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ALL PLAN LETTER

DATE: December 30, 2025; revised February 23, 2026; revised October 5, 2026

TO: All Full-Service Health Plans¹

FROM: Jessica Petersen
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SUBJECT: REVISED APL 25-021 - Implementation of Senate Bill 729 (2024)

Effective Date: The revisions in this All Plan Letter take effect for all contracts issued, amended or renewed on or after July 1, 2027.

I. Background

[Senate Bill \(SB\) 729](#) (Menjivar, Statutes of 2024, Chapter 930) amended Health and Safety Code section 1374.55² of the Knox-Keene Act. SB 729 as enacted required large group health contracts issued, amended, or renewed on or after July 1, 2025, to *cover* the diagnosis and treatment of infertility and fertility services.³ Likewise, SB 729 as enacted, required small group health plan contracts issued, amended, or renewed on or after July 1, 2025 to *offer* coverage for the diagnosis and treatment of infertility and fertility services.

However, Assembly Bill (AB) 116 (Committee on Budget, 2025) delayed the effective date from July 1, 2025, to January 1, 2026. AB 116 also specified that the Department of Managed Health Care (DMHC) may issue guidance regarding compliance with section 1374.55 and such guidance shall not be subject to the Administrative Procedure Act. Per that authority, the DMHC issues the following guidance to health plans.⁴

¹ The APL applies to all full-service commercial plans. It does not apply to Medi-Cal managed care plans or to Medicare Advantage plans. The APL does not apply to religious employers, as defined in Health and Safety Code section 1367.25.

² All statutory references in this APL refer to sections in the California Health and Safety Code unless otherwise specified.

³ SB 729/AB 116 does not apply to health plan contracts entered into with the Board of Administration of the Public Employees' Retirement System until July 1, 2027. After that date, the requirements in Health and Safety Code section 1374.55 and this APL apply to such contracts.

⁴ This guidance incorporates the SB 729 Frequently Asked Questions, published concurrently with this APL.

II. Definitions

For purposes of section 1374.55 and this APL, the following definitions apply:

1. “Cohort” means a specific group or package of oocytes collected from a single donor.
2. “Completed oocyte retrieval” means the conclusion of the surgical procedure to extract oocytes from the ovaries or the in vitro maturation of oocytes obtained from previously cryopreserved ovarian tissue.
3. “Completed sperm retrieval” means the conclusion of the surgical procedure to extract sperm from the testicles or epididymis.
4. “Donor” means an individual from whom eggs, sperm, or embryos are obtained through means other than through sexual intercourse.
5. “Procurement” means the purchase of cryopreserved gametes and embryos from tissue banks or cryopreservation banks.
6. “Sperm collection” means obtaining an ejaculated semen sample.
7. “Surrogate” means a person who bears and carries a child for another through medically assisted reproduction and pursuant to a written agreement, as set forth in Family Code [Sections 7606](#) and [7962](#).

III. Covered treatments for infertility and fertility services

A large group health care service plan contract subject to section 1374.55 shall cover and a small group health plan contract subject to section 1374.55 shall offer to cover the diagnosis and treatment of infertility and medically necessary fertility services consistent with established medical practices and the most current professional guidelines for the diagnosis and treatment of infertility as published by the American Society for Reproductive Medicine (ASRM). Any medical necessity determination or the utilization review criteria applied by the health plan or any entity acting on the health plan's behalf to determine the medical necessity of infertility services must be consistent with established medical practices and the most current professional guidelines as established by ASRM.

1. Services to diagnose infertility as follows:
 - a. Physician services, including consultation and referral
 - b. Physical examination
 - c. Genetic evaluation
 - d. Screening and diagnostic laboratory and imaging services

- e. Semen analysis
 - f. Tubal evaluation and uterine evaluation
 - g. Sperm DNA fragmentation analysis
 - h. Hormone testing
 - i. Ovulation testing
 - j. Thyroid function testing
 - k. Ovarian reserve testing
 - l. Diagnostic surgery and biopsy
 - m. Any other services to diagnose infertility consistent with the established medical practices and the most current professional guidelines published by ASRM
2. Fertility services to treat infertility as follows:
- a. A large group contract must cover at least three completed sperm retrievals ~~attempts to collect or retrieve~~ or at least three sperm collections. The small group offer of coverage must include coverage of at least one completed sperm retrieval ~~attempt to collect or~~ at least one retrieve sperm collection.
 - b. A large group contract must cover at least three completed oocyte retrievals. The small group offer of coverage must include coverage of at least one ~~attempt to collect or retrieve~~ completed oocytes retrieval.
 - c. Procurement of donor semen, oocyte and embryo as follows:
 - i. At least three cohorts of oocytes with a minimum of eight oocytes in each cohort. The enrollee may select a cohort with less than the required number of oocytes.
 - ii. At least six vials of semen.
 - d. Physician services, including consultation and referral.
 - e. Surgery to treat infertility
 - f. Medication to treat infertility
 - g. Reproductive counseling
 - h. Genetic counseling

- i. Genetic testing and screening
 - j. Laboratory and imaging services
 - k. Infectious disease screening and testing
 - l. Medication to induce ovulation
 - m. Intrauterine insemination
 - n. Intracervical insemination
 - o. Preimplantation genetic testing
 - p. In vitro maturation
 - q. In vitro fertilization
 - r. Embryo creation
 - s. Intracytoplasmic sperm injection
 - t. Ovarian tissue reimplantation
 - u. Embryo biopsy
 - v. Assisted hatching
 - w. Thawing of previously cryopreserved gametes, embryos, and tissues
 - x. Unlimited embryo transfers, using single embryo transfers in accordance with section 1374.55(a)(1)
 - y. Any other fertility services to treat infertility consistent with the established medical practices and the most current professional guidelines published by ASRM
3. Donors, Donor Material, and Surrogate services as follows:
- a. Physician services, including consultation and referral
 - b. Physical examination
 - c. Laboratory and imaging services
 - d. Genetic testing and screening
 - e. Infectious disease screening and testing

- f. Medication to induce ovulation
 - g. Retrieval of donor gametes subject to the limitations specified in section III.2.a-b above.
 - h. Gamete and embryo transfer
 - i. Any other medically necessary infertility and fertility services, as specified in section III.2 above, to enable the enrollee to become a parent using donor gametes, donor embryos, and surrogate services
4. For large group health plan products, cryopreservation and storage of sperm, oocytes, and embryos for a period of at least five years from the time the genetic material is first cryopreserved. The small group offer of coverage must include coverage of cryopreservation and storage of sperm, oocytes, and embryos for a period of at least one year from the time the genetic material is first cryopreserved. Health plans must provide coverage for cryopreservation of created embryos and any unused sperm and unfertilized oocytes pursuant to the storage period requirements specified in this APL.

All health care services provided to an enrollee, donor, or surrogate pursuant to this APL must be covered by the enrollee's health plan regardless of the donor or surrogate's health plan coverage.

The requirements in section 1374.55, as amended by AB 116, and this APL do not require health plans to cover services that are not medically necessary, experimental, or investigational, unless otherwise required under existing law.

Pursuant to section 1374.55, health plans must provide coverage for the treatment of infertility without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation.

IV. Cryopreservation

With respect to cryopreservation of sperm, oocytes, and embryos, a health plan may select a storage vendor of its choice, including storage vendors with storage facilities located outside of California, so long as the vendor holds a valid license issued by the California Department of Public Health to operate a tissue bank. Within 30 days of entering into a contract with vendor for cryopreservation services to be provided outside of California, the plan must file an Exhibit E-1 with the DMHC identifying the name and location of the out-of-state tissue bank. The plan shall file this information as a "Report/Other" entitled "Plan Report on Cryopreservation Vendor." If a plan has an existing contract with a vendor for storage outside of California and intends to use that vendor for SB 729 cryopreservation services, the plan shall include this information in the compliance filing required by section XI of this APL (see below).

A health plan has no obligation to continue to cover storage of genetic material for an individual who is no longer enrolled with the plan. If an enrollee changes health plans during the covered storage period and the new plan deems it necessary to transport the sperm, oocytes, or embryos to a different storage facility, the enrollee's new health plan shall be responsible for transportation costs of genetic material to the new health plan's storage facilities. The new health plan shall cover storage for the remainder of the applicable storage time frame. With respect to embryo cryopreservation, the transportation and storage costs must be paid by the new health plan providing coverage to the enrollee that received or is receiving infertility treatment.

The health plan covering the enrollee prior to the enrollee's change in health plan coverage and the enrollee's new health plan shall coordinate on the transfer and transportation of the cryopreserved sperm, oocytes, or embryos. The enrollee's prior health plan shall provide the enrollee's new health plan with information showing the beginning date of cryopreservation of the genetic material.

The enrollee's new health plan shall provide written notice to the enrollee that the new plan shall cover transportation and storage costs for the remainder of the applicable storage time or until the enrollee is no longer enrolled with the health plan, whichever is shorter.

V. Lifetime Limits

For enrollees in large group health plan products, a health plan may impose a lifetime limit on the ~~attempts to collection and retrieval of sperm and oocytes~~, so long as that limit is not less than three ~~attempts completed retrievals or collections~~. For enrollees in large group health plan products, a health plan may also impose a lifetime limit on cryopreservation, so long as that limit is not less than five years. ~~Health plans may not impose lifetime limits on enrollees in small group coverage.~~ Services provided to an enrollee by a small group product or by any other type of health plan product apart from a large group product regulated by the DMHC (e.g., a self-insured employer plan, insurance plan regulated by another state) shall not be counted towards the allowable large group lifetime limits.

VI. Prohibited denials of coverage

A health plan shall not deny coverage for medically necessary treatments of infertility or fertility services based solely upon an enrollee's prior diagnosis of infertility or an enrollee's prior elective sterilization if the sterilization was performed for the purposes of medical safety, health or disease prevention, or gender affirming care. Examples of sterilization performed for medical safety, and health or disease prevention include, but are not limited to, procedures performed to prevent cancer, procedures performed to treat conditions like endometriosis or severe uterine fibroids, procedures performed to prevent high-risk pregnancies for individuals with certain underlying health issues or specific genetic disorders. However, a A health plan is not required to provide coverage for the surgical reversal of the elective sterilization.

The requirements in section 1374.55 and this APL do not abrogate or diminish a health plans' obligation to provide basic health care services and prescription drugs as required by the Knox-Keene Act and its implementing regulations.

VII. Enrollee notices

No more than 30 business days after receipt of a claim for cryopreservation services, the health plan must provide the enrollee with written notice explaining the covered storage period. At a minimum, the notice must inform the enrollee of the following:

1. The covered storage period
2. Options for continued storage of genetic material if coverage ends prior to the expiration of the storage period
3. Any potential out-of-pocket costs to the enrollee associated with the continued storage of genetic material if coverage ends prior to the expiration of the storage period

At least 90 calendar days before the expiration of the storage periods described above, the health plan shall provide the enrollee with written notice explaining the termination of the storage period. At a minimum, the notice must inform the enrollee of the following:

1. Options for continued storage of genetic material
2. Any potential out-of-pocket costs to the enrollee associated with the continued storage of genetic material after coverage has ended

A health plan's Evidence of Coverage (EOC), Disclosure Forms, and any combined EOC and Disclosure Form must include the following statements separately in bold typeface and in no less than 12-point font:

You have a right to receive treatment for infertility and fertility services when you meet the requirements in Health and Safety Code section 1374.55.

If you have questions about how to obtain infertility treatment services or are having difficulty obtaining services you can: 1) call your health plan at the telephone number on your health plan identification card; 2) call the DMHC's Help Center at 1-888-466-2219; or 3) contact the DMHC's through its website at www.DMHC.ca.gov to request assistance in obtaining infertility treatment services.

VIII. Surrogacy

If an enrollee is using the services of a surrogate to treat the infertility of the enrollee, in addition to coverage of the above-described services, the enrollee's health plan shall

cover medically necessary health testing of the surrogate, as necessary, for each ~~attempt to collect~~ retrieval or collection of eggs or sperm or ~~to create~~ creation of embryos, and for each attempt to achieve a pregnancy with that material. A health plan shall not condition the coverage for services to medically screen and evaluate a potential surrogate on the execution of an assisted reproduction agreement.

The enrollee's health plan shall not be responsible for health care costs of the surrogate after the embryo transfer procedure, including maternity services, except as required under the terms of the surrogate's health plan contract.

IX. Fertility preservation services

Section 1374.551 and California Code of Regulations (CCR), title 28, section 1300.74.551 require health plans in the individual, small group, and large group commercial markets to cover "standard fertility preservation services," as defined in those sections, to treat iatrogenic infertility. The requirements in section 1374.55 and this APL do not abrogate or impact health plans' obligations to cover standard fertility preservation services for iatrogenic infertility as required by the Knox-Keene Act and its implementing regulations. Likewise, the requirements of section 1374.551 and CCR section 1300.74.551, do not abrogate or otherwise reduce or limit health plans' obligations to cover diagnosis and treatment of infertility and fertility services as required section 1374.55, this APL, and any other SB 729 implementing guidance or implementing regulations.

If an enrollee meets the requirements in section 1374.551 and CCR section 1300.74.551 regarding health plan coverage for fertility preservation services, the health plan must cover standard fertility preservation services subject to the retrieval, cryopreservation, and storage limitations outlined in CCR section 1300.74.551. If the same enrollee meets the requirements in section 1374.55 and this APL, the health plan must also cover fertility services to treat infertility subject to the retrieval, cryopreservation and storage limitations outlined in this APL. Retrieval, cryopreservation, and storage limitations in one statute and its implementing regulations or guidance must not be used to deny, restrict or limit the health plans' obligation to cover services pursuant to the other statute and its implementing regulations or guidance. For example, if an enrollee meets the requirements of both statutes, the health plan subject to the requirements of these statutes and their respective implementing regulations and guidance would have to cover two attempts to collect sperm for fertility preservation purposes and three ~~attempts to collections~~ completed retrievals of sperm to treat infertility.

X. Large Group Rates

Health plans in the large group market already submitted rate filings for rates effective January 1, 2026. If a health plan intends to implement a change in methodology, factors, or assumptions for the large group market based on the requirements of SB 729 or this APL, the health plan shall submit a filing through the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF), no later than 120 days before implementing the rate change.

The Large Group Workbook and guidance can be found on the [DMHC website](#).

Likewise, per section 1374.21(a)(2), a health plan may not change the premium rate for a large group contract unless the health plan has delivered to the contract holder a written notice indicating the change at least 120 days before the contract renewal effective date.

XI. Filing with the DMHC

On December 19, 2025, the DMHC issued [APL 25-020 \(OPL\)—Newly Enacted Statutes Impacting Health Plans \(2025 Legislative Session\)](#). That APL informed plans of pertinent newly-enacted legislation and directed health plans to submit a compliance filing to the DMHC by March 19, 2026. The health plans' compliance filings are to be titled "Compliance with 2025 Legislation."

APL 25-020 did not include SB 729. However, health plans may need to amend their EOCs, Disclosure Forms, and other documents to ensure consistency with the requirements of SB 729 and this APL. **To demonstrate compliance with SB 729 and this APL, the DMHC directs health plans to include in their Compliance with 2025 Legislation filings the following information regarding SB 729 and this APL:**

1. State either:

- The health plan reviewed its policies and procedures, EOCs, Disclosure Forms, and any other applicable documents and those documents are consistent with the requirements of SB 729 and APL 25-021.

OR

- The health plan reviewed its policies and procedures, EOCs, Disclosure Forms, and any other applicable documents and those documents are not consistent with the requirements of SB 729 and APL 25-021. The health plan will amend these documents to comply with SB 729 and APL 25-021 and file the documents per the Knox-Keene Act's applicable timeframes.

2. State whether the health plan currently contracts with any vendors for cryopreservation services that are located outside of California. If the health plan contracts with an out-of-state vendor or vendors for cryopreservation services, for each such vendor identify the name and location of the vendor and confirm the vendor is licensed as a human tissue bank by the California Department of Public Health.

If you have questions regarding this APL, please contact your health plan's assigned reviewer in the DMHC's Office of Plan Licensing.