

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1418

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

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

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## 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. SHORT TITLE.**

4       This Act may be cited as the “Infertility Coverage  
5 for Federal Employees, Military Personnel, and their  
6 Families Act”.

1 **SEC. 2. INFERTILITY BENEFITS.**

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

5 “(c)(1) Each health benefits plan described by section  
6 8903 or 8903a which provides obstetrical benefits shall  
7 also provide coverage for the diagnosis and treatment of  
8 infertility, including nonexperimental assisted reproductive  
9 technology procedures.

10 “(2) Under this subsection—

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

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

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

23 “(ii) the procedure (including any retrieval  
24 incident thereto) is performed at medical facili-  
25 ties that conform to the standards of the Amer-  
26 ican Society for Reproductive Medicine, the So-

1           ciety for Assisted Reproductive Technology, the  
2           American College of Obstetricians and Gyne-  
3           cologists, or any other similar nationally-recog-  
4           nized organization, or a Federal agency that  
5           promulgates standards for infertility proce-  
6           dures; and

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

13           “(3)(A) Except as provided in subparagraph (B) or  
14 (C)—

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

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

22           “(B) For purposes of clause (i) of subparagraph  
23 (A)—

24                   “(i) if a live birth results from the third at-  
25                   tempt (using a procedure described in paragraph

1 (5)(B)), such clause shall be applied by substituting  
2 ‘5’ for ‘4’; and

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

7 “(C) For purposes of clause (ii) of subparagraph  
8 (A)—

9 “(i) if a live birth results from the third oocyte  
10 retrieval, such clause shall be applied by substituting  
11 ‘5’ for ‘4’; and

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

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

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

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

24 “(5) For purposes of this subsection—

25 “(A) the term ‘infertility’ means—

1           “(i) the inability to conceive a pregnancy  
2           after 12 months of regular sexual relations  
3           without contraception or to carry a pregnancy  
4           to a live birth; or

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

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

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

21          (b) DEFENSE HEALTH CARE PLANS.—(1) Chapter  
22          55 of title 10, United States Code, is amended by adding  
23          at the end the following new section:

1 **“§ 1110a. Obstetrical and infertility benefits**

2 “(a)(1) Any health care plan under this chapter  
3 which provides obstetrical benefits shall also provide cov-  
4 erage for the diagnosis and treatment of infertility, includ-  
5 ing nonexperimental assisted reproductive technology pro-  
6 cedures.

7 “(2) Under this subsection—

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

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

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

20 “(ii) the procedure (including any retrieval  
21 incident thereto) is performed at medical facili-  
22 ties that conform to the standards of the Amer-  
23 ican Society for Reproductive Medicine, the So-  
24 ciety for Assisted Reproductive Technology, the  
25 American College of Obstetricians and Gyne-  
26 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 “(b) The Secretary of Defense shall prescribe any  
18 regulations necessary to carry out this section.”.

19 (2) The table of sections at the beginning of such  
20 chapter is amended by adding at the end the following  
21 new item:

“1110a. Obstetrical and infertility benefits.”.

22 **SEC. 3. EFFECTIVE DATE.**

23 The amendments made by this Act shall apply with  
24 respect to contracts entered into or renewed for any year

- 1 beginning after the end of the 6-month period beginning
- 2 on the date of enactment of this Act.

