

**Title 23. Public Utilities and Regulated Industries**  
**Chapter I. State Insurance Department, Department of Commerce**  
**Subchapter B. Life, Health, and Accident**  
**Part 80. In Vitro Fertilization**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 2. AUTHORITY

This Rule is issued pursuant to the authority vested in the Commissioner under Arkansas Code Annotated §§23-61-108, 25-15-203-204, 23-85-137, 23-86-118, and Act 920 of 1991.

SECTION 3. EFFECTIVE DATE

This Rule shall become effective September 2, 1991."

"SECTION 9. SEVERABILITY

Any section or provision of this Rule held by a court to be invalid or unconstitutional will not effect the validity of any other section or provision."

**Subpart 1. Generally**

**23 CAR § 80-101. Purpose.**

The purpose of this part is to:

- (1) Set the minimum and maximum benefit levels for in vitro fertilization coverage; and
- (2) Set out standards and guidelines to be followed when determining if the policy or certificate must include in vitro fertilization coverage.

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.

**23 CAR § 80-102. Applicability and scope.**

(a) This part shall apply to each individual, group, or blanket disability insurance policy issued, renewed, or delivered within this state and each certificate of disability insurance issued to a resident of this state under a group disability policy issued outside this state that provides normal pregnancy-related benefits hereinafter referred to as maternity benefits.

(b) This part shall not apply to specified disease, indemnity, accident only, or other limited benefit policies that do not include maternity benefits.

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.

**23 CAR § 80-103. Coverage.**

Every applicable policy or certificate must provide benefits for in vitro fertilization procedures when:

(1) The patient is the policyholder or the spouse of the policyholder/certificate holder and a covered dependent under that policy or certificate;

(2) The patient's oocytes are fertilized with the sperm of the patient's spouse;

(3) Either:

(A) The patient and the patient's spouse have a history of unexplained infertility of at least two (2) years' duration; or

(B) The infertility is associated with one (1) or more of the following medical conditions:

(i) Endometriosis;

(ii) Exposure in utero to diethylstilbestrol, commonly known as DES;

(iii) Blockage of or removal of one (1) or both fallopian tubes (lateral or bilateral salpingectomy) not a result of voluntary sterilization; or

(iv) Abnormal male factors contributing to the infertility;

(4)(A) The in vitro fertilization procedures are performed at a medical facility licensed or certified by the Department of Health.

(B) Those performed at a facility certified by the Department of Health conform to the American College of Obstetricians and Gynecologists' guidelines for in vitro fertilization clinics, or those performed at a facility certified by the Department of Health meet the American Fertility Society's minimal standards for programs of in vitro fertilization; and

(5) The patient has been unable to obtain successful pregnancy through any less costly applicable infertility treatment for which coverage is available under the policy.

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.

**23 CAR § 80-104. Benefit level.**

(a) The benefits for in vitro fertilization shall be the same as the benefits provided under maternity benefit provisions and may be subject to the same deductibles, coinsurance, and out-of-pocket limitations provided in the policy or certificate that apply to maternity benefits.

(b) Any preexisting condition limitation shall not exceed a period of twelve (12) months.

(c) The policy or certificate may include a lifetime maximum benefit of not less than fifteen thousand dollars (\$15,000).

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.

**23 CAR § 80-105. Other coverage.**

(a) Nothing in this part shall prohibit an insurer from including as a benefit coverage other infertility procedures or treatments.

(b) These coverages may be considered as an in vitro fertilization benefit and subject to the same benefit levels.

(c) Any benefits paid may be included in the maximum amount payable under the in vitro fertilization benefit.

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.

**23 CAR § 80-106. Cryopreservation.**

Cryopreservation, the procedure whereby embryos are frozen for late implantation, shall be included as an in vitro fertilization procedure.

**Authority.** Arkansas Code §§ 23-61-108, 23-85-137, 23-86-118.