

## COVERAGE FOR INFERTILITY TREATMENT

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### House Bill 5159

**Sponsor: Rep. Richard Hammel**

### House Bill 5160

**Sponsor: Rep. Fred Miller**

**Committee: Judiciary**

**Complete to 9-8-09**

## A SUMMARY OF HOUSE BILLS 5159 AND 5160 AS INTRODUCED 6-25-09

The bills would, generally speaking, require health insurance policies that provide pregnancy coverage to include coverage for infertility treatment. The bills would take effect January 1, 2010.

House Bill 5159 would amend the Insurance Code to apply to commercial health insurance policies and health maintenance organization (HMO) contracts. (MCL 500.3406s)

House Bill 5160 would amend the Nonprofit Health Care Corporation Reform Act, which regulates Blue Cross and Blue Shield of Michigan, to apply to BCBSM certificates. (MCL 550.1416e)

The bills specify that infertility coverage could not be subject to any dollar limit, copayment, deductible, or coinsurance provision that does not apply to pregnancy coverage generally.

## FISCAL IMPACT:

The bills would have no significant impact on the Department of Energy, Labor, and Economic Growth - Office of Financial and Insurance Regulation in administering the insurance mandates as set forth in the legislation. Beyond that, however, the bills would have some cost implications (new costs and potential cost savings), which are indeterminate at this time, on the state, local units of government, and private entities to the extent health insurance plans do not currently provide coverage for infertility treatments.<sup>1</sup> The State Health Plan (PPO) currently does not cover infertility treatments.<sup>2</sup> At present, 14 states have mandated insurance coverage for infertility treatments.<sup>3</sup>

<sup>1</sup> The bills would not impact larger employers that are self-insured and generally exempt from state regulation under the federal Employee Retirement Income Security Act (ERISA),

<sup>2</sup> See, [[http://www.michigan.gov/documents/Employees\\_Book\\_58654\\_7.pdf](http://www.michigan.gov/documents/Employees_Book_58654_7.pdf)].

<sup>3</sup> *State Laws Related to Insurance Coverage for Infertility Treatment*, National Conference of State Legislatures, [<http://www.ncsl.org/IssuesResearch/Health/InsuranceCoverageforInfertilityLaws/tabid/14391/Default.aspx>]. On this topic generally, the Congressional Budget Office notes, "[b]enefit mandates ensure that enrollees who may need

The Council for Affordable Health Insurance notes that mandated coverage for in vitro fertilization increases the cost of health insurance by 3% to 5%, while coverage for other fertility treatments increases health insurance costs by less than 1%.<sup>4</sup> On the other hand, in a 2006 study by Mercer Health and Benefits, LLC, completed for RESOLVE - The National Infertility Association, notes that of employers that currently provide coverage for infertility treatments, 91% responding to a survey reported that "they have not experienced a measurable increase in their medical costs as a result of providing this coverage."<sup>5</sup> Additionally, a number of states have reviewed the potential cost implications of an infertility treatment insurance mandate under its mandated benefits review law.<sup>6</sup>

In an October 2008 study on a proposed infertility treatment coverage mandate, the Virginia Joint Legislative Audit and Review Committee (JLARC) noted that, based on a Bureau of Insurance survey of insurers, the median estimated per-member monthly premium impact on expanding coverage for group plans was \$17.17, with responses ranging from \$1.00 per month to \$59.60 per month.<sup>7</sup> The study further notes, "[t]he proposed mandate is expected to result in increased administrative costs for insurance companies as a result of having to establish provider networks and negotiate reimbursement rates with providers that they potentially do not have in their network." The Virginia Special Advisory Commission on Mandated Health Insurance Benefits reported similar results in its study of the proposed infertility treatment mandate.<sup>8</sup>

In a July 2008 report, the Massachusetts Executive Office of Health and Human Services, Division of Health Care Finance and Policy, reported that the state's mandated coverage

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those services will have coverage for them, but they also tend to raise insurance premiums in order to cover the added costs of the services. The extent of the premium increase resulting from a mandate would depend not only on the costs of the services involved and the likelihood they would be used by enrollees but also on whether health insurance policies would have covered those services in the absence of a mandate." See, *Key Issues in Analyzing Major Health Insurance Proposals*, Congressional Budget Office, December 2008, [<http://www.cbo.gov/ftpdocs/99xx/doc9924/12-18-KeyIssues.pdf>].

<sup>4</sup> Victoria Craig Bunch, JP Wieske, Vlasta Prikazsky, *Health Insurance Mandates in the State 2009*, Council for Affordable Health Insurance, [[http://www.cahi.org/cahi\\_contents/resources/pdf/HealthInsuranceMandates2009.pdf](http://www.cahi.org/cahi_contents/resources/pdf/HealthInsuranceMandates2009.pdf)].

<sup>5</sup> *Employer experience with, and attitudes toward, coverage of infertility treatment*, Mercer Health and Benefits LLC, May 31, 2006, [[http://www.resolve.org/site/DocServer/Mercer\\_-\\_Resolve\\_Final\\_Report.pdf?docID=4361](http://www.resolve.org/site/DocServer/Mercer_-_Resolve_Final_Report.pdf?docID=4361)].

<sup>6</sup> See, generally, Nicole M. Bellows, Helen Ann Halpin, Sara B. Menamin, *State-Mandated Benefit Review Laws*, Health Services Research, June 2006, [[http://www.chbrp.org/documents/benefit\\_review\\_laws\\_hsr062006.pdf](http://www.chbrp.org/documents/benefit_review_laws_hsr062006.pdf)]. Of the employers that currently do provide coverage for infertility treatment, 64% responding to the survey cited the potential for increased costs as a reason why such coverage is not provided. Another 4% cited religious views as a reason for not providing coverage.

<sup>7</sup> *Evaluation of Senate Bill 631: Mandated Coverage of Treatment for Infertility*, Virginia General Assembly, Joint Legislative Audit and Review Commission, October 2008, [<http://jlarc.state.va.us/reports/Rpt375.pdf>]. The report further notes that, "[t]here are a number of ways to mitigate the premium impacts of the proposed mandate, such as placing a cap on coverage amounts. Also, costs would be reduced by requiring a higher level of cost sharing than is typical, or requiring patients to pay out of pocket for certain portions of their care, such as the lab costs.

<sup>8</sup> *Senate Bill 631: Mandated Coverage for Infertility*, Virginia Special Advisory Commission on Mandated Health Insurance Benefits, January 12, 2009, [[http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD572009/\\$file/RD57.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD572009/$file/RD57.pdf)]. See, also, two studies on mandated infertility treatment coverage by the Pennsylvania Health Care Cost Containment Council from March 2006, [<http://www.phc4.org/reports/mandates/HR400/docs/mandateHR400report.pdf>] and September 1998, [<http://www.phc4.org/reports/mandates/SB1183/>].

of infertility treatment increased insurance premiums by \$2.68/month per enrollee, which equated to 0.89% of total premiums.<sup>9</sup>

In a January 2008 report, the Maryland Health Care Commission reported that the state's insurance mandate for in vitro fertilization accounted for 0.8% of group health insurance plans and 1.0% of individual health insurance plans.<sup>10</sup>

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>9</sup> See, *Comprehensive Review of Mandated Benefits in Massachusetts*, Massachusetts Executive Office of Health and Human Services, Division of Health Care Finance and Policy, July 7, 2008, [[http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/mandates/comp\\_rev\\_mand\\_benefits.pdf](http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/mandates/comp_rev_mand_benefits.pdf)].

See, also, the accompanying appendix to the DHCFP report prepared by Compass Health Analytics, Inc., [[http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/mandates/comp\\_rev\\_mand\\_benefits\\_compass\\_report.pdf](http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/mandates/comp_rev_mand_benefits_compass_report.pdf)].

See, also, *Review and Evaluation of Proposed Legislation Entitled: An Act Relative to Increasing Coverage for Infertility Treatments - Senate Bill 485*, Massachusetts Executive Office of Health and Human Services, Division of Health Care Finance and Policy, August 2009, [[http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/09/Infertility\\_Report.pdf](http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/09/Infertility_Report.pdf)].

<sup>10</sup> *Study of Mandated Health Insurance Services: A Comparative Evaluation*, Maryland Health Care Commission, January 1, 2008, [[http://mhcc.maryland.gov/health\\_insurance/mandated\\_1207.pdf](http://mhcc.maryland.gov/health_insurance/mandated_1207.pdf)].