# Family Planning: Infertility Services

**Policy Number**: BIP067.O
**Effective Date**: July 1, 2023

Instructions for Use

**Table of Contents** **Page**



**Related Policies**

None

## Federal/State Mandated Regulations

**Note**: The most current federal/state mandated regulations for each state can be found in the links below.

### California Health & Safety Code § 1374.55 Coverage of Treatment for Infertility

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1374.55&lawCode=HSC

a) On and after January 1, 1990, every health care service plan contract which is issued, amended, or renewed that covers hospital, medical, or surgical expenses on a group basis, where the plan is not a health maintenance organization as defined in Section 1373.10, shall offer coverage for the treatment of infertility, except in vitro fertilization, under those terms and conditions as may be agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of that coverage to all group contract holders and to all prospective group contract holders with whom they are negotiating.

b) For purposes of this section, "infertility" means either (1) the presence of a demonstrated condition recognized by a licensed physician and surgeon as a cause of infertility, or (2) the inability to conceive a pregnancy or to carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception. "Treatment for infertility" means procedures consistent with established medical practices in the treatment of infertility by licensed physicians and surgeons including, but not limited to, diagnosis, diagnostic tests, medication, surgery, and gamete intrafallopian transfer. "In vitro fertilization" means the laboratory medical procedures involving the actual in vitro fertilization process.

c) On and after January 1, 1990, every health care service plan which is a health maintenance organization, as defined in Section 1373.10, and that issues, renews, or amends a health care service plan contract that provides group coverage for hospital, medical, or surgical expenses shall offer the coverage specified in subdivision (a), according to the terms and conditions that may be agreed upon between the group subscriber and the plan to group contract holders with at least 20 employees to whom the plan is offered. The plan shall communicate the availability of the coverage to those group contract holders and prospective group contract holders with whom the plan is negotiating.

d) This section shall not be construed to deny or restrict in any way any existing right or benefit to coverage and treatment of infertility under an existing law, plan or policy.

e) This section shall not be construed to require any employer that is a religious organization to offer coverage for forms of treatment of infertility in a manner inconsistent with the religious organization's religious and ethical principles.

f) (1) This section shall not be construed to require any plan, which is a subsidiary of an entity whose owner or corporate member is a religious organization, to offer coverage for treatment of infertility in a manner inconsistent with that religious organization's religious and ethical principles.

(2) For purposes of this subdivision, "subsidiary" of a specified corporation means a corporation more than 45 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

g) Consistent with Section 1365.5, coverage for the treatment of infertility shall be offered and, if purchased, provided without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation. Nothing in this subdivision shall be construed to interfere with the clinical judgment of a physician and surgeon.

### *Section 1374.551*

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1374.551&lawCode=HSC

(a) When a covered treatment may directly or indirectly cause iatrogenic infertility, standard fertility preservation services are a basic health care service, as defined in subdivision (b) of Section 1345, and are not within the scope of coverage for the treatment of infertility for the purposes of Section 1374.55.

(b) For purposes of this section, the following definitions apply:
  (1) "Iatrogenic infertility" means infertility caused directly or indirectly by surgery, chemotherapy, radiation, or other medical treatment.
  (2) "May directly or indirectly cause" means medical treatment with a possible side effect of infertility, as established by the American Society of Clinical Oncology or the American Society for Reproductive Medicine.
  (3) "Standard fertility preservation services" means procedures consistent with the established medical practices and professional guidelines published by the American Society of Clinical Oncology or the American Society for Reproductive Medicine.

(c) This section does not apply to Medi-Cal managed care health care service plan contracts or any entity that enters into a contract with the State Department of Health Care Services for the delivery of health care services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), Chapter 8.75 (commencing with Section 14591), or Chapter 8.9 (commencing with Section 14700) of Part 3 of Division 9 of the Welfare and Institutions Code.

### *Section 2*

The addition of Section 1374.551 to the Health and Safety Code by this act does not constitute a change in, but is declaratory of, existing law.

## State Market Plan Enhancements

Coverage for Infertility Services is only available if purchased by the Subscriber's Employer Group as a supplemental benefit. If the Member's Health Plan includes an Infertility Services supplemental benefit, a supplement to the Combined Evidence of Coverage and Disclosure Form will be provided to the Member.

## Covered Benefits

**Important Note**: Covered benefits are listed in *Federal/State Mandated Regulations*, *State Market Plan Enhancements*, and *Covered Benefits* sections. Always refer to the *Federal/State Mandated Regulations* and *State Market Plan Enhancements* sections for additional covered services/benefits not listed in this section.

### California Small and Large Groups

- Refer to the Schedule of Benefits for coverage, if any. Coverage for Infertility Services is only available if purchased by the Subscriber's Employer Group as a supplemental benefit. If the Member's Health Plan includes an Infertility Services supplemental benefit, a supplement to the Combined Evidence of Coverage and Disclosure Form will be provided to the Member.
- **Fertility Preservation for Iatrogenic Infertility**:
  - Benefits are available for fertility preservation for medical reasons that cause irreversible infertility such as chemotherapy, radiation treatment, and bilateral oophorectomy due to cancer. Services include the following procedures, when provided by or under the care or supervision of a physician:
    - Collection of sperm.
    - Cryo-preservation of sperm.
    - Ovarian stimulation, retrieval of eggs and fertilization.
    - Oocyte cryo-preservation.
    - Embryo cryo-preservation.

- Benefits for medications related to the treatment of fertility preservation are provided as described under the Outpatient Prescription Drug Supplement or under Pharmaceutical Products. Benefits are not available for embryo transfer. Benefits are not available for long-term storage costs (greater than one year).

## Not Covered

- Cryopreservation of the fertilized embryos, unless for iatrogenic fertility preservation
- Donor eggs
- Donor sperm
- Host uterus
- Oocyte preservation
- Ovum transplants
- Ovum or ovum bank charges
- Sperm or sperm bank charges
- Medical or Hospital Services incurred by surrogate mothers who are not UnitedHealthcare -Members.
- **California Small Group**: If your employer purchased a plan with infertility, insemination procedures in excess of six , when a viable infant has not been born as a result of infertility treatments(s) or unless the Member conceives, Gamete Intrafallopian Transfer (GIFT) services in excess of three cycles or one live birth per Member's lifetime are not covered. In Vitro Fertilization (IVF) and Zygote Intrafallopian Transfer (ZIFT),as well as procedures performed in conjunction with IVF and ZIFT are not covered.
- Medical and Hospital Infertility Services for a Member whose fertility is impaired due to an elective sterilization, including surgery, medications and supplies.
- Reversal of sterilization procedures.

## Definitions

**Iatrogenic Infertility**: An impairment of fertility by surgery, radiation, chemotherapy, or other medical treatment affecting reproductive organs or processes.

**Infertility:** Either:
- The inability to conceive a pregnancy or to carry a pregnancy to a live birth after a year or more of regular opposite sex/heterosexual relations without contraception; or
- The presence of a demonstrated condition recognized by a licensed physician who is a network provider as a cause of Infertility; or
- A same sex partner may be considered infertile.

## Policy History/Revision Information

| Date | Summary of Changes |
|---|---|
| 07/01/2023 | **Federal/State Mandated Regulations**<br>• Removed language pertaining to *Senate Bill No. 600 Chapter 853*<br>**Supporting Information**<br>• Archived previous policy version BIP067.N |

## Instructions for Use

Covered benefits are listed in three (3) sections: *Federal/State Mandated Regulations*, *State Market Plan Enhancements*, and *Covered Benefits*. All services must be medically necessary. Each benefit plan contains its own specific provisions for coverage, limitations, and exclusions as stated in the member's Evidence of Coverage (EOC)/Schedule of Benefits (SOB). If there is a discrepancy between this policy and the member's EOC/SOB, the member's EOC/SOB provision will govern.