*State of New Jersey*

CHRIS CHRISTIE
*Governor*

KIM GUADAGNO
*Lt. Governor*

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May 2, 2017

VIA CM/ECF

Honorable Susan D. Wigenton
United States District Judge
United States District Court
for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

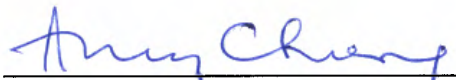
Re: Krupa v. Badolato, Case No. 2:16-cv-04637-SDW-LDW

Dear Judge Wigenton:

This office represents defendants in the above-referenced action. I write to update the court on the amendment of N.J.S.A. 17B:27-46.1x (the Infertility Mandate), which was approved by the Governor yesterday. A copy of the final chapter law (P.L.2017, c.48) is not yet available, but I have attached a copy of the legislative history and the most recent bill. I will forward a copy of the final chapter law when it becomes available.

Respectfully submitted,

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: 
Amy Chung
Deputy Attorney General

Attachments

cc: John A. Beranbaum, Esq.

# Bills 2016-2017

**S1398 ScaAca (2R) Expands infertility coverage under certain health insurance plans.**
**Bills and Joint Resolutions Signed by the Governor**

Identical Bill Number: A1447 (2R)
Last Session Bill Number: A2377
S786

Weinberg, Loretta as Primary Sponsor
Gill, Nia H., Esq. as Primary Sponsor
Lampitt, Pamela R. as Primary Sponsor
Spencer, L. Grace as Primary Sponsor
Vainieri Huttle, Valerie as Primary Sponsor
McKeon, John F. as Primary Sponsor
Mukherji, Raj as Primary Sponsor
Holley, Jamel C. as Primary Sponsor
Caride, Marlene as Primary Sponsor
Downey, Joann as Primary Sponsor
Stack, Brian P. as Co-Sponsor
Lesniak, Raymond J. as Co-Sponsor
Scutari, Nicholas P. as Co-Sponsor
Beck, Jennifer as Co-Sponsor
Cunningham, Sandra B. as Co-Sponsor
Ruiz, M. Teresa as Co-Sponsor
Eustace, Tim as Co-Sponsor
Conaway, Herb, Jr. as Co-Sponsor
Muoio, Elizabeth Maher as Co-Sponsor
Barclay, Arthur as Co-Sponsor
Danielsen, Joe as Co-Sponsor
Mosquera, Gabriela M. as Co-Sponsor

2/11/2016 Introduced in the Senate, Referred to Senate Commerce Committee
9/8/2016 Reported from Senate Committee, 2nd Reading
9/8/2016 Referred to Senate Budget and Appropriations Committee
12/15/2016 Reported from Senate Committee with Amendments, 2nd Reading
12/19/2016 Passed by the Senate (33-0)
12/19/2016 Received in the Assembly without Reference, 2nd Reading
2/13/2017 Recommitted to Assembly Women and Children Committee
2/13/2017 Reported out of Assembly Comm. with Amendments, 2nd Reading
2/15/2017 Substituted for A1447 (2R)
2/15/2017 Passed by the Assembly (58-6-3)
2/27/2017 Received in the Senate, 2nd Reading on Concurrence
3/13/2017 Passed Senate (Passed Both Houses) (34-1)
5/1/2017 Approved P.L.2017, c.48.

Introduced - - 10 pages PDF Format HTML Format
Statement - SCM 9/8/16 - 2 pages PDF Format HTML Format
Statement - SBA 12/15/16 - 3 pages PDF Format HTML Format
Reprint - - 12 pages PDF Format HTML Format
Fiscal Estimate - 12/22/2016; 1R - 3 pages PDF Format HTML Format
Statement - Assembly 2/13/17 1R - 2 pages PDF Format HTML Format
Reprint - - 15 pages PDF Format HTML Format

**Committee Voting:**
SCM 9/8/2016 - r/favorably - Yes {4} No {1} Not Voting {0} Abstains {1} - Roll Call

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Public Hearing Transcripts
Glossary
Summary of Enactments

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[Second Reprint]

# SENATE, No. 1398

# STATE OF NEW JERSEY

## 217th LEGISLATURE

INTRODUCED FEBRUARY 11, 2016

**Sponsored by:**
**Senator LORETTA WEINBERG**
**District 37 (Bergen)**
**Senator NIA H. GILL**
**District 34 (Essex and Passaic)**
**Assemblywoman PAMELA R. LAMPITT**
**District 6 (Burlington and Camden)**
**Assemblywoman L. GRACE SPENCER**
**District 29 (Essex)**
**Assemblywoman VALERIE VAINIERI HUTTLE**
**District 37 (Bergen)**
**Assemblyman JOHN F. MCKEON**
**District 27 (Essex and Morris)**
**Assemblyman RAJ MUKHERJI**
**District 33 (Hudson)**
**Assemblyman JAMEL C. HOLLEY**
**District 20 (Union)**
**Assemblywoman MARLENE CARIDE**
**District 36 (Bergen and Passaic)**
**Assemblywoman JOANN DOWNEY**
**District 11 (Monmouth)**

**Co-Sponsored by:**
**Senators Stack, Lesniak, Scutari, Beck, Cunningham, Ruiz, Assemblymen Eustace, Conaway, Assemblywoman Muoio, Assemblymen Barclay, Danielsen and Assemblywoman Mosquera**

**SYNOPSIS**

Expands infertility coverage under certain health insurance plans.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Women and Children Committee on February 13, 2017, with amendments.

**(Sponsorship Updated As Of: 2/16/2017)**

**AN ACT** concerning infertility coverage under certain health insurance plans [2]**[**and**]**,[2] amending P.L.2001, c.236 [2]and supplementing Title 52 of the Revised Statutes[2].

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2001, c.236 (C.17:48-6x) is amended to read as follows:

1. a. A hospital service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The hospital service corporation contract shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The hospital service corporation may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means[1]**[**:

(1) the**]** a[1] disease or condition that results in the abnormal function of the reproductive system [1]**[**such that a person is not able to **[**:**]** impregnate another person **[**;**]** or conceive **[**after two years of unprotected intercourse if the female partner is under 35 years of age, or one year of unprotected intercourse if the female partner is 35 years of age or older or one of the partners is considered medically sterile; or carry a pregnancy to live birth**]** ; or

(2) a determination of infertility by a physician licensed to practice medicine and surgery in this State pursuant to the provisions of R.S.45:9-1 et seq**]** , as determined pursuant to American Society for Reproductive Medicine practice guidelines by

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**
**Matter enclosed in superscript numerals has been adopted as follows:**
**[1]Senate SBA committee amendments adopted December 15, 2016.**
**[2]Assembly AWC committee amendments adopted February 13, 2017.**

a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section[1].

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. [1]Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[1]

b. A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The hospital service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than 10 point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of

churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a hospital service corporation contract which, pursuant to a contract between the hospital service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), **[**the Children's Health Care Coverage Program under P.L.1997, c.272 (C.30:4I-1 et seq.),**]** the NJ FamilyCare **[**Health Coverage**]** Program **[**under P.L.2000, c.71 (C.30:4J-1 et seq.)**]** established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2001, c.236, s.1)

2. Section 2 of P.L.2001, c.236 (C.17:48A-7w) is amended to read as follows:

2. a. A medical service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The medical service corporation contract shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The medical service corporation may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means[1] **[**:

(1) the**]** a[1] the disease or condition that results in the abnormal function of the reproductive system [1]**[**such that a person is not able to **[**:**]** impregnate another person **[**;**]** or conceive **[**after two years of unprotected intercourse if the female partner is under 35 years of age, or one year of unprotected intercourse if the female partner is

35 years of age or older or one of the partners is considered medically sterile; or carry a pregnancy to live birth**]** ; or

(2) a determination of infertility by a physician licensed to practice medicine and surgery in this State pursuant to the provisions of R.S.45:9-1 et seq**]** , as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section[1].

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. [1]Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[1]

b. A religious employer may request, and a medical service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The medical service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than ten

point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a medical service corporation contract which, pursuant to a contract between the medical service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), **[**the Children's Health Care Coverage Program under P.L.1997, c.272 (C.30:4I-1 et seq.),**]** the NJ FamilyCare **[**Health Coverage**]** Program **[**under P.L.2000, c.71 (C.30:4J-1 et seq.)**]** established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2001, c.236, s.2)

3. Section 3 of P.L.2001, c.236 (C.17:48E-35.22) is amended to read as follows:

3. a. A health service corporation contract which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the contract provides coverage for persons covered under the contract for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The health service corporation contract shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The health service corporation may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means[1] **[**:

(1) the] a[1] disease or condition that results in the abnormal function of the reproductive system [1][such that a person is not able to [:] impregnate another person [;] or conceive [after two years of unprotected intercourse if the female partner is under 35 years of age, or one year of unprotected intercourse if the female partner is 35 years of age or older or one of the partners is considered medically sterile; or carry a pregnancy to live birth] ; or

(2) a determination of infertility by a physician licensed to practice medicine and surgery in this State pursuant to the provisions of R.S.45:9-1 et seq] , as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section [1].

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. [1]Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[1]

b. A religious employer may request, and a health service corporation shall grant, an exclusion under the contract for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and

intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The health service corporation that issues a contract containing such an exclusion shall provide written notice thereof to each prospective subscriber or subscriber, which shall appear in not less than ten point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those health service corporation contracts in which the health service corporation has reserved the right to change the premium.

d. The provisions of this section shall not apply to a health service corporation contract which, pursuant to a contract between the health service corporation and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), **[**the Children's Health Care Coverage Program under P.L.1997, c.272 (C.30:4I-1 et seq.),**]** the NJ FamilyCare **[**Health Coverage**]** Program **[**under P.L.2000, c.71 (C.30:4J-1 et seq.)**]** established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2001, c.236, s.3)

4. Section 4 of P.L.2001, c.236 (C.17B:27-46.1x) is amended to read as follows:

4. a. A group health insurance policy which provides hospital or medical expense benefits for groups with more than 50 persons, which includes pregnancy-related benefits, shall not be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act unless the policy provides coverage for persons covered under the policy for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The policy shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The insurer may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less

expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means ¹[:

(1) the] a¹ the disease or condition that results in the abnormal function of the reproductive system ¹[such that a person is not able to [:] impregnate another person [;] or conceive [after two years of unprotected intercourse if the female partner is under 35 years of age, or one year of unprotected intercourse if the female partner is 35 years of age or older or one of the partners is considered medically sterile; or carry a pregnancy to live birth] ; or

(2) a determination of infertility by a physician licensed to practice medicine and surgery in this State pursuant to the provisions of R.S.45:9-1 et seq] , as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section¹.

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the policy, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the policy. ¹Infertility resulting from voluntary

sterilization procedures shall be excluded under the policy for the coverage required by this section.[1]

b. A religious employer may request, and an insurer shall grant, an exclusion under the policy for the coverage required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required coverage is contrary to the religious employer's bona fide religious tenets. The insurer that issues a policy containing such an exclusion shall provide written notice thereof to each prospective insured or insured, which shall appear in not less than ten point type, in the policy, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. This section shall apply to those insurance policies in which the insurer has reserved the right to change the premium.

d. The provisions of this section shall not apply to a group health insurance policy which, pursuant to a contract between the insurer and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), ⟦the Children's Health Care Coverage Program under P.L.1997, c.272 (C.30:4I-1 et seq.),⟧ the NJ FamilyCare ⟦Health Coverage⟧ Program ⟦under P.L.2000, c.71 (C.30:4J-1 et seq.)⟧ established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2001, c.236, s.4)

5. Section 5 of P.L.2001, c.236 (C.26:2J-4.23) is amended to read as follows:

5. a. No certificate of authority to establish and operate a health maintenance organization in this State shall be issued or continued on or after the effective date of this act unless the health maintenance organization provides health care services, to groups of more than 50 enrollees, for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. A health maintenance organization shall provide enrollee coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the enrollee. The health

maintenance organization may provide that health care services for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means[1] [ :

(1) the ] a[1] the disease or condition that results in the abnormal function of the reproductive system [1] [ such that a person is not able to [ : ] impregnate another person [ ; ] or conceive [ after two years of unprotected intercourse if the female partner is under 35 years of age, or one year of unprotected intercourse if the female partner is 35 years of age or older or one of the partners is considered medically sterile; or carry a pregnancy to live birth ] ; or

(2) a determination of infertility by a physician licensed to practice medicine and surgery in this State pursuant to the provisions of R.S.45:9-1 et seq ] , as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or that the patient has met one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section[1].

The health care services shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and

treatment of infertility pursuant to this section as those applied to other medical or surgical health care services under the contract. [1]Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[1]

b. A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the health care services required by this section for in vitro fertilization, embryo transfer, artificial insemination, zygote intra fallopian transfer and intracytoplasmic sperm injection, if the required health care services are contrary to the religious employer's bona fide religious tenets. The health maintenance organization that issues a contract containing such an exclusion shall provide written notice thereof to each prospective enrollee or enrollee, which shall appear in not less than ten point type, in the contract, application and sales brochure. For the purposes of this subsection, "religious employer" means an employer that is a church, convention or association of churches or any group or entity that is operated, supervised or controlled by or in connection with a church or a convention or association of churches as defined in 26 U.S.C. s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C. s.501(c)(3).

c. The provisions of this section shall apply to those contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

d. The provisions of this section shall not apply to a contract for health care services by a health maintenance organization which, pursuant to a contract between the health maintenance organization and the Department of Human Services, provides benefits to persons who are eligible for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.), ⟦the Children's Health Care Coverage Program under P.L.1997, c.272 (C.30:4I-1 et seq.),⟧ the NJ FamilyCare ⟦Health Coverage⟧ Program ⟦under P.L.2000, c.71 (C.30:4J-1 et seq.)⟧ established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), or any other program administered by the Division of Medical Assistance and Health Services in the Department of Human Services.

(cf: P.L.2001, c.236, s.5)

[2]6. (New section) The State Health Benefits Commission shall ensure that every contract under the State Health Benefits Program shall provide coverage for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The State Health Benefits Program contract shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer;

artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The State Health Benefits Commission may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means a disease or condition that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or any one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section.

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[2]

[2]7. (New section) The School Employees Health Benefits Commission shall ensure that every contract under the School Employees Health Benefits Program shall provide coverage for medically necessary expenses incurred in the diagnosis and treatment of infertility as provided pursuant to this section. The School Employees Health Benefits Program contract shall provide coverage which includes, but is not limited to, the following services related to infertility: diagnosis and diagnostic tests; medications; surgery; in vitro fertilization; embryo transfer; artificial insemination; gamete intra fallopian transfer; zygote intra fallopian transfer; intracytoplasmic sperm injection; and four completed egg retrievals per lifetime of the covered person. The School Employees Health Benefits Commission may provide that coverage for in vitro fertilization, gamete intra fallopian transfer and zygote intra fallopian transfer shall be limited to a covered person who: a. has used all reasonable, less expensive and medically appropriate treatments and is still unable to become pregnant or carry a pregnancy; b. has not reached the limit of four completed egg retrievals; and c. is 45 years of age or younger.

For purposes of this section, "infertility" means a disease or condition that results in the abnormal function of the reproductive system, as determined pursuant to American Society for Reproductive Medicine practice guidelines by a physician who is Board Certified or Board Eligible in Reproductive Endocrinology and Infertility or in Obstetrics and Gynecology or any one of the following conditions:

(1) A male is unable to impregnate a female;

(2) A female with a male partner and under 35 years of age is unable to conceive after 12 months of unprotected sexual intercourse;

(3) A female with a male partner and 35 years of age and over is unable to conceive after six months of unprotected sexual intercourse;

(4) A female without a male partner and under 35 years of age who is unable to conceive after 12 failed attempts of intrauterine insemination under medical supervision;

(5) A female without a male partner and over 35 years of age who is unable to conceive after six failed attempts of intrauterine insemination under medical supervision;

(6) Partners are unable to conceive as a result of involuntary medical sterility;

(7) A person is unable to carry a pregnancy to live birth; or

(8) A previous determination of infertility pursuant to this section.

The benefits shall be provided to the same extent as for other pregnancy-related procedures under the contract, except that the services provided for in this section shall be performed at facilities that conform to standards established by the American Society for

Reproductive Medicine or the American College of Obstetricians and Gynecologists. The same copayments, deductibles and benefit limits shall apply to the diagnosis and treatment of infertility pursuant to this section as those applied to other medical or surgical benefits under the contract. Infertility resulting from voluntary sterilization procedures shall be excluded under the contract for the coverage required by this section.[2]

[2][6. This] 8. Sections 1 through 5 of this[2] act shall take effect 90 days after enactment and shall apply to policies or contracts issued or renewed on or after the effective date [2]of those sections. Sections 6 and 7 shall take effect immediately and shall apply to contracts in force, issued, or renewed on or after that date[2].