

119TH CONGRESS
1ST SESSION

S. _____

To require health insurance plans to provide coverage for fertility treatment,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To require health insurance plans to provide coverage for
fertility treatment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Fertility
5 Treatment and Care Act”.

6 **SEC. 2. STANDARDS RELATING TO BENEFITS FOR FER-**
7 **TILITY TREATMENT.**

8 (a) IN GENERAL.—

1 (1) PHSA.—Part D of title XXVII of the Pub-
2 lic Health Service Act (42 U.S.C. 300gg–111 et
3 seq.) is amended by adding at the end the following:

4 **“SEC. 2799A–11. STANDARDS RELATING TO BENEFITS FOR**
5 **FERTILITY TREATMENT.**

6 “(a) IN GENERAL.—A group health plan or a health
7 insurance issuer offering group or individual health insur-
8 ance coverage shall provide coverage for fertility treat-
9 ment, if such plan or coverage provides coverage for ob-
10 stetrical services.

11 “(b) DEFINITION.—In this section, the term ‘fertility
12 treatment’ includes the following:

13 “(1) Preservation of human oocytes, sperm, or
14 embryos.

15 “(2) Artificial insemination, including
16 intravaginal insemination, intracervical insemination,
17 and intrauterine insemination.

18 “(3) Assisted reproductive technology, including
19 in vitro fertilization and other treatments or proce-
20 dures in which reproductive genetic material, such as
21 oocytes, sperm, and embryos, are handled, when
22 clinically appropriate.

23 “(4) Genetic testing of embryos.

24 “(5) Medications prescribed or obtained over-
25 the-counter, as indicated for fertility.

1 “(6) Gamete donation.

2 “(7) Such other information, referrals, treat-
3 ments, procedures, medications, laboratory testing,
4 technologies, and services relating to fertility as the
5 Secretary determines appropriate.

6 “(c) REQUIRED COVERAGE.—A group health plan
7 and a health insurance issuer offering group or individual
8 health insurance coverage that includes coverage for ob-
9 stetrical services shall provide coverage for fertility treat-
10 ment determined appropriate by the health care provider,
11 regardless of whether the participant, beneficiary, or en-
12 rollee receiving such treatment has been diagnosed with
13 infertility as defined by the American Society for Repro-
14 ductive Medicine, if the treatment is performed at, or pre-
15 scribed by, a medical facility that is in compliance with
16 relevant standards set by an appropriate Federal agency.

17 “(d) LIMITATION.—Cost-sharing, including
18 deductibles and coinsurance, or other limitations for fer-
19 tility treatment may not be imposed with respect to the
20 services required to be covered under subsection (c) to the
21 extent that such cost-sharing exceeds the cost-sharing ap-
22 plied to other medical services under the group health plan
23 or health insurance coverage or such other limitations are
24 different from limitations imposed with respect to such
25 medical services, except where such limitation is more fa-

1 vorable with respect to fertility treatment. The Secretary
2 shall promulgate interim final regulations to carry out this
3 subsection, notwithstanding the notice and comment re-
4 quirements of section 553 of title 5, United States Code.

5 “(e) PROHIBITIONS.—A group health plan and a
6 health insurance issuer offering group or individual health
7 insurance coverage may not—

8 “(1) provide incentives (monetary or otherwise)
9 to a participant, beneficiary, or enrollee to encourage
10 such participant, beneficiary, or enrollee not to seek
11 or obtain fertility treatment to which such partici-
12 pant, beneficiary, or enrollee is entitled under this
13 section or to providers to induce such providers not
14 to provide medically appropriate fertility treatments
15 to participants, beneficiaries, or enrollees;

16 “(2) prohibit a provider from discussing with a
17 participant, beneficiary, or enrollee fertility treat-
18 ment relating to this section;

19 “(3) penalize or otherwise reduce or limit the
20 reimbursement of a provider because such provider
21 provided fertility treatment to a qualified partici-
22 pant, beneficiary, or enrollee in accordance with this
23 section; or

24 “(4) on the ground prohibited under title VI of
25 the Civil Rights Act of 1964, title IX of the Edu-

1 cation Amendments of 1972, the Age Discrimination
2 Act of 1975, section 504 of the Rehabilitation Act
3 of 1973, or section 1557 of the Patient Protection
4 and Affordable Care Act, exclude any individual
5 from coverage in accordance with this section, or
6 discriminate against any individual with respect to
7 such coverage.

8 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to require a participant, bene-
10 ficiary, or enrollee to undergo fertility treatment.

11 “(g) NOTICE.—A group health plan and a health in-
12 surance issuer offering group or individual health insur-
13 ance coverage shall provide notice to each participant, ben-
14 eficiary, and enrollee under such plan or coverage regard-
15 ing the coverage required by this section in accordance
16 with regulations promulgated by the Secretary. Such no-
17 tice shall be in writing and prominently positioned in any
18 literature or correspondence made available or distributed
19 by the plan or issuer and shall be transmitted—

20 “(1) not later than the earlier of—

21 “(A) in the first standard mailing made by
22 the plan or issuer to the participant, bene-
23 ficiary, or enrollee following the effective date of
24 such regulations;

1 “(B) as part of any yearly informational
2 packet sent to the participant, beneficiary, or
3 enrollee; or

4 “(C) January 1, 2027;

5 “(2) in the case of a participant, beneficiary, or
6 enrollee not enrolled in the plan or coverage on the
7 date of transmission under paragraph (1), upon ini-
8 tial enrollment of such participant, beneficiary, or
9 enrollee; and

10 “(3) on an annual basis after the transmission
11 under paragraph (1) or (2).

12 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
13 Nothing in this section shall be construed to prevent a
14 group health plan or a health insurance issuer offering
15 group or individual health insurance coverage from negoti-
16 ating the level and type of reimbursement with a provider
17 for care provided in accordance with this section.”.

18 (2) ERISA.—

19 (A) IN GENERAL.—Subpart B of part 7 of
20 subtitle B of title I of the Employee Retirement
21 Income Security Act of 1974 (29 U.S.C. 1185
22 et seq.) is amended by adding at the end the
23 following:

1 **“SEC. 726. STANDARDS RELATING TO BENEFITS FOR FER-**
2 **TILITY TREATMENT.**

3 “(a) IN GENERAL.—A group health plan or a health
4 insurance issuer offering group health insurance coverage
5 shall provide coverage for fertility treatment, if such plan
6 or coverage provides coverage for obstetrical services.

7 “(b) DEFINITION.—In this section, the term ‘fertility
8 treatment’ includes the following:

9 “(1) Preservation of human oocytes, sperm, or
10 embryos.

11 “(2) Artificial insemination, including
12 intravaginal insemination, intracervical insemination,
13 and intrauterine insemination.

14 “(3) Assisted reproductive technology, including
15 in vitro fertilization and other treatments or proce-
16 dures in which reproductive genetic material, such as
17 oocytes, sperm, and embryos, are handled, when
18 clinically appropriate.

19 “(4) Genetic testing of embryos.

20 “(5) Medications prescribed or obtained over-
21 the-counter, as indicated for fertility.

22 “(6) Gamete donation.

23 “(7) Such other information, referrals, treat-
24 ments, procedures, medications, laboratory testing,
25 technologies, and services relating to fertility as the

1 Secretary of Health and Human Services determines
2 appropriate.

3 “(c) REQUIRED COVERAGE.—A group health plan
4 and a health insurance issuer offering group health insur-
5 ance coverage that includes coverage for obstetrical serv-
6 ices shall provide coverage for fertility treatment deter-
7 mined appropriate by the health care provider, regardless
8 of whether the participant or beneficiary receiving such
9 treatment has been diagnosed with infertility as defined
10 by the American Society for Reproductive Medicine, if the
11 treatment is performed at, or prescribed by, a medical fa-
12 cility that is in compliance with relevant standards set by
13 an appropriate Federal agency.

14 “(d) LIMITATION.—Cost-sharing, including
15 deductibles and coinsurance, or other limitations for fer-
16 tility treatment may not be imposed with respect to the
17 services required to be covered under subsection (c) to the
18 extent that such cost-sharing exceeds the cost-sharing ap-
19 plied to other medical services under the group health plan
20 or health insurance coverage or such other limitations are
21 different from limitations imposed with respect to such
22 medical services, except where such limitation is more fa-
23 vorable with respect to fertility treatment. The Secretary
24 shall promulgate interim final regulations to carry out this

1 subsection, notwithstanding the notice and comment re-
2 quirements of section 553 of title 5, United States Code.

3 “(e) PROHIBITIONS.—A group health plan and a
4 health insurance issuer offering group health insurance
5 coverage may not—

6 “(1) provide incentives (monetary or otherwise)
7 to a participant or beneficiary to encourage such
8 participant or beneficiary not to seek or obtain fer-
9 tility treatment to which such participant or bene-
10 ficiary is entitled under this section or to providers
11 to induce such providers not to provide medically ap-
12 propriate fertility treatments to participants or bene-
13 ficiaries;

14 “(2) prohibit a provider from discussing with a
15 participant or beneficiary fertility treatment relating
16 to this section;

17 “(3) penalize or otherwise reduce or limit the
18 reimbursement of a provider because such provider
19 provided fertility treatment to a qualified participant
20 or beneficiary in accordance with this section; or

21 “(4) on the ground prohibited under title VI of
22 the Civil Rights Act of 1964 (42 U.S.C. 2000d et
23 seq.), title IX of the Education Amendments of 1972
24 (20 U.S.C. 1681 et seq.), the Age Discrimination
25 Act of 1975 (42 U.S.C. 6101 et seq.), section 504

1 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
2 or section 1557 of the Patient Protection and Af-
3 fordable Care Act (42 U.S.C. 18116), exclude any
4 individual from coverage in accordance with this sec-
5 tion, or discriminate against any individual with re-
6 spect to such coverage.

7 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to require a participant or bene-
9 ficiary to undergo fertility treatment.

10 “(g) NOTICE.—A group health plan and a health in-
11 surance issuer offering group health insurance coverage
12 shall provide notice to each participant and beneficiary
13 under such plan or coverage regarding the coverage re-
14 quired by this section in accordance with regulations pro-
15 mulgated by the Secretary. Such notice shall be in writing
16 and prominently positioned in any literature or cor-
17 respondence made available or distributed by the plan or
18 issuer and shall be transmitted—

19 “(1) not later than the earlier of—

20 “(A) in the first standard mailing made by
21 the plan or issuer to the participant or bene-
22 ficiary following the effective date of such regu-
23 lations;

24 “(B) as part of any yearly informational
25 packet sent to the participant or beneficiary; or

1 “(C) January 1, 2027;

2 “(2) in the case of a participant or beneficiary
3 not enrolled in the plan or coverage on the date of
4 transmission under paragraph (1), upon initial en-
5 rollment of such participant or beneficiary; and

6 “(3) on an annual basis after the transmission
7 under paragraph (1) or (2).

8 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
9 Nothing in this section shall be construed to prevent a
10 group health plan or a health insurance issuer offering
11 group health insurance coverage from negotiating the level
12 and type of reimbursement with a provider for care pro-
13 vided in accordance with this section.”.

14 (B) CLERICAL AMENDMENT.—The table of
15 contents in section 1 of the Employee Retirement
16 Income Security Act of 1974 (29 U.S.C.
17 1001 et seq.) is amended by inserting after the
18 item relating to section 725 the following new
19 item:

“Sec. 726. Standards relating to benefits for fertility treatment.”.

20 (3) IRC.—

21 (A) IN GENERAL.—Subchapter B of chap-
22 ter 100 of the Internal Revenue Code of 1986
23 is amended by adding at the end the following:

1 **“SEC. 9826. STANDARDS RELATING TO BENEFITS FOR FER-**
2 **TILITY TREATMENT.**

3 “(a) IN GENERAL.—A group health plan shall pro-
4 vide coverage for fertility treatment, if such plan provides
5 coverage for obstetrical services.

6 “(b) DEFINITION.—In this section, the term ‘fertility
7 treatment’ includes the following:

8 “(1) Preservation of human oocytes, sperm, or
9 embryos.

10 “(2) Artificial insemination, including
11 intravaginal insemination, intracervical insemination,
12 and intrauterine insemination.

13 “(3) Assisted reproductive technology, including
14 in vitro fertilization and other treatments or proce-
15 dures in which reproductive genetic material, such as
16 oocytes, sperm, and embryos, are handled, when
17 clinically appropriate.

18 “(4) Genetic testing of embryos.

19 “(5) Medications prescribed or obtained over-
20 the-counter, as indicated for fertility.

21 “(6) Gamete donation.

22 “(7) Such other information, referrals, treat-
23 ments, procedures, medications, laboratory testing,
24 technologies, and services relating to fertility as the
25 Secretary of Health and Human Services determines
26 appropriate.

1 “(c) REQUIRED COVERAGE.—A group health plan
2 that includes coverage for obstetrical services shall provide
3 coverage for fertility treatment determined appropriate by
4 the health care provider, regardless of whether the partici-
5 pant or beneficiary receiving such treatment has been di-
6 agnosed with infertility as defined by the American Society
7 for Reproductive Medicine, if the treatment is performed
8 at, or prescribed by, a medical facility that is in compli-
9 ance with relevant standards set by an appropriate Fed-
10 eral agency.

11 “(d) LIMITATION.—Cost-sharing, including
12 deductibles and coinsurance, or other limitations for fer-
13 tility treatment may not be imposed with respect to the
14 services required to be covered under subsection (c) to the
15 extent that such cost-sharing exceeds the cost-sharing ap-
16 plied to other medical services under the group health plan
17 or health insurance coverage or such other limitations are
18 different from limitations imposed with respect to such
19 medical services, except where such limitation is more fa-
20 vorable with respect to fertility treatment. The Secretary
21 shall promulgate interim final regulations to carry out this
22 subsection, notwithstanding the notice and comment re-
23 quirements of section 553 of title 5, United States Code.

24 “(e) PROHIBITIONS.—A group health plan may not—

1 “(1) provide incentives (monetary or otherwise)
2 to a participant or beneficiary to encourage such
3 participant or beneficiary not to seek or obtain fer-
4 tility treatment to which such participant or bene-
5 ficiary is entitled under this section or to providers
6 to induce such providers not to provide medically ap-
7 propriate fertility treatments to participants or bene-
8 ficiaries;

9 “(2) prohibit a provider from discussing with a
10 participant or beneficiary fertility treatment relating
11 to this section;

12 “(3) penalize or otherwise reduce or limit the
13 reimbursement of a provider because such provider
14 provided fertility treatment to a qualified participant
15 or beneficiary in accordance with this section; or

16 “(4) on the ground prohibited under title VI of
17 the Civil Rights Act of 1964 (42 U.S.C. 2000d et
18 seq.), title IX of the Education Amendments of 1972
19 (20 U.S.C. 1681 et seq.), the Age Discrimination
20 Act of 1975 (42 U.S.C. 6101 et seq.), section 504
21 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
22 or section 1557 of the Patient Protection and Af-
23 fordable Care Act (42 U.S.C. 18116), exclude any
24 individual from coverage in accordance with this sec-

1 tion, or discriminate against any individual with re-
2 spect to such coverage.

3 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to require a participant or bene-
5 ficiary to undergo fertility treatment.

6 “(g) NOTICE.—A group health plan shall provide no-
7 tice to each participant and beneficiary under such plan
8 regarding the coverage required by this section in accord-
9 ance with regulations promulgated by the Secretary. Such
10 notice shall be in writing and prominently positioned in
11 any literature or correspondence made available or distrib-
12 uted by the plan and shall be transmitted—

13 “(1) not later than the earlier of—

14 “(A) in the first standard mailing made by
15 the plan to the participant or beneficiary fol-
16 lowing the effective date of such regulations;

17 “(B) as part of any yearly informational
18 packet sent to the participant or beneficiary; or

19 “(C) January 1, 2027;

20 “(2) in the case of a participant or beneficiary
21 not enrolled in the plan on the date of transmission
22 under paragraph (1), upon initial enrollment of such
23 participant or beneficiary; and

24 “(3) on an annual basis after the transmission
25 under paragraph (1) or (2).

1 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
2 Nothing in this section shall be construed to prevent a
3 group health plan from negotiating the level and type of
4 reimbursement with a provider for care provided in ac-
5 cordance with this section.”.

6 (B) CLERICAL AMENDMENT.—The table of
7 sections for subchapter B of chapter 100 of the
8 Internal Revenue Code of 1986 is amended by
9 adding at the end the following new item:

“Sec. 9826. Standards relating to benefits for fertility treatment.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) PHSA.—Section 2724(c) of the Public
12 Health Service Act (42 U.S.C. 300gg-23(c)) is
13 amended by striking “section 2704” and inserting
14 “sections 2704 and 2799A-11”.

15 (2) ERISA.—Section 731(c) of the Employee
16 Retirement Income Security Act of 1974 (29 U.S.C.
17 1191(c)) is amended by striking “section 711” and
18 inserting “sections 711 and 726”.

19 (c) EFFECTIVE DATES.—

20 (1) IN GENERAL.—The amendments made by
21 subsections (a) and (b) shall apply for plan years be-
22 ginning on or after the date that is 6 months after
23 the date of enactment of this Act.

24 (2) COLLECTIVE BARGAINING EXCEPTION.—

1 (A) IN GENERAL.—In the case of a group
2 health plan maintained pursuant to one or more
3 collective bargaining agreements between em-
4 ployee representatives and one or more employ-
5 ers ratified before the date of enactment of this
6 Act, the amendments made by subsection (a)
7 shall not apply to plan years beginning before
8 the later of—

9 (i) the date on which the last collec-
10 tive bargaining agreements relating to the
11 plan terminates (determined without re-
12 gard to any extension thereof agreed to
13 after the date of enactment of this Act), or
14 (ii) the date occurring 6 months after
15 the date of the enactment of this Act.

16 (B) CLARIFICATION.—For purposes of
17 subparagraph (A), any plan amendment made
18 pursuant to a collective bargaining agreement
19 relating to the plan which amends the plan sole-
20 ly to conform to any requirement added by sub-
21 section (a) shall not be treated as a termination
22 of such collective bargaining agreement.

1 **SEC. 3. FEDERAL EMPLOYEES HEALTH BENEFITS PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Section 8902 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(q)(1) In this subsection, the term ‘fertility treat-
7 ment’ has the meaning given the term in section 2799A–
8 11(b) of the Public Health Service Act.

9 “(2) A contract under this chapter shall provide, in
10 a manner consistent with section 2799A–11 of the Public
11 Health Service Act, coverage for fertility treatment, if that
12 contract covers obstetrical benefits.

13 “(3) Coverage for fertility treatment under a health
14 benefits plan described in section 8903 or 8903a may not
15 be subject to any copayment or deductible greater than
16 the copayment or deductible, respectively, applicable to ob-
17 stetrical benefits under the plan.

18 “(4) Subsection (m)(1) shall not, with respect to a
19 contract under this chapter, prevent the inclusion of any
20 terms that, under paragraph (2) of this subsection, are
21 required by reason of section 2799A–11 of the Public
22 Health Service Act.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply with respect to—

25 (1) any contract entered into or renewed for a
26 contract year beginning on or after the date that is

1 180 days after the date of enactment of this Act;
2 and

3 (2) any health benefits plan offered under a
4 contract described in paragraph (1).

5 **SEC. 4. BENEFITS FOR FERTILITY TREATMENT UNDER THE**
6 **TRICARE PROGRAM.**

7 (a) IN GENERAL.—Chapter 55 of title 10, United
8 States Code, is amended by adding at the end the fol-
9 lowing new section:

10 **“§ 1110c. Obstetrical and fertility benefits**

11 “(a) IN GENERAL.—Any health care plan under this
12 chapter shall provide, in a manner consistent with section
13 2799A–11 of the Public Health Service Act, coverage for
14 fertility treatment, if such plan covers obstetrical benefits.

15 “(b) COPAYMENT.—The Secretary of Defense shall
16 establish cost-sharing requirements for the coverage of fer-
17 tility treatment that are consistent with the cost-sharing
18 requirements applicable to health plans and health insur-
19 ance coverage under section 2799A–11(d) of the Public
20 Health Service Act.

21 “(c) REGULATIONS.—The Secretary of Defense shall
22 prescribe any regulations necessary to carry out this sec-
23 tion.

1 “(d) DEFINITIONS.—In this section, the term ‘fer-
2 tility treatment’ has the meaning given the term in section
3 2799A–11(b) of the Public Health Service Act.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 55 of such title is amended
6 by adding at the end the following new item:

“1110e. Obstetrical and fertility benefits.”.

7 **SEC. 5. FERTILITY TREATMENT FOR VETERANS AND**
8 **SPOUSES OR PARTNERS OF VETERANS.**

9 (a) IN GENERAL.—Subchapter II of chapter 17 of
10 title 38, United States Code, is amended by adding at the
11 end the following new section:

12 **“§ 1720M. Fertility treatment for veterans and**
13 **spouses or partners of veterans**

14 “(a) IN GENERAL.—The Secretary shall furnish fer-
15 tility treatment services to a veteran or a spouse or part-
16 ner of a veteran if the veteran, and the spouse or partner
17 of the veteran, as applicable, apply jointly for such fertility
18 treatment through a process prescribed by the Secretary
19 for purposes of this section.

20 “(b) DEFINITIONS.—In this section, the term ‘fer-
21 tility treatment’ has the meaning given the term in section
22 2799A–11(b) of the Public Health Service Act.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 17 of such title is amended

1 by inserting after the item relating to section 1720L the
2 following new item:

“1720M. Fertility treatment for veterans and spouses or partners of veterans.”.

3 (c) REGULATIONS.—Not later than 18 months after
4 the date of the enactment of this Act, the Secretary of
5 Veterans Affairs shall prescribe regulations to carry out
6 section 1720M of title 38, United States Code, as added
7 by subsection (a).

8 **SEC. 6. REQUIREMENT FOR STATE MEDICAID PLANS TO**
9 **PROVIDE MEDICAL ASSISTANCE FOR FER-**
10 **TILITY TREATMENT.**

11 (a) IN GENERAL.—Section 1905 of the Social Secu-
12 rity Act (42 U.S.C. 1396d) is amended—

13 (1) in subsection (a)(4)(C), by inserting
14 “(which shall include fertility treatment provided in
15 accordance with subsection (kk))” after “family
16 planning services and supplies”; and

17 (2) by adding at the end the following new sub-
18 section:

19 “(kk) REQUIREMENTS FOR COVERAGE OF FERTILITY
20 TREATMENT.—For purposes of subsection (a)(4)(C), a
21 State shall ensure that the medical assistance provided
22 under the State plan (or waiver of such plan) for fertility
23 treatment complies with the requirements of section
24 2799A–11(b) of the Public Health Service Act in the same
25 manner as such requirements and limitations apply to

1 health insurance coverage offered by a group health plan
2 or health insurance issuer.”.

3 (b) TECHNICAL AMENDMENT.—Section 1903(a)(5)
4 of the Social Security Act (42 U.S.C. 1396b(a)(5)) is
5 amended by inserting “described in section
6 1905(a)(4)(C)” after “family planning services and sup-
7 plies”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall take effect on October 1, 2026.

12 (2) DELAY PERMITTED IF STATE LEGISLATION
13 REQUIRED.—In the case of a State plan approved
14 under title XIX of the Social Security Act which the
15 Secretary of Health and Human Services determines
16 requires State legislation (other than legislation ap-
17 propriating funds) in order for the plan to meet the
18 additional requirement imposed by this section, the
19 State plan shall not be regarded as failing to comply
20 with the requirements of such title solely on the
21 basis of the failure of the plan to meet such addi-
22 tional requirement before the first day of the first
23 calendar quarter beginning after the close of the
24 first regular session of the State legislature that
25 ends after the 1-year period beginning with the date

1 of the enactment of this section. For purposes of the
2 preceding sentence, in the case of a State that has
3 a 2-year legislative session, each year of the session
4 is deemed to be a separate regular session of the
5 State legislature.

6 **SEC. 7. MEDICARE COVERAGE OF FERTILITY TREATMENT.**

7 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-
8 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

9 (1) in subparagraph (JJ), by inserting “and”
10 after the semicolon at the end; and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(KK) fertility treatment (as defined in section
14 2799A–11(b) of the Public Health Service Act);”.

15 (b) **PAYMENT AND WAIVER OF COINSURANCE.**—Sec-
16 tion 1833(a)(1) of the Social Security Act (42 U.S.C.
17 1395l(a)(1)) is amended—

18 (1) by striking “and” before “(HH)”;

19 (2) by inserting before the semicolon at the end
20 the following: “, and (II) with respect to fertility
21 treatment (as described in section 1861(s)(2)(KK)),
22 the amount paid shall be equal to 100 percent of the
23 lesser of the actual charge for the treatment or the
24 amount determined under the payment basis deter-
25 mined under section 1848”.

1 (c) WAIVER OF APPLICATION OF DEDUCTIBLE.—The
2 first sentence of section 1833(b) of the Social Security Act
3 (42 U.S.C. 1395l(b)) is amended—

4 (1) by striking “, and (13)” and inserting
5 “(13)”; and

6 (2) by striking “1861(n).” and inserting
7 “1861(n), and (14) such deductible shall not apply
8 with respect to fertility treatment (as described in
9 section 1861(s)(2)(KK)).”.

10 (d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
11 Section 1848(j)(3) of the Social Security Act (42 U.S.C.
12 1395w-4(j)(3)) is amended by inserting “(2)(KK),” after
13 “risk assessment),”.

14 (e) CONFORMING AMENDMENT REGARDING COV-
15 ERAGE.—Section 1862(a)(1)(A) of the Social Security Act
16 (42 U.S.C. 1395y(a)(1)(A)) is amended—

17 (1) by striking “or additional” and inserting “,
18 additional”; and

19 (2) by inserting “, or fertility treatment (as de-
20 scribed in section 1861(s)(2)(KK))” after
21 “1861(ddd)(1))”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to services furnished on or after
24 January 1, 2026.