

Introduced by

Senator Mathern

1 A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota
2 Century Code, relating to public employees retirement plan health benefits coverage of fertility
3 treatment; to amend and reenact section 26.1-36.6-03 of the North Dakota Century Code,
4 relating to self-insurance health plans; to provide for a report; to provide for application; to
5 provide an expiration date; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 26.1-36.6-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-36.6-03. Self-insurance health plans - Requirements.**

- 10 1. The following policy provisions apply to a self-insurance health plan or to the
11 administrative services only or third-party administrator, and are subject to the
12 jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
13 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14,
14 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38,
15 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.
- 16 2. The following health benefit provisions applicable to a group accident and health
17 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
18 subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1,
19 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2,
20 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9,
21 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14,
22 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22,
23 26.1-36-23.1, and 26.1-36-43. Section 2 of this Act applies to a self-insurance health
24 plan and is subject to the jurisdiction of the commissioner.

1 **SECTION 2.** A new section to chapter 54-52.1 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Health benefits coverage - Fertility treatment.**

4 1. As used in this section:

5 a. "Iatrogenic infertility" means an impairment of fertility due to surgery, radiation,
6 chemotherapy, or other medical treatment.

7 b. "Infertility" means a disease or condition that results in impaired function of the
8 reproductive system whereby an individual is unable to procreate or to carry a
9 pregnancy to live birth, including the following:

10 (1) Absent or incompetent uterus.

11 (2) Damaged, blocked, or absent fallopian tubes.

12 (3) Damaged, blocked, or absent male reproductive tract.

13 (4) Damaged, diminished, or absent sperm.

14 (5) Damaged, diminished, or absent oocytes.

15 (6) Damaged, diminished, or absent ovarian function.

16 (7) Endometriosis.

17 (8) Hereditary genetic disease or condition that would be passed to offspring.

18 (9) Adhesions.

19 (10) Uterine fibroids.

20 (11) Sexual dysfunction impeding intercourse.

21 (12) Teratogens or idiopathic causes.

22 (13) Polycystic ovarian syndrome.

23 (14) Inability to become pregnant or cause pregnancy of unknown etiology.

24 (15) Two or more pregnancy losses, including ectopic pregnancies.

25 (16) Uterine congenital anomalies, including those caused by diethylstilbestrol.

26 c. "Standard fertility preservation services" means procedures consistent with
27 established medical practices and professional guidelines published by
28 professional medical organizations, such as the American society for clinical
29 oncology and the American society for reproductive medicine.

30 2. The board shall provide health benefits coverage under a contract for insurance
31 pursuant to section 54-52.1-04 or 54-52.1-04.1 or under a self-insurance plan

1 pursuant to section 54-52.1-04.2 for fertility care services, including in vitro fertilization
2 services for an individual with a disease or condition that results in the inability to
3 procreate or to carry a pregnancy to live birth and standard fertility preservation
4 services for an individual who must undergo medically necessary treatment that may
5 cause iatrogenic infertility. The benefits must be provided to a covered individual,
6 including a covered spouse and covered nonspouse dependent, to the same extent as
7 other pregnancy-related benefits and include the following:

8 a. Intrauterine insemination.

9 b. Assisted hatching.

10 c. Cryopreservation and thawing of eggs, sperm, and embryos.

11 d. Cryopreservation of ovarian tissue.

12 e. Cryopreservation of testicular tissue.

13 f. Embryo biopsy.

14 g. Consultation and diagnostic testing.

15 h. Fresh and frozen embryo transfers.

16 i. No more than six completed egg retrievals per lifetime, with embryo transfers in
17 accordance with the guidelines of the American society for reproductive
18 medicine, using single embryo transfer when recommended and medically
19 appropriate.

20 j. In vitro fertilization, including in vitro fertilization using donor eggs, sperm, or
21 embryos, and in vitro fertilization in which the embryo is transferred to a
22 gestational carrier or surrogate.

23 k. Intra-cytoplasmic sperm injection.

24 l. Medications.

25 m. Ovulation induction.

26 n. Storage of oocytes, sperm, embryos, and tissue.

27 o. Surgery, including microsurgical sperm aspiration.

28 p. Medical and laboratory services that reduce excess embryo creation through egg
29 cryopreservation and thawing in accordance with an individual's religious or
30 ethical beliefs.

- 1 3. An individual qualifies for coverage under this section if all of the following
2 requirements are met:
- 3 a. A board-certified or board-eligible obstetrician-gynecologist, subspecialist in
4 reproductive endocrinology, oncologist, urologist, or andrologist verifies the
5 covered individual is diagnosed with infertility or is at risk of iatrogenic infertility.
- 6 b. When the covered individual is diagnosed with infertility, the covered individual
7 has not been able to obtain a successful pregnancy through reasonable effort
8 with less costly covered infertility treatments, except as follows:
- 9 (1) No more than three treatment cycles of ovulation induction or intrauterine
10 inseminations may be required before in vitro fertilization services are
11 covered.
- 12 (2) If in vitro fertilization is medically necessary, no cycles of ovulation induction
13 or intrauterine inseminations may be required before in vitro fertilization
14 services are covered.
- 15 (3) In vitro fertilization procedure must be performed at a practice that conforms
16 to American society for reproductive medicine and American congress of
17 obstetricians and gynecologists guidelines.
- 18 c. For in vitro fertilization services, retrievals are completed before the individual is
19 forty-five years old and transfers are completed before the individual is fifty years
20 old.
- 21 4. Coverage may not impose any exclusions, limitations, or other restrictions on
22 coverage of fertility medications that are different from those imposed on any other
23 prescription medications. Except as otherwise provided under this section, coverage
24 may not impose deductibles, copayments, coinsurance, benefit maximums, waiting
25 periods, or any other limitations on coverage for required fertility care services, which
26 are different from those imposed upon benefits for services not related to infertility.
- 27 5. Coverage is not required to cover experimental fertility care services, monetary
28 payments to gestational carriers or surrogates, or the reversal of voluntary sterilization
29 undergone after the covered individual successfully procreated with the covered
30 individual's partner at the time the reversal is desired.
- 31 6. Coverage under this section is limited to a lifetime maximum of fifty thousand dollars.

1 **SECTION 3. PUBLIC EMPLOYEES RETIREMENT SYSTEM - FERTILITY TREATMENT**

2 **HEALTH INSURANCE BENEFITS - REPORT.** Pursuant to section 54-03-28, the public
3 employees retirement system shall prepare and submit for introduction a bill to the sixty-ninth
4 legislative assembly to repeal the expiration date for sections 1 and 2 of this Act and to extend
5 the coverage of fertility treatment benefits to group and individual health insurance policies. The
6 public employees retirement system shall append a report to the bill regarding the effect of the
7 fertility treatment health benefits requirement on the system's health benefits programs,
8 information on the utilization and costs relating to the coverage, and a recommendation
9 regarding whether the coverage should be continued.

10 **SECTION 4. APPLICATION.** This Act applies to health insurance benefits coverage that
11 begins after June 30, 2023, and which does not extend past June 30, 2025, unless the
12 expiration of section 1 or 2 does not occur.

13 **SECTION 5. EXPIRATION DATE.** Sections 1 and 2 of this Act are effective through July 31,
14 2025, and after that date are ineffective.

15 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.