

Minnesota Department of Commerce
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mn.gov/commerce

November 3, 2022

RE: Response to comment on requiring coverage of female infertility treatment HF3465
[62J.26 RFI \(mn.gov\)](#)

Comment Coverage:

What services or items (if any) are not clearly identified in the bill that Commerce should consider during their evaluations?

- What relevant research findings, actuarial or economic simulations, or analyses of public health impacts should Commerce consider during their evaluations of bill?
- What sources of available data should Commerce consider analyzing during their evaluations of bill?
- What diagnosis, procedure, or drug/device codes should be included in the evaluation? In your response, please consider the rationale for including certain codes and any evidence that supports this rationale.
- If the bill were signed into law, how would it positively or negatively impact how patients access care? In your response, please consider how care is covered generally (including limits on the quantity or frequency of services), and whether or not additional steps are required to access treatment (such as the need for prior authorization for a service or item).
- What would you expect the cost impact to be for patients, providers, and/or payers if the proposed benefit mandate were signed into law?
- What additional resources (if any) should Commerce consider during their evaluations of bill?

Dear Andrew Kleinendorst,

Below is our response to coverage of infertility treatment. Licensed Acupuncturists as a profession have been practicing in the US since the 1700's. The Minnesota Licensed Acupuncturist practice act was established in 1995. We are not chiropractors doing acupuncture.

1) What services or items (if any) are not clearly identified in the bill that Commerce should consider during their evaluations?

Answer: Licensed acupuncturist services including evaluations, acupuncture, acupuncture with electrical stimulation, moxibustion treatment, dietary recommendations, herbal medicine, cupping, manual therapies, lifestyle management and exercise instructions by Licensed acupuncturists play a role in some Asian and European cultures' tradition in treating infertility. Access is needed to provide culturally appropriate treatments that support an inclusive health

care delivery. Stress management by acupuncturists is important for patients trying to get pregnant during this stressful time. Increased muscle pain and tension result from the stress and disappointment from monthly failures to become pregnant. Hormone therapy also increases overall pain levels in those with chronic pain; therefore, pain management through acupuncture is needed.

2) What relevant research findings, actuarial or economic simulations, or analyses of public health impacts should Commerce consider during their evaluations of bill?

Answer: An average IVF cycle in Minnesota from start to finish is roughly \$20-\$25k. An average course of treatment for infertility is four months of treatments 1x/week. The average acupuncture visit is \$110- for a cost of \$1,760. Giving payers the option to do acupuncture is much more affordable for any insurance company and patient than going through IVF. MN IVF prices are far higher than the national average. Many Minnesotans fly out east to CNY to get affordable IVF cycles. Traditional Chinese Medicine and acupuncture are highly suggested from the Reproductive Endocrinologist at the most successful RE clinics in the US. CCRM, Kindbody, RMIA, and CNY all advocate for the use of Acupuncture during the process.

Manheimer, E., Zhang, G., Udoff, L., Haramati, A., Langenberg, P., Berman, B. M., & Bouter, L.M. (2008). Effects of acupuncture on rates of pregnancy and live birth among women undergoing in vitro fertilisation: systematic review and meta-analysis. *BMJ (Clinical research ed.)*, 336(7643), 545–549. <https://doi.org/10.1136/bmj.39471.430451.BE>

Findings: This research meta-analysis examined high quality acupuncture research on acupuncture and IVF. The authors found that “acupuncture increased the odds of a live birth by 91% compared with the control groups.”

Paulus, W. E., Zhang, M., Strehler, E., El-Danasouri, I., & Sterzik, K. (2002). Influence of acupuncture on the pregnancy rate in patients who undergo assisted reproduction therapy. *Fertility and Sterility*, 77(4), 721–724. [https://doi.org/10.1016/S0015-0282\(01\)03273-3](https://doi.org/10.1016/S0015-0282(01)03273-3)

Findings: This landmark study was published in a prestigious reproductive medicine journal. The study found that women receiving acupuncture treatment in conjunction with ART had an increase in ongoing pregnancy rates of over 60% compared to control subjects.

Ng, E. H. Y., So, W. S., Gao, J., Wong, Y. Y., & Ho, P. C. (2008). The role of acupuncture in the management of subfertility. *Fertility and Sterility*, 90(1), 1–13. <https://doi.org/10.1016/j.fertnstert.2008.02.094>

Findings: The positive effect of acupuncture in the treatment of subfertility may be related to the central sympathetic inhibition by the endorphin system, the change in uterine blood flow and motility, and stress reduction. Acupuncture may help restore ovulation in patients with polycystic ovary syndrome. The pregnancy rate of IVF treatment is significantly increased, especially when acupuncture is administered on the day of embryo transfer.

3) What sources of data should Commerce consider analyzing during their evaluations of bill?

Answer: Does the data support culturally relevant treatments that meet the need in a culturally competent methodology.

Black and Hispanic people have a harder time accessing fertility care

- A 2014 national survey reported that Black people with ovaries were almost twice as likely to experience infertility as those who were white, but half as likely to seek out care. An additional survey of 743 women seeking treatment for infertility noted that: Black & Hispanic women were significantly more likely to report difficulties finding a doctor they could trust and afford treatment from. Black and Chinese-American women were significantly more likely to report social stigma as a barrier to seeking infertility care.

Galic, I., Negris, O., Warren, C., Brown, D., Bozen, A., & Jain, T. (2020). Disparities in access to fertility care: Who's in and who's out. *F&S Reports*, 2(1), 109–117.

<https://doi.org/10.1016/j.xfre.2020.11.001>

Conclusion: Significant racial and socioeconomic disparities exist among fertility patients accessing care. Beyond providing all Americans with health insurance that covers fertility treatment, further research in the general population is needed to understand the complex social, cultural, racial, and economic factors that prohibit many individuals from accessing needed fertility care.

Purcell, K., Schembri, M., Frazier, L. M., Rall, M. J., Shen, S., Croughan, M., Grainger, D. A., & Fujimoto, V. Y. (2007). Asian ethnicity is associated with reduced pregnancy outcomes after assisted reproductive technology. *Fertility and Sterility*, 87(2), 297–302.

<https://doi.org/10.1016/j.fertnstert.2006.06.031>

Conclusion: After treatment, infertile Asian women have significantly fewer pregnancies than do Caucasian women. Multivariate analysis indicates that this discrepancy cannot be accounted for by differences in baseline characteristics or by response to current therapeutic interventions.

4) What diagnosis, procedure, or drug/device codes should be included in the evaluation? In your response, please consider the rationale for including certain codes and any evidence that supports this rationale.

Answer: Licensed acupuncturist scope of practice needs to be recognized by all insurance plans to provide culturally appropriate care. This is not an inclusive list but a list specific to the subject material. Minnesota has been licensing Acupuncturists under 147B by the Minnesota Board of Medicine since 1996. We are not chiropractors doing acupuncture.

99202-92005 Evaluation and Management based on time and complexity new patient

99212-99215 Evaluation and Management based on time and complexity established patient

99401-99409 Education counseling individual¹
99411-99412 Education counseling group¹
98960 Education or Counseling with specific established disease individual¹
97802, 97803, 97804 Counseling to assess nutritional status individually and groups¹
98961-62 Education or Counseling with specific established disease group¹
97810 Acupuncture 15 minutes attended
97811 Acupuncture 15 minutes each additional 15 minutes attended
97813 Acupuncture 15 minutes with electrical stimulation attended
97814 Acupuncture 15 minutes with electrical stimulation each additional 15 minutes attended
20560 Dry needling (Acupuncture) attended without retention of needle
20561 Dry Needling (Acupuncture) attended without the retention of needle
97139 Unlisted procedure can be used to define acupuncture unattended each 15 minutes
(There is currently no physical medicine code to define the unattended portion of the
acupuncture treatment)
97010 Heat application 15 minutes unattended
97014 Non needling electrical stimulation 15 minutes unattended
97016 Cupping 15 minutes unattended
97026 Infrared therapy 15 minutes unattended
97032 Non needling electrical stimulation 15 minutes attended
97039 Unidentified physical medicine 15 minutes attended could be used to define sliding
cupping and moxibustion treatments that need constant attendance.
97124 Massage 15 minutes attended
97140 Manual therapies 15 minutes attended
97110 Therapeutic exercise 15 minutes attended

5) If the bill were signed into law, how would it positively or negatively impact how patients access care? In your response, please consider how care is covered generally (including limits on the quantity or frequency of services), and whether or not additional steps are required to access treatment (such as the need for prior authorization for a service or item).

Answer: Currently acupuncture is not available for infertility treatment. Health Partners and Minnesota Medicaid coverage are the only coverage that is available for managing menstruation disorders, which is a major factor in quality of life factors of women in child bearing years, but infertility is excluded as coverage.^{2, 3} Many of the other plans do not value menstrual related disorders that impact quality of life of women during childbearing years and the transition to

¹ Acupuncturists are recognized in Medicaid under education and counseling as an eligible provider
https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=ID_008926#em

² Health Partners Policy on Acupuncture inclusion of menstrual disorder and exclusion of infertility.
[aentry_046415.pdf \(healthpartners.com\)](#)

³ Minnesota Medicaid inclusion of menstrual disorders and exclusion of infertility revised July 12, 2022
[Acupuncture Services \(state.mn.us\)](#)

menopause.^{4, 5, 6} Many women miss time from work and school due to menstrual related disorders that can lead to infertility. Coverage of Acupuncturists' services will improve quality of life for women that suffer from infertility and stress related to treatment of infertility. It would meet the need of a culturally appropriate medicine for those in Asian and European cultures that use Chinese medicine as a medicine for the management of their healthcare.

6) What would you expect the cost impact to be for patients, providers, and/or payers if the proposed benefit mandate were signed into law?

Answer: There are costs associated with not providing culturally supportive care. Allowing acupuncture coverage has the potential of saving 10's of thousands of dollars with increased pregnancy outcomes and reduced disease burden. By increasing the effectiveness of the treatments and reducing pain associated with the treatments and pregnancy, it reduces the disease and emotional burden.

7) What additional resources (if any) should Commerce consider during their evaluations of the bill?

Answer: Does the coverage for infertility treatment meet the needs of people of color? Does it meet the needs of populations like Hmong, Chinese, Korean, and Japanese that use acupuncture and Chinese Medicine or their cultural medicine to treat infertility? The Asian culture is more likely to go through acupuncture therapy to procreate as it is well known in their culture to be very successful. Infertility rates in China are not an issue.

⁴ Guimarães I, Póvoa AM. Primary Dysmenorrhea: Assessment and Treatment. Rev Bras Ginecol Obstet. 2020 Aug;42(8):501-507. English. doi: 10.1055/s-0040-1712131. Epub 2020 Jun 19. PMID: 32559803. [Primary Dysmenorrhea: Assessment and Treatment - PubMed \(nih.gov\)](#)

⁵ Bhuvaneswari K, Rabindran P, Bharadwaj B. Prevalence of premenstrual syndrome and its impact on quality of life among selected college students in Puducherry. Natl Med J India. 2019 Jan-Feb;32(1):17-19. doi: 10.4103/0970-258X.272109. PMID: 31823933. [Prevalence of premenstrual syndrome and its impact on quality of life among selected college students in Puducherry - PubMed \(nih.gov\)](#)

⁶ Schoep ME, Nieboer TE, van der Zanden M, Braat DDM, Nap AW. The impact of menstrual symptoms on everyday life: a survey among 42,879 women. Am J Obstet Gynecol. 2019 Jun;220(6):569.e1-569.e7. doi: 10.1016/j.ajog.2019.02.048. Epub 2019 Mar 15. PMID: 30885768. [The impact of menstrual symptoms on everyday life: a survey among 42,879 women - PubMed \(nih.gov\)](#)

Conclusion: Menstrual symptoms are widespread among the general population. One in 3 women quit daily activities owing to menstrual symptoms. Half of all women did not mention menstrual complaints being the reason for transferring tasks in a family setting. These results must be interpreted with caution owing to the potential for selection bias. However, considering the impact of menstrual symptoms on daily activities in a large group of women, it is time to open the societal dialogue and improve education for both patients and doctors.

Sincerely Submitted,

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