

Inequity between male and female coverage in state infertility laws

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Objective: To analyze state insurance laws mandating coverage for male factor infertility and identify possible inequities between male and female coverage in state insurance laws.

Design: We identified states with laws or codes related to infertility insurance coverage using the National Conference of States Legislatures' and the National Infertility Association's websites. We performed a primary, systematic analysis of the laws or codes to specifically identify coverage for male factor infertility services.

Setting: Not applicable.

Patient(s): Not applicable.

Intervention(s): Not applicable.

Main Outcome Measure(s): The presence or absence of language in state insurance laws mandating coverage for male factor infertility care.

Result(s): There are 15 states with laws mandating insurance coverage for female factor infertility. Only eight of those states (California, Connecticut, Massachusetts, Montana, New Jersey, New York, Ohio, and West Virginia) have mandates for male factor infertility evaluation or treatment. Insurance coverage for male factor infertility is most specific in Massachusetts, New Jersey, and New York, yet significant differences exist in the male factor policies in all eight states. Three states (Massachusetts, New Jersey, and New York) exempt coverage for vasectomy reversal.

Conclusion(s): Despite national recommendations that male and female partners begin infertility evaluations together, only 8 of 15 states with laws mandating infertility coverage include coverage for the male partner. Excluding men from infertility coverage places an undue burden on female partners and risks missing opportunities to diagnose serious male health conditions, correct reversible causes of infertility, and provide cost-effective treatments that can downgrade the intensity of intervention required to achieve a pregnancy. (Fertil Steril® 2016;105:1519–22. ©2016 by American Society for Reproductive Medicine.)

Key Words: Infertility, insurance, health policy, gender, state mandates

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Despite infertility being defined as a disease by the World Health Organization (1) and the American Society for Reproductive Medicine (2), treatment for infertility is rarely covered by private health insurance plans (3). The most recent major federal healthcare law, The Patient Protection and Affordable Care Act of 2010, does not comment about federal

mandates for infertility coverage, despite offering very specific minimum coverage requirements for qualified health plans (4). This lack of federal mandates for how or when infertility services should be covered by insurance plans leaves decisions about legislative mandates to individual states.

Multiple studies have evaluated state-level legislative mandates for

female infertility coverage (5–7). However, no studies have analyzed whether or not coverage for male factor infertility is present in the state insurance laws. It is possible that these state insurance laws provide equal coverage for male and female infertility, or there may be inequities in gender coverage within the laws. Because both male and female partners can have significant contributions to infertility, the American Society for Reproductive Medicine (8), the National Institute for Health and Care Excellence (9), and the Centers for Disease Control and Prevention (10) recommend that infertile couples begin their evaluations together.

To investigate possible gender inequities in state infertility insurance

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laws, we analyzed whether male factor infertility work-up and treatment was included or excluded in state insurance laws addressing infertility coverage. We hypothesized that insurance coverage for male factor infertility is disproportionately excluded from state insurance laws.

MATERIALS AND METHODS

Identification of States with Infertility Insurance Laws or Codes

We began by identifying American states with laws or codes related to insurance coverage for infertility, regardless of gender. Our two primary sources for this search were the National Conference of States Legislatures and RESOLVE: The National Infertility Association. The laws or codes identified

through the National Conference of States Legislatures were cross-referenced with those identified by RESOLVE resources. Discrepancies were resolved by searching the state legislative websites to identify laws or codes with the keyword “infertility.” Additional states were identified using published literature describing state-level mandates for female infertility care (5–7).

Analysis of Infertility Laws or Codes

After identifying relevant states, we performed a primary analysis of the laws or codes in each state to identify whether male and female infertility coverage was handled differently. Primary law or code text was obtained through individual state legislative websites searched using the law or code numbers identified in Table 1 or using the keyword “infertility.”

TABLE 1

Summary of male factor infertility coverage in states with laws related to infertility coverage.

State	Male factor evaluation and treatment coverage included in law	Restrictions	Law/code	Year(s) enacted
AR	None		Ark. State. Ann. § 23-85-137, § 23-86-118	1987, 2011
CA	Diagnosis and treatment (medication and surgery) of conditions causing infertility must be offered to employers		Cal. Health & Safety Code § 1374.55, Cal. Insurance Code § 10119.6	1989
CT	Diagnosis and treatment for individuals unable to “produce conception”		Conn. Gen. Stat. § 38a-509, § 38a-536	1989, 2005
HI	None		Hawaii Rev. Stat. § 431:10A-116.5, § 432.1-604	1989, 2003
IL	None		Ill. Rev. Stat. ch. 215, § 5/356m	1991, 1996
LA	None		La. Rev. Stat. Ann. § 22:1036	2001
MD	None		Md. Insurance Code Ann. § 15-810, Md. Health General Code Ann. § 19-701	2000
MA	Diagnosis and treatment of infertility, including sperm procurement, processing, and banking	Correction of elective sterilization; experimental procedures ^a	Mass. Gen. Laws Ann. Ch. 175, § 47H, ch. 176A, § 8K, ch. 176B, § 4J, ch. 176G, § 4; 211 Code of Massachusetts Regulations 37.00	1987, 2010
MT	Undefined “infertility services” as a basic health care service	Only mandated for Health Maintenance Organizations (HMOs)	Mont. Code Ann. § 33-22-1521, § 33-31-102(2)(v), et seq.	1987
NJ	Diagnosis and treatment of infertility	Correction of elective sterilization; cryopreservation; experimental procedures ^a	N.J. Stat. Ann. § 17:48A-7w, § 17:48E-35.22, § 17B:27-46.1x	2001
NY	Semen analysis, testis biopsy, correction of malformation, disease, or dysfunction resulting in infertility	Correction of elective sterilizations; cryopreservation; experimental procedures ^a	N.Y. Insurance Law § 3216 (13), § 3221 (6) and § 4303	1990, 2002, 2011
OH	Diagnostic and exploratory procedures for testicular failure	Only mandated for HMOs	Ohio Rev. Code Ann § 1751.01 (A) (7)	1991
RI	None		R.I. Gen. Laws § 27-18-30, § 27-19-23, § 27-20-20 and § 27-41-33	1989, 2007
TX	None		Tex. Insurance Code Ann. § 1366.001 et seq.	1987, 2003
WV	Undefined “infertility services” as a basic health care service	Only mandated for HMOs	W. Va. Code § 33-25A-2	1995

^a Not otherwise defined.

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