§4320-U. Coverage for fertility services

(REALLOCATED FROM TITLE 24-A, SECTION 4320-S)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Experimental fertility procedure" means a procedure for which the published medical evidence is not sufficient for the American Society for Reproductive Medicine, its successor organization or a comparable organization to regard the procedure as established medical practice. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

B. "Fertility diagnostic care" means procedures, products, medications and services intended to provide information about an individual's fertility, including laboratory assessments and imaging studies. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

C. "Fertility patient" means an individual or couple with infertility, an individual or couple who is at increased risk of transmitting a serious inheritable genetic or chromosomal abnormality to a child or an individual unable to conceive as an individual or with a partner because the individual or couple does not have the necessary gametes for conception. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

D. "Fertility preservation services" means procedures, products, medications and services, intended to preserve fertility, consistent with established medical practice and professional guidelines published by the American Society for Reproductive Medicine, its successor organization or a comparable organization for an individual who has a medical or genetic condition or who is expected to undergo treatment that may directly or indirectly cause a risk of impairment of fertility. "Fertility preservation services" includes the procurement and cryopreservation of gametes, embryos and reproductive material and storage from the time of cryopreservation for a period of 5 years. Storage may be offered for a longer period of time. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

E. "Fertility treatment" means procedures, products, medications and services intended to achieve pregnancy that results in a live birth with healthy outcomes and that are provided in a manner consistent with established medical practice and professional guidelines published by the American Society for Reproductive Medicine, its successor organization or a comparable organization. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

F. "Gamete" means a cell containing a haploid complement of deoxyribonucleic acid that has the potential to form an embryo when combined with another gamete. "Gamete" includes sperm and eggs. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

G. "Infertility" means the presence of a demonstrated condition recognized by a provider as a cause of loss or impairment of fertility or a couple's inability to achieve pregnancy after 12 months of unprotected intercourse when the couple has the necessary gametes for conception, including the loss of a pregnancy occurring within that 12-month period, or after a period of less than 12 months due to a person's age or other factors. Pregnancy resulting in a loss does not cause the time period of trying to achieve a pregnancy to be restarted. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

[PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

2. Required coverage. A carrier offering a health plan in this State shall provide coverage as provided in this subsection and as set forth in rules adopted by the bureau to an enrollee:

A. For fertility diagnostic care; [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

B. For fertility treatment if the enrollee is a fertility patient; and [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

C. For fertility preservation services. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

[PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

3. Limitations on coverage. A health plan that provides coverage for the services required by this section may include reasonable limitations to the extent that these limitations are not inconsistent with the following requirements and rules adopted by the bureau.

A. A carrier may not impose a waiting period. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

B. A carrier may not use any prior diagnosis or prior fertility treatment as a basis for excluding, limiting or otherwise restricting the availability of coverage required by this section. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

C. A carrier may not impose any limitations on coverage for any fertility services based on an enrollee's use of donor gametes, donor embryos or surrogacy. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

D. A carrier may not impose different limitations on coverage for, provide different benefits to or impose different requirements on a class of persons protected under Title 5, chapter 337 than those of other enrollees. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

E. Any limitations imposed by a carrier must be based on an enrollee's medical history and clinical guidelines adopted by the carrier. Any clinical guidelines used by a carrier must be based on current guidelines developed by the American Society for Reproductive Medicine, its successor organization or a comparable organization, must cite with specificity any data or scientific reference relied upon, must be maintained in written form and must be made available to an enrollee in writing upon request. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

[PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

4. Certain services not required. This section does not require a carrier to provide coverage for:

A. Any experimental fertility procedure; or [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

B. Any nonmedical costs related to donor gametes, donor embryos or surrogacy. [PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

[PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

5. Rules. The superintendent may adopt rules to implement the requirements of this section, including, without limitation, cost-sharing, benefit design and clinical guidelines. In adopting rules under this subsection, the superintendent shall consider the clinical guidelines developed by the American Society for Reproductive Medicine, its successor organization or a comparable organization. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 692, §1 (NEW); RR 2021, c. 2, Pt. A, §81 (RAL).]

SECTION HISTORY

PL 2021, c. 692, §1 (NEW). RR 2021, c. 2, Pt. A, §81 (RAL).