



Committee on Appropriations and Financial Affairs
Committee on Health Coverage, Insurance and Financial Services
% Legislative Information Office
100 State House Station
Augusta, ME 04333

Re: LD 258 - An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025

Dear Senator Rotundo, Representative Sachs, and members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Bailey and Representative Perry and members of the Joint Standing Committee On Health Coverage, Insurance and Financial Services,

I hope this letter finds you well. My name is Davina Fankhauser, and I am the Co-Founder of Fertility Within Reach, a national nonprofit advocating for fertility healthcare and currently serve as President of the New England Fertility Society. During the last legislative session, I had the honor of testifying before the HCIFS committee in favor of LD 1539, An Act to Provide Access to Fertility Care. I also served as an expert for the actuary reports related to the bill. Today, I am testifying in support of the appropriation in LD 258 to cover any potential cost of implementing this fertility care coverage that will ensure this essential healthcare is available to Mainers.

For more than a decade I have advocated for fertility healthcare benefits in Maine. I have watched Maine residents advocate for insurance coverage, while they were forced to pay out of pocket for the medical care they needed. I'd like to share the outcome of a few. One friend could not afford more than one IVF cycle and is living child-free. One friend adopted three children from foster-care ten years ago. She and her husband saved up for fertility treatment and just welcomed a baby girl after IVF. Two other friends paid for their IVF cycles and each couple transferred multiple embryos to increase their chances of success. Both families are raising twins.

Fertility insurance coverage enables patients to make healthcare decisions based on appropriate medical advice, not financial concerns, and transfer fewer embryos.¹ Fewer high-risk pregnancies, preterm births, and less use of neonatal intensive care units (NICU) result from fewer embryos transferred. The U.S. Centers for Disease Control and Prevention says using single embryo transfers can significantly reduce the risk of high-risk pregnancies and multiple births.² Insurance benefits increase access to timely and appropriate healthcare, which provides cost savings. Having healthcare benefits will allow Mainers to contribute to the economy and retirement plans, rather than saving every penny for medical treatments.

In addition to this letter, I am sharing fact sheets on why providing these benefits and protecting fertility services is vital for many of your constituents. We hope these demonstrate how providing fertility healthcare in Maine can help retain young couples to start and raise their families.



Fertility Within Reach.

ADVOCATING FOR FERTILITY HEALTH CARE

Thank you for your time and consideration. In service of your constituents, I hope you take action to promote more accessible fertility healthcare for future Maine families. Please do not hesitate to reach out if you have any questions.

Sincerely yours,

Davina Fankhauser

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References:

1. Crawford, Sara et al. "Costs of achieving live birth from assisted reproductive technology: a comparison of sequential single and double embryo transfer approaches." Volume 105, Issue 2, <https://doi.org/10.1016/j.fertnstert.2015.10.032>.

2. Lee, Amy M et al. "Elective single embryo transfer- the power of one." Contraception and reproductive medicine vol. 1 11. 6 Jul. 2016, doi:10.1186/s40834-016-0023-4.

Myths vs. Reality about LD 1539

An Act to Provide Access to Fertility Care

MYTH: The fertility coverage in LD 1539 will increase costs in the state employee plan by \$8 per member, per month (PMPM).

REALITY: Wrong. The projected cost, per the fiscal note, is only \$1.41 PMPM—which is reflected in the fiscal note. The \$8 PMPM comes from the health plans themselves and was soundly rejected by OFPR. The increase of \$1.41 PMPM is right in line with other states who mandate this coverage. Anthem's original claim is 467% over OFPR's calculation and is wildly out of line with all other states.

MYTH: Providing fertility coverage will increase private insurance costs in Maine by \$5–\$6 PMPM.

REALITY: Wrong. The \$5–\$6 PMPM comes from the unsubstantiated, self-reporting of insurance carriers. The cost analysis of LD 1539 was **not** done by the Maine Board of Insurance but rather by an outside vendor who relied heavily on the self-reporting of insurance carriers. According to Mandate Benefit Reviews conducted on laws already in place and based on **actual** claims data, **no** state in the nation has seen actual costs in the \$5–6 range.

MYTH: There is not cost sharing in LD 1539.

REALITY: Wrong. The bill does allow for cost sharing, including but not limited to deductibles, and copayments. However, these may not be arbitrary nor vastly different from those charged for non-fertility care and prescriptions.

MYTH: LD 1539 would apply to all employers in Maine.

REALITY: Wrong. It does not apply to self-insured employers.

MYTH: There are no limits in LD 1539. Everyone can do as much fertility treatment as they want.

REALITY: Wrong. LD 1539 does not provide unlimited coverage. Limitations are allowed, but they simply must not be arbitrary and must be based on "clinical guidelines and the enrollee's medical history". Upon passage, the Bureau of Insurance will develop guidelines to create more specific parameters.

MYTH: LD 1539 brings **ONLY** an economic burden.

REALITY: Wrong. Fertility insurance laws provide economic benefit to states in the form of increased employee recruitment and retention, as well as attracting and keeping young families/new taxpayers. Insurance benefits for fertility care reduces other health care costs, including for mental health, high risk pregnancy, and premature births. Coverage for fertility care would allow Mainers to contribute more to the state economy rather than spending on their money on out-of-pocket medical expenses to try to grow their families.

MYTH: LD 1539 will provide "IVF for Everyone".

REALITY: Wrong. The vast majority of people who will utilize fertility benefits will **not** need IVF. In fact, **over 90%** of patients will be successful with family building through diagnostic tests and medications. The coverage provided by LD 1539 will improve access to diagnostic care for all, which will enable providers and patients to make better clinical decisions, together. We want reproductive health decisions in Maine to be made by sound, current clinical guidance, not by arbitrary limits set by insurance carriers.

If you have any questions regarding the **An Act to Provide Access to Fertility Care** bill, please contact:

Kate Weldon LeBlanc at kwleblanc@resolvenewengland.org

Davina Fankhauser at admin@fertilitywithinreach.org

Alysia Melnick at amelnick@bernsteinshur.com





Action to PROTECT Access to Fertility Healthcare

Protecting Fertility Treatment & Building Families Post-Dobbs Decision

IN 2019,
APPROXIMATELY
175 BABIES
WERE BORN IN MAINE
WITH THE HELP OF
ASSISTED REPRODUCTIVE
TECHNOLOGY (ART):

Center for Disease Control
and Prevention
ART Success Rates

WHY DOES FERTILITY HEALTHCARE NEED PROTECTION?

Fertility healthcare may be at risk in Maine, depending on the language used in bills or laws passed after the reversal of Roe v. Wade.

Assisted Reproductive Technology (ART), such as In Vitro Fertilization (IVF), involves fertilization of eggs in a lab to make embryos for transfer to the uterus to help people conceive. If a bill or law defines an embryo as a person, this can create significant issues for physicians and patients, since most embryos are not biologically capable of becoming a healthy baby. Giving embryos the legal status of a person can potentially make fertility care inaccessible in Maine.

The people of Maine have used IVF to conceive almost 200 babies in 2019 alone! Without access to safe and effective IVF, many of these families would not exist today. 11% of American women and 9% of American men of reproductive age experience fertility challenges.² IVF is one of the safest and most effective ways to treat infertility. **Personhood laws will be a significant barrier to many people trying to have a family.**

HOW CAN MAINE PROTECT ACCESS TO FERTILITY TREATMENTS?

To ensure fertility treatments remain available in Maine, patients and providers need to be protected from criminal/civil action should an embryo or pregnancy not result in a live birth. Legislative language related to reproductive health needs to protect the patient and provider when:

- an embryo or fetus does not survive genetic testing
- a patient experiences a loss of pregnancy including stillborn or ectopic pregnancy
- a patient makes decisions pertaining to the usage of their embryo(s)
- a healthcare agent/proxy/surrogate/guardian is acting on behalf of a pregnant person
- a practitioner is providing life-saving care to a pregnant person
- a practitioner is providing routine medical care for an abnormal pregnancy, including ending a pregnancy

IMPACT OF FERTILITY CARE ACCESS ON CONSTITUENTS

WITHOUT BENEFITS

Increased risk of complicated pregnancy and outcomes

Costs related to disabilities, occupational and physical therapies, surgeries, etc.

Stress on relationships with partner, family, and friends

Depression and anxiety associated with untreated infertility

HIGH RISK PREGNANCIES

LONG-TERM CARE OF PREMATURE BABIES

FAMILY RELATIONSHIPS

MENTAL HEALTH

WITH BENEFITS

Timely and appropriate healthcare optimizes health and cost outcomes

Premature-related costs are dramatically reduced

Supportive, healthy relationships

Achieving family-building goals increases morale and satisfaction

COMPANIES SUPPORTING FERTILITY HEALTHCARE³



For further discussion or language clarification, please contact **Davina Fankhauser, Fertility Within Reach**, admin@fertilitywithinreach.org and/or **Catherine Tucker, J.D., New Hampshire Surrogacy Law**, catherine@nhsurrogacy.com.

MAINE REFERENCES

1. Center for Disease Control and Prevention. Assisted Reproductive Technology (ART) Data, 2019.
2. "How Common Is Infertility?" Eunice Kennedy Shriver National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 2018. www.nichd.nih.gov/health/topics/infertility/conditioninfo/common.
3. Hutto, Cara. "47 Companies That Offer Awesome Fertility Benefits | InHerSight." InHerSight.com, 24 Sept. 2021. www.inhersight.com/blog/parenting/companies-with-fertility-benefits.



Fertility Within Reach.
ADVOCATING FOR FERTILITY HEALTH BENEFITS