



## **March 2021, Update On Colorado Building Families Act**

Last year, in response to a clear and present need for better access to fertility care for Colorado families, the state legislature passed the Colorado Building Families Act. Set to go into effect on January 1, 2022, the law requires that insurance plans under Colorado state law include fertility diagnosis, treatment, and preservation on the same terms as other medically necessary services.

**The Victory.** The passage of this bill was a huge win for the state, Coloradan families struggling to conceive, and men and women facing medical diagnoses that could otherwise rob them of their future opportunity to have a child. The new law was predicted to provide fertility coverage to approximately 1,123,000 Coloradans. The state law, however, does not apply to those insurance plans under federal law, including employers who are self-insured.

**Recent News.** Colorado had already included infertility diagnosis and treatment in its 2017 Benchmark Plan as an Essential Health Benefit under the ACA, and the bill sought to update the coverage to include medically necessary preservation and more effective treatments, including IVF. Due to concerns that the new law could be interpreted as a new mandate rather than an update, and possibly trigger the state owing defrayal costs to the health plans, a provision was added to the bill before passage requiring an interpretation from Health and Human Services (HHS). We recently learned that HHS, under the prior Administration, made an unexpected negative interpretation that the new law could subject the state to defrayal. This is inconsistent with previous interpretations and inconsistent with the goal of providing needed essential services to Colorado families.

**The Result.** The interpretation by HHS means that, as of now, a portion of the Colorado Building Families Act will not go into effect on January 1, 2022. Specifically, the act will not be applied to insurance plans in the individual and small group markets. In good news, the law will still go into effect for large group plans which cover approximately 660,000 Coloradans, almost 60% of those originally expected to be covered. And under CO's current Benchmark Plan, diagnosis and treatment of infertility, including artificial insemination but not IVF, is covered in the individual and small group markets,

**Next Steps.** Join us as we take our fight to the federal level. Leading national organizations such as RESOLVE are working closely with federal agencies and lawmakers to find a path forward to correct the current situation with Colorado's law. In the meantime, us Coloradans will continue to have our voices heard and stand up for the need for fertility services for ourselves, and our state, and our country.

**What You Can Do:**

- **Sign Up For RESOLVE's Federal [Advocacy Day](#).** Held remotely this year on June 17, 2021. This is a way to educate our Federal Lawmakers about infertility and the needs of our community.
  - <https://resolve.org/get-involved/events/advocacy-day/>
- **Get Involved With Colorado Fertility Advocates.** [Join](#) our cause, advocating for and supporting Coloradans.
  - [www.coloradofertilityadvocates.org](http://www.coloradofertilityadvocates.org)
- **Attend Colorado Fertility Advocates Upcoming [Webinars](#).**
  - April 21, 2021: *Advocating for Fertility Benefits With Your Employer*
  - July 22, 2021: *Fertility Treatment Financing*
  - October 21, 2021: *What To Expect From Colorado's New Fertility Access Law on 1/1/2022*
  - <https://coloradofertilityadvocates.org/events-1>