



## 2023 SENATE BILL 723

November 21, 2023 - Introduced by Senators ROYS, AGARD, CARPENTER, HESSELBEIN, L. JOHNSON, LARSON, PFAFF, SMITH, SPREITZER, TAYLOR and WIRCH, cosponsored by Representatives EMERSON, VINING, ANDRACA, BARE, CLANCY, CONLEY, CONSIDINE, JACOBSON, JOERS, MADISON, MYERS, OHNSTAD, ORTIZ-VELEZ, RATCLIFF, SHELTON, SINICKI, STUBBS and PALMERI. Referred to Committee on Insurance and Small Business.

1     **AN ACT to amend** 40.51 (8), 66.0137 (4) and 120.13 (2) (g); and **to create** 632.8965  
2           of the statutes; **relating to:** coverage of infertility services under self-insured  
3           governmental health plans and health policies and plans offered to state  
4           employees, and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill requires self-insured governmental health plans and health care coverage plans offered by the state to its employees that cover medical or hospital expenses to cover diagnosis of and treatment for infertility and standard fertility preservation services. Coverage required under the bill must include at least four completed egg retrievals with unlimited embryo transfers in accordance with certain guidelines and single embryo transfer is allowed when recommended and medically appropriate. Policies and plans are prohibited from imposing an exclusion, limitation, or other restriction on coverage of medications of which the bill requires coverage that is not imposed on any other prescription medications covered under the policy or plan. Similarly, policies and plans may not impose any exclusion, limitation, cost-sharing requirement, benefit maximum, waiting period or other restriction on diagnosis, treatment, or services for which coverage is required under the bill that is different from any exclusion, limitation, cost-sharing requirement, benefit maximum, waiting period or other restriction imposed on benefits for other services. Also, policies and plans may not impose an exclusion, limitation, or other restriction on diagnosis, treatment, or services for which coverage is required under

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the bill on the basis that an insured person participates in fertility services provided by or to a third party.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

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

1           **SECTION 1.** 40.51 (8) of the statutes is amended to read:

2           40.51 (8) Every health care coverage plan offered by the state under sub. (6)  
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.729, 632.746  
4 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853,  
5 632.855, 632.861, 632.867, 632.87 (3) to (6), 632.885, 632.89, 632.895 (5m) and (8) to  
6 (17), and 632.896, and 632.8965.

7           **SECTION 2.** 66.0137 (4) of the statutes is amended to read:

8           66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or  
9 a village provides health care benefits under its home rule power, or if a town  
10 provides health care benefits, to its officers and employees on a self-insured basis,  
11 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),  
12 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855,  
13 632.861, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896,  
14 632.8965, and 767.513 (4).

15           **SECTION 3.** 120.13 (2) (g) of the statutes is amended to read:

16           120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
17 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2.,  
18 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (4) to (6),  
19 632.885, 632.89, 632.895 (9) to (17), 632.896, 632.8965, and 767.513 (4).

20           **SECTION 4.** 632.8965 of the statutes is created to read:

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1           **632.8965 Coverage of infertility services.** (1) In this section:

2           (a) “Diagnosis of and treatment for infertility” means any recommended  
3 procedure or medication at the direction of a physician that is consistent with  
4 established, published, or approved medical practices or professional guidelines  
5 from the American College of Obstetricians and Gynecologists, or its successor  
6 organization, or the American Society for Reproductive Medicine, or its successor  
7 organization.

8           (b) “Infertility” means a disease, condition, or status characterized by any of  
9 the following:

10           1. The inability to achieve a successful pregnancy based on a patient’s medical,  
11 sexual, and reproductive history, age, physical findings, diagnostic testing, or any  
12 combination of these factors.

13           2. The need for medical intervention, including the use of donor gametes or  
14 donor embryos, in order to achieve a successful pregnancy either as an individual or  
15 with a partner.

16           3. The failure to establish a pregnancy or carry a pregnancy to a live birth after  
17 regular, unprotected sexual intercourse for, if the woman is under the age of 35, no  
18 longer than 12 months or, if the woman is 35 years of age or older, no longer than 6  
19 months including any time during those 12 months or 6 months that the woman has  
20 a pregnancy that results in a miscarriage.

21           (c) “Self-insured health plan” means a self-insured health plan of the state or  
22 a county, city, village, town, or school district.

23           (d) “Standard fertility preservation service” means a procedure that is  
24 consistent with established medical practices or professional guidelines published  
25 by the American Society of Clinical Oncology, or its successor organization, for a

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1 person who has a medical condition or is expected to undergo medication therapy,  
2 surgery, radiation, chemotherapy, or other medical treatment that is recognized by  
3 medical professionals to cause a risk of impairment to fertility.

4 (2) Every self-insured health plan shall cover diagnosis of and treatment for  
5 infertility and standard fertility preservation services. Coverage required under this  
6 subsection includes at least 4 completed oocyte retrievals with unlimited embryo  
7 transfers in accordance with the guidelines of the American Society for Reproductive  
8 Medicine or its successor organization and single embryo transfer may be used when  
9 recommended and medically appropriate.

10 (3) A self-insured health plan may not do any of the following:

11 (a) Impose any exclusions, limitations, or other restrictions on coverage  
12 required under sub. (2) based on a covered individual's participation in fertility  
13 services provided by or to a 3rd party.

14 (b) Impose any exclusion, limitation, or other restriction on coverage of  
15 medications that are required to be covered under sub. (2) that are different from  
16 those imposed on any other prescription medications covered under the policy or  
17 plan.

18 (c) Impose any exclusion, limitation, cost-sharing requirement, benefit  
19 maximum, waiting period, or other restriction on coverage of the diagnosis of and  
20 treatment for infertility and standard fertility preservation services required under  
21 sub. (2) that is different from an exclusion, limitation, cost-sharing requirement,  
22 benefit maximum, waiting period, or other restriction imposed on benefits for  
23 services that are covered by the policy or plan and that are not related to infertility.

24 (4) Every self-insured health plan shall provide coverage required under sub.  
25 (2) to any covered individual under the policy or plan, including any covered spouse

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1 and nonspouse dependent, to the same extent as other pregnancy-related benefits  
2 covered under the policy or plan.

3 (5) The commissioner, after consulting with the department of health services  
4 on appropriate treatment for infertility, shall promulgate any rules necessary to  
5 implement this section. Before the promulgation of rules, self-insured health plans  
6 are considered to comply with the coverage requirements of sub. (2) if the coverage  
7 conforms to the standards of the American Society for Reproductive Medicine.

8 **SECTION 5. Initial applicability.**

9 (1) For policies and plans containing provisions inconsistent with this act, the  
10 act first applies to policy or plan years beginning on the effective date of this  
11 subsection, except as provided in sub. (2).

12 (2) For policies and plans that are affected by a collective bargaining agreement  
13 containing provisions inconsistent with this act, the act first applies to policy or plan  
14 years beginning on the effective date of this subsection or on the day on which the  
15 collective bargaining agreement is newly established, extended, modified, or  
16 renewed, whichever is later.

17 (END)