

1 HOUSE BILL NO. 565

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6 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BUILDING FAMILIES ACT; PROVIDING
7 LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; REQUIRING INSURANCE COVERAGE FOR THE
8 DIAGNOSIS OF AND TREATMENT FOR INFERTILITY; PROVIDING A LIFETIME LIMIT OF COVERAGE;
9 APPLYING TO CERTAIN HEALTH PLANS; AMENDING SECTIONS 2-18-704 AND 33-35-306, MCA; AND
10 PROVIDING AN APPLICABILITY DATE."

11
12 WHEREAS, according to the Centers for Disease Control and Prevention, over 12% of women of
13 reproductive age in the United States have difficulty getting pregnant or staying pregnant; and

14 WHEREAS, infertility is evenly divided between women and men, and approximately one-third of cases
15 involves both partners being diagnosed or as being unexplained; and

16 WHEREAS, increasing accessibility for infertility treatment will expand Montana's health services and
17 improve the short-term and long-term health outcomes for the resulting children and mothers, which may also
18 reduce health care costs by reducing adverse outcomes; and

19 WHEREAS, families are getting smaller, and good public policy supports people who want to grow
20 families but face barriers due to cost; and

21 WHEREAS, by providing these services, Montana will retain existing young families and attract
22 potential new residents.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25
26 NEW SECTION. Section 1. [Sections 1 through 3] may be cited as the "Building Families Act".

27
28 NEW SECTION. Section 2. Definitions. For the purposes of [sections 1 through 3] the following

1 definitions apply:

2 (1) "Diagnosis of and treatment for infertility" means the recommended procedure and medication
3 from the direction of a licensed physician that are consistent with established, published, or approved medical
4 practices or professional guidelines from the American college of obstetricians and gynecologists or the
5 American society for reproductive medicine.

6 (2) (a) "Infertility" means a disease, condition, or status characterized by:

7 (i) the failure to establish a pregnancy or to carry a pregnancy to live birth after regular,
8 unprotected sexual intercourse for:

9 (A) a woman who is under 35 years of age, for 12 months; or

10 (B) a woman who is 35 years of age or older, for 6 months;

11 (ii) a licensed physician's findings based on a patient's medical, sexual, and reproductive history,
12 age, physical findings, or diagnostic testing; or

13 (iii) the woman or her partner having a life-threatening genetic disease.

14 (b) The term does not include a person who has had voluntary sterilization.

15

16 **NEW SECTION. Section 3. Coverage provided.** (1) All small group, large group, and individual
17 health insurance policies, contracts, or certificates that are delivered, issued for delivery, renewed, extended, or
18 modified in this state and that provide for medical or hospital expenses must include coverage for the diagnosis
19 of infertility and treatment for infertility up to and including in vitro fertilization treatment. The benefits must be
20 provided to covered individuals, including covered spouses and covered nonspouse dependents. The lifetime
21 coverage must provide at least \$40,000 for fertilization services as provided in [sections 1 through 3].

22 (2) A policy, contract, or certificate may not impose the following:

23 (a) exclusions, limitations, or other restrictions on the coverage of fertility medications that are
24 different from exclusions, limitations, or other restrictions imposed on other prescription medications;

25 (b) exclusions, limitations, or other restrictions on the coverage of fertility services based on a
26 covered individual's participation in fertility services provided by or to a third party;

27 (c) deductibles, copayments, coinsurance, benefit maximums, waiting periods, or other limitations
28 on coverage for the diagnosis of and treatment for infertility, including but not limited to in vitro fertilization

procedures, except as provided in this section, that are different from deductibles, copayments, coinsurance, benefit maximums, waiting periods, or other limitations imposed on benefits for services not related to infertility.

Section 4. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);
(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and
(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

1 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain
2 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health
3 Insurance for the Aged Act if the legislator:

4 (i) terminates service in the legislature and is a vested member of a state retirement system
5 provided by law; and

6 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
7 legislative term.

8 (b) A former legislator may not remain a member of the group plan under the provisions of
9 subsection (3)(a) if the person:

10 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

11 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
12 with substantially the same or greater benefits at an equivalent cost.

13 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
14 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
15 legislator.

16 (4) (a) A state insurance contract or plan must contain provisions that permit continued
17 membership in the state's group plan by a member of the judges' retirement system who leaves judicial office
18 but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The
19 judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial
20 service of the judge's choice to continue membership in the group plan.

21 (b) A former judge may not remain a member of the group plan under the provisions of this
22 subsection (4) if the person:

23 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

24 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan
25 with substantially the same or greater benefits at an equivalent cost; or

26 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

27 (c) A judge who remains a member of the group under the provisions of this subsection (4) and
28 subsequently terminates membership may not rejoin the group plan unless the person again serves in a

1 position covered by the state's group plan.

2 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall
3 pay the full premium for coverage and for that of the person's covered dependents.

4 (6) An insurance contract or plan issued under this part that provides for the dispensing of
5 prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

6 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in
7 Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions,
8 including the same professional requirements that are met by the mail service pharmacy for a drug, without
9 financial penalty to the member; and

10 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under
11 Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

12 (7) An insurance contract or plan issued under this part must include coverage for:

13 (a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

14 (b) therapies for Down syndrome, as provided in 33-22-139;

15 (c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

16 (d) fertility preservation services as required under 33-22-2103 and the diagnosis of and treatment
17 for infertility under [sections 1 through 3];

18 (e) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter
19 22, part 7;

20 (f) telehealth services, as provided for in 33-22-138; and

21 (g) refills of prescription eyedrops as provided in 33-22-154.

22 (8) (a) An insurance contract or plan issued under this part that provides coverage for an individual
23 in a member's family must provide coverage for well-child care for children from the moment of birth through 7
24 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in
25 force in the contract or plan.

26 (b) Coverage for well-child care under subsection (8)(a) must include:

27 (i) a history, physical examination, developmental assessment, anticipatory guidance, and
28 laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis,

1 and treatment services program provided for in 53-6-101; and

2 (ii) routine immunizations according to the schedule for immunization recommended by the
3 advisory committee on immunization practices of the U.S. department of health and human services.

4 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services
5 provided at each visit as provided for in this subsection (8).

6 (d) For purposes of this subsection (8):

7 (i) "developmental assessment" and "anticipatory guidance" mean the services described in the
8 Guidelines for Health Supervision II, published by the American academy of pediatrics; and

9 (ii) "well-child care" means the services described in subsection (8)(b) and delivered by a
10 physician or a health care professional supervised by a physician.

11 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a
12 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in
13 the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans
14 issued under this part, the premium charged for the additional coverage of a dependent, as defined in the
15 insurance contract or plan, may be required to be paid by the insured and not by the employer.

16 (10) Prior to issuance of an insurance contract or plan under this part, written informational
17 materials describing the contract's or plan's cancer screening coverages must be provided to a prospective
18 group or plan member.

19 (11) The state employee group benefit plans and the Montana university system group benefits
20 plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending
21 physician and, in the case of a health maintenance organization, the primary care physician, in consultation
22 with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection
23 for the treatment of breast cancer.

24 (12) (a) (i) The state employee group benefit plans and the Montana university system group
25 benefits plans must provide coverage for medically necessary and prescribed outpatient self-management
26 training and education for the treatment of diabetes. Any education must be provided by a licensed health care
27 professional with expertise in diabetes. At a minimum, the benefit must consist of:

28 (A) 20 visits of training and education in diabetes self-management provided in either an individual

1 or group setting if the person has not received the training and education previously; and

2 (B) 12 visits of followup diabetes self-management training and education services in subsequent
3 years for an insured who has previously received and exhausted the initial 20 visits of education.

4 (ii) For the purposes of this subsection (12)(a), the term "visit" refers to a period of 30 minutes.

5 (b) The state employee group benefit plans and the Montana university system group benefits
6 plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes,
7 injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips,
8 visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps,
9 one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United
10 States food and drug administration, and glucagon emergency kits.

11 (c) Nothing in subsection (12)(a) or (12)(b) prohibits the state or the Montana university group
12 benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which
13 case subsection (12)(a) or (12)(b), as appropriate, does not apply.

14 (d) Annual copayment and deductible provisions are subject to the same terms and conditions
15 applicable to all other covered benefits within a given policy.

16 (e) This subsection (12) does not apply to disability income, hospital indemnity, medicare
17 supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the
18 Montana university system as benefits to employees, retirees, and their dependents.

19 (13) (a) Except as provided in subsection (16), the state employee group benefit plans and the
20 Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace
21 officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a
22 volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace
23 officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment.
24 Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or
25 dependents. Renewals of coverage under this section must provide for the same level of benefits as is
26 available to other members of the group. Premiums charged to a spouse or dependent under this section must
27 be the same as premiums charged to other similarly situated members of the group. Dependent special
28 enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection

1 (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

2 (b) The state employee group benefit plans and the Montana university system group benefits
3 plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or
4 dependent only if:

5 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the
6 terms of the state employee group benefit plans and the Montana university system group benefits plans or if
7 the plans have not received timely premium payments;

8 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made
9 an intentional misrepresentation of a material fact under the terms of the coverage; or

10 (iii) the state employee group benefit plans and the Montana university system group benefits
11 plans are ceasing to offer coverage in accordance with applicable state law.

12 (14) The state employee group benefit plans and the Montana university system group benefits
13 plans must comply with the provisions of 33-22-153.

14 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the
15 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter
16 22, part 7.

17 (16) The employing state agency of a law enforcement officer as defined in 2-15-2040 who is
18 covered under the state employee group benefit plan shall:

19 (a) if the officer is catastrophically injured in the line of duty as defined in 2-15-2040, enroll the
20 officer and the officer's covered spouse or dependent children in COBRA continuation coverage when that
21 officer is terminated from employment as a result of the catastrophic injury. The officer and the officer's spouse
22 or dependent children may opt out of COBRA continuation coverage within 60 days of enrollment.

23 (b) enroll the officer's covered spouse or dependent children in COBRA continuation coverage if
24 the officer dies in the line of duty as defined in 2-15-2040. The officer's spouse or dependent children may opt
25 out of COBRA coverage within 60 days of the date of enrollment.

26 (c) pay the COBRA premium for 4 months of COBRA continuation coverage for the officer and the
27 officer's covered spouse or dependent children enrolled in COBRA continuation coverage pursuant to
28 subsections (16)(a) or (16)(b), after which time the officer and the officer's spouse or dependent children shall

1 pay the COBRA premium. (See compiler's comments for contingent termination of certain text.)"

2

3 **Section 5.** Section 33-35-306, MCA, is amended to read:

4 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-
5 funded multiple employer welfare arrangements are subject to the following provisions:

6 (a) 33-1-111;

7 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
8 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

9 (c) Title 33, chapter 1, part 7;

10 (d) Title 33, chapter 2, parts 23 and 24;

11 (e) 33-3-308;

12 (f) Title 33, chapter 7;

13 (g) Title 33, chapter 18, except 33-18-242;

14 (h) Title 33, chapter 19;

15 (i) 33-22-107, 33-22-114, 33-22-128, 33-22-129, 33-22-131, 33-22-134, 33-22-135, 33-22-138,
16 33-22-139, 33-22-141, 33-22-142, and 33-22-152 through 33-22-155, and [section 1];

17 (j) 33-22-316;

18 (k) 33-22-512, 33-22-515, 33-22-525, and 33-22-526;

19 (l) Title 33, chapter 22, parts 7 and 21; and

20 (m) 33-22-707.

21 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
22 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
23 revoked."

24

25 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 3] are intended to be
26 codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [sections
27 1 through 3].

28

