

108TH CONGRESS
1ST SESSION

H. R. 3026

To amend chapter 89 of title 5, United States Code, and chapter 55 of title 10, United States Code, to provide that any health benefits plan which provides obstetrical benefits shall be required also to provide coverage for the diagnosis and treatment of infertility.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 5, 2003

Mr. MEEHAN (for himself and Mr. WEINER) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend chapter 89 of title 5, United States Code, and chapter 55 of title 10, United States Code, to provide that any health benefits plan which provides obstetrical benefits shall be required also to provide coverage for the diagnosis and treatment of infertility.

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. INFERTILITY BENEFITS.**

4 (a) FEDERAL EMPLOYEE HEALTH BENEFITS
5 PLANS.—Section 8904 of title 5, United States Code, is
6 amended by adding at the end the following:

1 “(c)(1) Each health benefits plan described by section
2 8903 or 8903a which provides obstetrical benefits shall
3 also provide coverage for the diagnosis and treatment of
4 infertility, including nonexperimental assisted reproductive
5 technology procedures.

6 “(2) Under this subsection—

7 “(A) coverage for the diagnosis or treatment of
8 infertility may not be subject to any copayment or
9 deductible greater than applies with respect to ob-
10 stetrical benefits under the plan involved; and

11 “(B) coverage for a procedure described in
12 paragraph (5)(B) shall, in the case of any individual,
13 be required only if—

14 “(i) such individual has been unable to
15 carry a pregnancy to live birth through less
16 costly, medically appropriate infertility treat-
17 ments for which such individual has coverage
18 under this chapter;

19 “(ii) the procedure (including any retrieval
20 incident thereto) is performed at medical facili-
21 ties that conform to the standards of the Amer-
22 ican Society for Reproductive Medicine, the So-
23 ciety for Assisted Reproductive Technology, the
24 American College of Obstetricians and Gyne-
25 cologists, or any other similar nationally-recog-

1 nized organization, or a Federal agency that
2 promulgates standards for infertility proce-
3 dures; and

4 “(iii) if the services of a laboratory are re-
5 quired, such laboratory is accredited by the Col-
6 lege of American Pathologists’ Reproductive
7 Laboratory Accreditation Program or any other
8 similar nationally-recognized program, or a
9 Federal agency performing a similar function.

10 “(3)(A) Except as provided in subparagraph (B) or
11 (C)—

12 “(i) coverage for a procedure described in para-
13 graph (5)(B) may be provided only if the individual
14 involved has not already undergone 4 attempts to
15 achieve a live birth using any such procedures; and

16 “(ii) coverage for an oocyte retrieval may be
17 provided only if the individual involved has not al-
18 ready undergone 4 complete oocyte retrievals.

19 “(B) For purposes of clause (i) of subparagraph
20 (A)—

21 “(i) if a live birth results from the third at-
22 tempt (using a procedure described in paragraph
23 (5)(B)), such clause shall be applied by substituting
24 ‘5’ for ‘4’; and

1 “(ii) if a live birth results from the fourth at-
2 tempt (using a procedure described in paragraph
3 (5)(B)), such clause shall be applied by substituting
4 ‘6’ for the otherwise applicable lifetime maximum.

5 “(C) For purposes of clause (ii) of subparagraph
6 (A)—

7 “(i) if a live birth results from the third oocyte
8 retrieval, such clause shall be applied by substituting
9 ‘5’ for ‘4’; and

10 “(ii) if a live birth results from the fourth oo-
11 cyte retrieval, such clause shall be applied by sub-
12 stituting ‘6’ for the otherwise applicable lifetime
13 maximum.

14 “(4) In no event shall this subsection be considered
15 to permit or require coverage—

16 “(A) if, or to the extent that, the health bene-
17 fits plan objects to such coverage on the basis of re-
18 ligious beliefs; or

19 “(B) in connection with any procedure or treat-
20 ment, unless rendered by a physician or at the direc-
21 tion or request of a physician.

22 “(5) For purposes of this subsection—

23 “(A) the term ‘infertility’ means—

24 “(i) the inability to conceive a pregnancy
25 after 12 months of regular sexual relations

1 without contraception or to carry a pregnancy
2 to a live birth; or

3 “(ii) the presence of a demonstrated condi-
4 tion determined by 2 physicians (at least 1 of
5 whom specializes in infertility) to cause infer-
6 tility; and

7 “(B) the term ‘nonexperimental assisted repro-
8 ductive technology procedure’ means in vitro fer-
9 tilization, gamete intrafallopian transfer, zygote
10 intrafallopian transfer, and any other clinical treat-
11 ment or procedure the safety and efficacy of which
12 are recognized by the American Society for Repro-
13 ductive Medicine, the American College of Obstetri-
14 cians and Gynecologists, or any other similar nation-
15 ally-recognized organization, or a Federal agency de-
16 scribed in paragraph (2)(B)(iii).

17 “(6) The Office shall prescribe any regulations nec-
18 essary to carry out this subsection.”.

19 (b) DEFENSE HEALTH CARE PLANS.—(1) Chapter
20 55 of title 10, United States Code, is amended by adding
21 at the end the following new section:

22 **“§ 1110a. Obstetrical and infertility benefits**

23 “(a)(1) Any health care plan under this chapter
24 which provides obstetrical benefits shall also provide cov-
25 erage for the diagnosis and treatment of infertility, includ-

1 ing nonexperimental assisted reproductive technology pro-
2 cedures.

3 “(2) Under this subsection—

4 “(A) coverage for the diagnosis or treatment of
5 infertility may not be subject to any copayment or
6 deductible greater than applies with respect to ob-
7 stetrical benefits under the plan involved; and

8 “(B) coverage for a procedure described in
9 paragraph (5)(B) shall, in the case of any individual,
10 be required only if—

11 “(i) such individual has been unable to
12 carry a pregnancy to live birth through less
13 costly, medically appropriate infertility treat-
14 ments for which such individual has coverage
15 under this chapter;

16 “(ii) the procedure (including any retrieval
17 incident thereto) is performed at medical facili-
18 ties that conform to the standards of the Amer-
19 ican Society for Reproductive Medicine, the So-
20 ciety for Assisted Reproductive Technology, the
21 American College of Obstetricians and Gyne-
22 cologists, or any other similar nationally-recog-
23 nized organization, or a Federal agency that
24 promulgates standards for infertility proce-
25 dures; and

1 “(iii) if the services of a laboratory are re-
2 quired, such laboratory is accredited by the Col-
3 lege of American Pathologists’ Reproductive
4 Laboratory Accreditation Program or any other
5 similar nationally-recognized program, or a
6 Federal agency performing a similar function.

7 “(3)(A) Except as provided in subparagraph (B) or
8 (C)—

9 “(i) coverage for a procedure described in para-
10 graph (5)(B) may be provided only if the individual
11 involved has not already undergone 4 attempts to
12 achieve a live birth using any such procedures; and

13 “(ii) coverage for an oocyte retrieval may be
14 provided only if the individual involved has not al-
15 ready undergone 4 complete oocyte retrievals.

16 “(B) For purposes of clause (i) of subparagraph
17 (A)—

18 “(i) if a live birth results from the third at-
19 tempt (using a procedure described in paragraph
20 (5)(B)), such clause shall be applied by substituting
21 ‘5’ for ‘4’; and

22 “(ii) if a live birth results from the fourth at-
23 tempt (using a procedure described in paragraph
24 (5)(B)), such clause shall be applied by substituting
25 ‘6’ for the otherwise applicable lifetime maximum.

1 “(C) For purposes of clause (ii) of subparagraph
2 (A)—

3 “(i) if a live birth results from the third oocyte
4 retrieval, such clause shall be applied by substituting
5 ‘5’ for ‘4’; and

6 “(ii) if a live birth results from the fourth oo-
7 cyte retrieval, such clause shall be applied by sub-
8 stituting ‘6’ for the otherwise applicable lifetime
9 maximum.

10 “(4) In no event shall this subsection be considered
11 to permit or require coverage—

12 “(A) if, or to the extent that, the health bene-
13 fits plan objects to such coverage on the basis of re-
14 ligious beliefs; or

15 “(B) in connection with any procedure or treat-
16 ment, unless rendered by a physician or at the direc-
17 tion or request of a physician.

18 “(5) For purposes of this subsection—

19 “(A) the term ‘infertility’ means—

20 “(i) the inability to conceive a pregnancy
21 after 12 months of regular sexual relations
22 without contraception or to carry a pregnancy
23 to a live birth; or

24 “(ii) the presence of a demonstrated condi-
25 tion determined by 2 physicians (at least 1 of

1 whom specializes in infertility) to cause infer-
2 tility; and

3 “(B) the term ‘nonexperimental assisted repro-
4 ductive technology procedure’ means in vitro fer-
5 tilization, gamete intrafallopian transfer, zygote
6 intrafallopian transfer, and any other clinical treat-
7 ment or procedure the safety and efficacy of which
8 are recognized by the American Society for Repro-
9 ductive Medicine, the American College of Obstetri-
10 cians and Gynecologists, or any other similar nation-
11 ally-recognized organization, or a Federal agency de-
12 scribed in paragraph (2)(B)(iii).

13 “(b) The Secretary of Defense shall prescribe any
14 regulations necessary to carry out this section.”.

15 (2) The table of sections at the beginning of such
16 chapter is amended by adding at the end the following
17 new item:

 “1110a. Obstetrical and infertility benefits.”.

18 **SEC. 2. EFFECTIVE DATE.**

19 The amendments made by this Act shall apply with
20 respect to contracts entered into or renewed for any year
21 beginning after the end of the 6-month period beginning
22 on the date of enactment of this Act.

○