



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-4603/2  
PJK:ahc

## 2015 ASSEMBLY BILL 989

March 10, 2016 - Introduced by Representatives C. TAYLOR, WACHS, OHNSTAD, BERCEAU and SUBECK, cosponsored by Senator C. LARSON. Referred to Committee on Insurance.

1     **AN ACT to amend** 111.91 (2) (n); and **to create** 49.45 (20m), 185.981 (6m),  
2             609.803 and 632.895 (16r) of the statutes; **relating to:** requiring insurance  
3             coverage of the diagnosis and treatment of infertility.

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### *Analysis by the Legislative Reference Bureau*

This bill requires health insurance coverage of the diagnosis and treatment of infertility.

The bill requires health care plans that provide maternity coverage to provide coverage of any nonexperimental procedure for the diagnosis or treatment of infertility, which under the bill is the inability to conceive or produce conception after at least one year of unprotected intercourse if the female is under age 35 or after at least six months of unprotected intercourse if the female is between ages 35 and 42, the inability to conceive after undergoing three or more cycles of infertility treatments, or the inability to carry a pregnancy to live birth.

The bill requires that certain conditions be satisfied for coverage of procedures in connection with in vitro fertilization and specifies that, if those conditions are satisfied, the procedures that must be covered in connection with in vitro fertilization are up to three egg retrievals performed on an insured under age 42; all single embryo transfers that result from covered retrievals and that are performed on an insured under age 35; all double embryo transfers that result from covered retrievals and that are performed on an insured between ages 35 and 42; and up to five embryo transfers to an insured of embryos not resulting from covered retrievals. The bill provides that an egg retrieval is required to be covered only if all high quality

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embryos resulting from any previous covered egg retrieval have been used in embryo transfers performed on the insured. In addition, if the eggs retrieved under a covered retrieval are of poor quality, a health care plan must cover all double embryo transfers to an insured under age 35 and all triple embryo transfers to an insured between ages 35 and 42.

The coverage requirement applies to all health care plans that provide maternity coverage, including individual health insurance policies and group health plans, health maintenance organizations, preferred provider plans, plans of cooperative sickness care associations, plans offered by the state to its employees, and self-insured plans of counties, cities, towns, villages, and school districts. Excluded from the requirement is health care provided to Medical Assistance recipients.

The bill provides that copayments and deductibles for the infertility coverage may not be greater than any copayments or deductibles for the maternity coverage under the health care plan. The bill also provides that the coverage required for procedures in connection with in vitro fertilization is the lifetime maximum coverage for any insured under all health care plans covering that insured during her lifetime.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 49.45 (20m) of the statutes is created to read:

2           49.45   **(20m)**       EXEMPTION FROM INFERTILITY COVERAGE REQUIREMENTS.

3           Notwithstanding s. 632.755 (1g) (c), an insurer with which the department contracts  
4           under sub. (2) (b) 2. for the provision of health care to medical assistance recipients  
5           is exempt from the infertility coverage requirements of s. 632.895 (16r) with respect  
6           to those recipients, their spouses, and dependents.

7           **SECTION 2.** 111.91 (2) (n) of the statutes is amended to read:

8           111.91 **(2)** (n) The provision to employees of the health insurance coverage  
9           required under s. 632.895 (11) to (14), and (16), ~~(16m)~~, and to (17).

10          **SECTION 3.** 185.981 (6m) of the statutes is created to read:

11          185.981 **(6m)** A sickness care plan that is operated by a cooperative association  
12          and that provides maternity coverage is subject to s. 632.895 (16r).

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1           **SECTION 4.** 609.803 of the statutes is created to read:

2           **609.803 Infertility coverage.** Except as provided in s. 49.45 (20m), defined  
3 network plans are subject to s. 632.895 (16r).

4           **SECTION 5.** 632.895 (16r) of the statutes is created to read:

5           **632.895 (16r) DIAGNOSIS AND TREATMENT OF INFERTILITY.** (a) In this subsection:

6           1. “Infertile” means any of the following:

7           a. Unable to conceive or produce conception after engaging in unprotected  
8 sexual intercourse over a period of at least one year if the female is under 35 years  
9 of age or over a period of at least 6 months if the female is at least 35 years of age but  
10 under 42 years of age.

11           b. Unable to conceive after undergoing 3 or more cycles of infertility treatments  
12 at a medical facility that conforms to the standards and guidelines of the College of  
13 American Pathologists and of either the American Society for Reproductive Medicine  
14 or the American College of Obstetricians and Gynecologists.

15           c. Unable to carry a pregnancy to live birth.

16           2. “Infertility” means the condition of being infertile.

17           3. “In vitro fertilization” means a procedure in which an egg and sperm are  
18 combined in a laboratory dish, where fertilization occurs, and the fertilized and  
19 dividing egg is transferred to the uterus or cryopreserved for future use.

20           4. “Nonexperimental procedure” means a clinical procedure that is recognized  
21 as safe and effective by the American Society for Reproductive Medicine or the  
22 American College of Obstetricians and Gynecologists.

23           5. “Self-insured health plan” means a self-insured health plan of the state or  
24 a county, city, village, town, or school district.

**ASSEMBLY BILL 989****SECTION 5**

1 (b) Except as provided in s. 49.45 (20m) and subject to pars. (c), (d), and (e),  
2 every disability insurance policy or self-insured health plan that provides maternity  
3 coverage shall provide coverage of any nonexperimental procedure for the diagnosis  
4 and treatment of infertility.

5 (c) The coverage requirement under par. (b) applies to a procedure performed  
6 in connection with in vitro fertilization only if all of the following apply:

7 1. The covered individual meets the definition of infertile under this  
8 subsection, as certified by the treating physician.

9 2. The procedure is performed at a medical facility that conforms to the  
10 standards and guidelines of the College of American Pathologists and of either the  
11 American Society for Reproductive Medicine or the American College of  
12 Obstetricians and Gynecologists.

13 (d) Subject to par. (e), if the requirements under par. (c) are satisfied, a policy  
14 or plan to which the coverage requirement under par. (b) applies shall cover the cost  
15 of all of the following procedures performed in connection with in vitro fertilization:

16 1. Up to 3 egg retrieval procedures performed on an insured who is under 42  
17 years of age. An egg retrieval procedure is required to be covered under this  
18 subdivision only if all high quality embryos resulting from any previous egg retrieval  
19 procedure covered under this subdivision have been used in embryo transfers  
20 performed on the insured.

21 2. a. All single embryo transfers of embryos that result from an egg retrieval  
22 procedure covered under subd. 1. and that are performed on an insured who is under  
23 35 years of age.

24 b. If, in the opinion of a physician, the eggs retrieved under subd. 1. are of such  
25 a quality that a pregnancy or live birth is unlikely to result from single embryo

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1 transfers covered under subd. 2. a., all double embryo transfers of embryos that  
2 result from an egg retrieval procedure covered under subd. 1. and that are performed  
3 on an insured who is under 35 years of age.

4 3. a. All double embryo transfers of embryos that result from an egg retrieval  
5 procedure covered under subd. 1. and that are performed on an insured who is at  
6 least 35 years of age but under 42 years of age.

7 b. If, in the opinion of a physician, the eggs retrieved under subd. 1. are of such  
8 a quality that a pregnancy or live birth is unlikely to result from double embryo  
9 transfers covered under subd. 3. a., all triple embryo transfers of embryos that result  
10 from an egg retrieval procedure covered under subd. 1. and that are performed on an  
11 insured who is at least 35 years of age but under 42 years of age.

12 4. Up to 5 embryo transfers of embryos not resulting from an egg retrieval  
13 procedure covered under subd. 1. that are performed on an insured. Embryo  
14 transfers that must be covered under this subdivision are single embryo transfers  
15 if the insured is under 35 years of age and double embryo transfers if the insured is  
16 at least 35 years of age but under 42 years of age.

17 (e) The coverage required under par. (d) is the lifetime maximum coverage  
18 applicable to any individual under all disability insurance policies and self-insured  
19 health plans, in the aggregate, under which the individual is covered during the  
20 individual's lifetime.

21 (f) The coverage required under this subsection may not be subject to  
22 copayments or deductibles that are greater than any copayments or deductibles that  
23 apply to maternity coverage under the policy or plan.

24 **SECTION 6. Initial applicability.**

25 (1) This act first applies to all of the following:

**ASSEMBLY BILL 989****SECTION 6**

1 (a) Except as provided in paragraphs (b) and (c), disability insurance policies  
2 that are newly issued or renewed, and governmental self-insured health plans that  
3 are newly established, extended, modified, or renewed, on the effective date of this  
4 paragraph.

5 (b) Disability insurance policies covering employees who are affected by a  
6 collective bargaining agreement containing provisions inconsistent with this act  
7 that are newly issued or renewed on the earlier of the following:

8 1. The day on which the collective bargaining agreement expires.

9 2. The day on which the collective bargaining agreement is extended, modified,  
10 or renewed.

11 (c) Governmental self-insured health plans covering employees who are  
12 affected by a collective bargaining agreement containing provisions inconsistent  
13 with this act that are newly established, extended, modified, or renewed on the  
14 earlier of the following:

15 1. The day on which the collective bargaining agreement expires.

16 2. The day on which the collective bargaining agreement is extended, modified,  
17 or renewed.

18 **SECTION 7. Effective date.**

19 (1) This act takes effect on the first day of the 7th month beginning after  
20 publication.

21 (END)