

Multiple Agency Fiscal Note Summary

Bill Number: 5204 SB	Title: Fertility services coverage
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Washington State Health Care Authority	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Office of Insurance Commissioner	.2	0	0	58,735	.1	0	0	21,470	.1	0	0	21,470
Total \$	0.2	0	0	58,735	0.1	0	0	21,470	0.1	0	0	21,470

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Washington State Health Care Authority	.0	0	0	.0	0	0	.0	0	0
Office of Insurance Commissioner	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Marcus Ehrlander, OFM	Phone: (360) 489-4327	Date Published: Final
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Individual State Agency Fiscal Note

Bill Number: 5204 SB	Title: Fertility services coverage	Agency: 107-Washington State Health Care Authority
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Greg Attanasio	Phone: 360-786-7410	Date: 01/10/2023
Agency Preparation: Molly Christie	Phone: 360-725-5138	Date: 01/13/2023
Agency Approval: Tanya Deuel	Phone: 360-725-0908	Date: 01/13/2023
OFM Review: Marcus Ehrlander	Phone: (360) 489-4327	Date: 01/16/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

See attached narrative.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached narrative.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached narrative.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

See attached narrative.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

HCA Fiscal Note

Bill Number: SB 5204

HCA Request #: 23-023

Part II: Narrative Explanation

I. A - Brief Description of What The Measure Does That Has Fiscal Impact

The Washington State Building Families Act adds new sections to 48.43 RCW and 41.05 RCW requiring commercial health plans and plans offered by the Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) programs to include coverage for the diagnosis and treatment of infertility and for standard fertility preservation services on or after January 1, 2025. Benefits must be extended to enrollees and covered dependents, or their surrogates, at coverage levels in parity with services unrelated to infertility.

Section 2 (New Section, RCW 48.43 – Insurance Reform) establishes requirements for coverage of infertility benefits by commercial health plans. Specifically, coverage must include 1) diagnosis and treatment of infertility and standard fertility preservation services; and 2) four complete oocyte retrievals with unlimited embryo transfers in accordance with guidelines of the American Society for Reproductive Medicine using single embryo transfer when recommended and medically appropriate. Health plans are prohibited from including:

- Fertility medication exclusions, limitations, or other restrictions different from other covered prescription medications
- Exclusions, limitations, or other restrictions on coverage provided by or to a third party; and
- Different cost-sharing or benefit limitations for infertility services than imposed on other medical services.

These sections also establish definitions for “diagnosis and treatment of infertility,” “infertility,” “regular, unprotected sexual intercourse,” and “standard fertility preservation services.”

Section 3 (New Section, RCW 41.05 - State Health Care Authority)

Creates the same requirements as Section 2 but applies specifically to health plans offered under the PEBB and SEBB programs, including the Uniform Medical Plan.

II. B - Cash Receipts Impact

None.

II. C – Expenditures

This bill has an indeterminate fiscal impact on the PEBB and SEBB programs due to an anticipated significant increase in medical costs and resulting rates for the Uniform Medical Plan and the fully insured health plans; for reasons described below, a general cost estimate is not possible at this time.

Sections 2 and 3 establish requirements for coverage of infertility benefits for commercial health plans and PEBB and SEBB plans, including the Uniform Medical Plan. Plans must cover diagnosis and treatment of infertility, including assisted reproductive technology, and standard fertility preservation services. Health plans may not impose limits on medical or pharmacy coverage for infertility—including benefit exclusions, deductibles, copayments, coinsurance, benefit maximums, and waiting periods—that are more restrictive than those applied to non-fertility-related benefits.

Sections 2(1) and 3(1) stipulate that coverage must be provided to enrollees, including covered spouses and covered non-spouse dependents; however, Sections 2(2)(b) and 3(2)(b) specify that coverage must be extended to a third party, such as a surrogate, sperm donor, or egg donor. This analysis assumes that infertility services as described in the bill—such as fertility medications and embryo transfer—are covered for third parties. Maternal care for a surrogate (i.e., pregnancy and birth) would be covered by the individual’s personal health insurance.

HCA Fiscal Note

Bill Number: SB 5204

HCA Request #: 23-023

Broadly, medical plans in the PEBB and SEBB programs do not cover infertility benefits or medical costs for birth and maternal care for a surrogate who is not a PEBB or SEBB member. Specifically:

- The Uniform Medical Plan does not cover any services for the diagnosis or treatment of infertility, or for standard fertility preservation services.
- Premera plans in the SEBB program cover:
 - Diagnostic x-rays, labs, and imaging services for the diagnosis and treatment of the underlying conditions that may cause infertility; and
 - Medically necessary surgeries to correct the cause of infertility (exclusive of assisted reproduction techniques or sterilization reversal).
- Kaiser Health Plan Foundation of Washington (SEBB and PEBB) covers:
 - General counseling and a single consultation visit to diagnose infertility conditions.
- Kaiser Health Plan Foundation of the Northwest (SEBB only) covers:
 - Office visits and diagnostic imaging and laboratory tests for the diagnosis of infertility.

There is no impact to the Medicare Advantage (MA) plans offered to Medicare eligible PEBB retirees because state laws are pre-empted by Federal laws for MA and Part D offerings.

HCA is unable to establish reliable assumptions for utilization or unit cost because the benefits described in this bill are not currently (and have not historically been) offered in PEBB and SEBB. There is likely wide variation in cost across providers and pharmacies, and carriers that do not routinely offer infertility coverage may not have competitive network agreements with specialists who provide assisted reproductive technology or fertility preservation. Additionally, HCA does not have historical data on utilization of infertility services to estimate how many members would access benefits, and which benefits they would use. This would require more extensive research such as data requests from employers who have offered the full suite of benefits described in this bill, and whose covered populations are comparable to PEBB and SEBB in size and risk profile/demographics.

HCA is working with its contracted actuary, Milliman, to analyze the cost of covering infertility benefits in PEBB, SEBB, and Medicaid pursuant to the 2022 supplemental operating budget (ESSB 5693) and consistent with the benefits described in the December 2021 Sunrise Review. Milliman's preliminary analysis will be delivered to HCA at the end of March, and HCA's report to the legislature is due June 30, 2023. While this report does not assume any coverage for third parties (i.e., surrogates), it should provide a valid estimate for the cost of infertility coverage otherwise described in this bill.

Medicaid

No fiscal impact.

No impacts on the Medicaid lines of business because this legislation places the requirements under RCWs 48.43 and 41.05.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 5204 SB	Title: Fertility services coverage	Agency: 160-Office of Insurance Commissioner
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
Account					
Insurance Commissioners Regulatory Account-State 138-1	48,000	10,735	58,735	21,470	21,470
Total \$	48,000	10,735	58,735	21,470	21,470

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Greg Attanasio	Phone: 360-786-7410	Date: 01/10/2023
Agency Preparation: Shari Maier	Phone: 360-725-7173	Date: 01/13/2023
Agency Approval: Michael Wood	Phone: 360-725-7007	Date: 01/13/2023
OFM Review: Jason Brown	Phone: (360) 742-7277	Date: 01/16/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 2(1) and 3(1) requires health plans issued or renewed on or after January 1, 2025, to include coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services. The benefits must be provided to enrollees, including covered spouses and covered non spouse dependents, to the same extent as other pregnancy related benefits. Coverage must provide for four completed oocyte retrievals with unlimited embryo transfers in accordance with the guidelines of the American Society for Reproductive Medicine, using single embryo transfer when recommended and medically appropriate.

Section 2(2) and 3(2) prohibits health plans issued or renewed on or after January 1, 2025, from including:

- a. Any exclusions, limitations, or other restrictions on coverage of fertility medications that are different from those imposed on any other prescription medications;
- b. Any exclusions, limitations, or other restrictions on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third-party; or
- c. Any deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitation on coverage for the diagnosis infertility, treatment of infertility, and standard fertility preservation services, except as provided in this section that are different from those imposed upon benefits for services not related to infertility.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Sections 2(1) and 3(1) requires health plans issued or renewed on or after January 1, 2025, to include coverage for the diagnosis of infertility, treatment for infertility, and standard fertility preservation services. The benefits must be provided to enrollees, including covered spouses and covered non spouse dependents, to the same extent as other pregnancy related benefits. Coverage must provide for four completed oocyte retrievals with unlimited embryo transfers in accordance with the guidelines of the American Society for Reproductive Medicine, using single embryo transfer when recommended and medically appropriate.

Sections 2(2) and 3(2) prohibits health plans issued or renewed on or after January 1, 2025, from including:

- a. Any exclusions, limitations, or other restrictions on coverage of fertility medications that are different from those imposed on any other prescription medications;
- b. Any exclusions, limitations, or other restrictions on coverage of any fertility services based on a covered individual's participation in fertility services provided by or to a third-party; or
- c. Any deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitation on coverage for the diagnosis infertility, treatment of infertility, and standard fertility preservation services, except as provided in this section that are different from those imposed upon benefits for services not related to infertility.

Sections 2 and 3 will require additional review of health plan form filings to ensure the fertility services benefit is accurately disclosed to enrollees in the forms. The Office of Insurance Commissioner (OIC) will require one-time costs, in FY2024, of 6 hours of a Functional Program Analyst 4 to update filing review standards and speed-to-market tools, update checklist documents and filing instructions, train staff, and educate issuers. The OIC receives approximately 312 health plan form filings each year and assumes the new review standards will result in an additional 15 minutes of review per form filing in

FY2024 and an additional 5 minutes of review per form filing in FY2025 and thereafter requiring 78 hours (312 form filings x 15 minutes) of a Functional Program Analyst 3 (FPA3) in FY2024 and 26 hours (312 form filings x 5 minutes) of a FPA3 in FY2025 and thereafter.

The provisions in Sections 2 and 3 will lead to an increase in enforcement actions. The OIC anticipates an average of an additional 2 enforcement actions per year to address allegations specific to coverage for fertility services. Enforcement actions require the equivalent of approximately 40 hours per case requiring 80 hours (2 cases x 40 hours) of an Insurance Enforcement Specialist beginning in FY2024.

Sections 2 and 3 will require 'normal' rulemaking, in FY2024, to align current WACs with the new law.

Ongoing Costs:

Salary, benefits and associated costs for .02 FTE Functional Program Analyst 3 and .05 FTE Insurance Enforcement Specialist.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
138-1	Insurance Commissioners Regulatory Account	State	48,000	10,735	58,735	21,470	21,470
Total \$			48,000	10,735	58,735	21,470	21,470

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
A-Salaries and Wages	28,952	6,441	35,393	12,882	12,882
B-Employee Benefits	9,448	2,147	11,595	4,294	4,294
C-Professional Service Contracts					
E-Goods and Other Services	9,600	2,147	11,747	4,294	4,294
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	48,000	10,735	58,735	21,470	21,470

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Functional Program Analyst 3	73,260	0.1	0.0	0.0	0.0	0.0
Functional Program Analyst 4	80,952	0.1		0.0		
Insurance Enforcement Specialist	99,516	0.1	0.1	0.1	0.1	0.1
Senior Policy Analyst	108,432	0.2		0.1		
Total FTEs		0.3	0.1	0.2	0.1	0.1

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Sections 2 and 3 will require 'normal' rulemaking, in FY2024, to align current WACs, such as WAC 284-43-5642 essential health benefit categories, with the new law.