICY

If you use a broker firm to select health plans, call them and inquire what options you can provide during the next open enrollment. If the plans with infertility and IVF benefits have a high cost, you can ask the broker to find other options.

ARRANGE FOR OPTIONS

To balance competitive benefits with affordable options, arrange for more than one health plan to be offered to your employees. One plan could contain coverage for infertility, including IVF and medication benefits, and another plan could cover basic infertility, without IVF benefits.

EMPLOYER TESTIMONIAL

“We continuously look for opportunities to support our employees at the different stages of their lives and provide innovative benefits that meet the needs of all of our employees throughout their careers. We are expanding our fertility benefits from $10,000 to $40,000 with an additional $20,000 for prescription coverage. We are also removing a medical diagnosis requirement.”

Ogden M. Reid
Vice President in Human Resources and Director of Strategy, Communications and Rewards at Intel Corporation
Acknowledgements
Wisdom from Industry Leaders

Content within this guide is research based. This tool provides credible information by utilizing the
knowledge and guidance of medical doctors, attorneys, health communication professionals, as well as
testimony from policymakers and patients. We are grateful for the contribution of these industry leaders.

SUSAN CROCKIN, ESQ.
The Crockin Law & Policy Group, LLC, Newton, MA

AMY DEMMA, ESQ.
Law Offices of Amy Demma, New York, NY

PAUL TUREK, M.D.
The Turek Clinic, San Francisco & Los Angeles, CA

SERENA CHEN, M.D.
IRMS at Saint Barnabas, Jersey City, NJ

MARK HORNSTEIN, M.D.
Brigham & Women’s Hospital, Boston, MA

EMERSON COLLEGE’S GRADUATE PROGRAM IN HEALTH COMMUNICATIONS
Boston, MA

Funding for the production of The Policymaker’s Guide to Fertility Health Benefits provided by
Ferring Pharmaceuticals.

“...It’s important for employers and health plans to connect the dots between the cost of the infertility benefit and the significant savings on the maternity and neonatal side.”

Alex Dlugi
National Medical Director, Infertility, Optum
References


Fertility Within Reach encourages any person seeking additional information regarding legal protection related to family building to speak with an attorney expert in the field of Assisted Reproductive Technology law to determine how the courts in your state are applying these rulings.
“When my husband and I think of moving, for our careers, we now include state mandated benefits in one of our determinants. We would not have our son had it not been for Illinois’ state mandated benefits.”

REGINA TOWNSEND
Resident of Oak Park, Illinois
About

Fertility Within Reach® is a 501(c)(3) educational resource providing information for the purpose of ensuring patients receive timely and appropriate health care to treat their infertility, optimizing the chances of safe pregnancies and bringing home healthy babies.