



Gavin Newsom, Governor
State of California
Health and Human Services Agency
DEPARTMENT OF MANAGED HEALTH CARE
980 9th Street, Suite 500
Sacramento, CA 95814
Phone: 916-324-8176 | Fax: 916-255-5241
www.DMHC.ca.gov

SB 729 Frequently Asked Questions (October 5, 2026)

The Department of Managed Health Care (DMHC) has prepared frequently asked questions (FAQ) and responses arising from stakeholder questions regarding the implementation of [Senate Bill 729](#) (Menjivar, Statutes of 2024, Chapter 930).

Completed oocyte retrieval

1. Is a retrieval considered “completed” if the surgical procedure is performed but yields no oocytes?

Yes. If a surgical procedure to retrieve oocytes is performed, it counts as a “completed” oocyte retrieval regardless of the outcome.

2. Is a retrieval that is initiated but terminated for medical reasons before completion count as a completed retrieval?

No. Revised All Plan Letter (APL) 25-021 (SB 729 APL) defines a “completed oocyte retrieval” as 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. If the surgical procedure is not performed, the oocyte retrieval is not considered complete.

Donors

1. **Is the enrollee’s partner also considered a donor?**

Yes. The SB 729 APL defines a “donor” as an individual from whom eggs, sperm, or embryos are obtained through means other than through sexual intercourse. The definition includes the covered individual’s partner regardless of whether the partner is also an intended parent.

2. **What is the difference between donor services listed in sections III.2.c. and III.3.g of the SB 729 APL?**

Section III.2.c. outlines the coverage requirements for the procurement of cryopreserved gametes and embryos from tissue banks or cryopreservation banks.

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Section III.3.g. outlines the coverage requirements for retrieval of gametes from donors.

3. Is a single enrollee eligible for all of the minimum limits established pursuant to sections III.2.a. - c. and III.3.g. of the SB 729 APL separately, or may health plans combine these benefits under a single limit?

Health plans may combine these benefits under a single limit with one cohort of a minimum of eight donor oocytes being the equivalent of one “complete oocyte retrieval” and two vials of semen being the equivalent of one sperm “retrieval.”

For example, if an enrollee undergoes one completed oocyte retrieval and the procedure does not yield viable oocytes or does not result in a successful pregnancy, the enrollee may elect to:

- Use the remaining two retrievals to retrieve oocytes from a donor;
- Procure two cohorts of donor oocytes with a minimum of eight oocytes per cohort;¹ or
- Use one retrieval to retrieve oocytes from a donor and procure one cohort of donor oocytes with a minimum of eight oocytes².

Similarly, if an enrollee undergoes one completed sperm retrieval and the procedure does not yield viable sperm or does not result in a successful pregnancy, the enrollee may elect to:

- Use the remaining two retrievals to retrieve sperm from a donor;
- Procure four vials of donor sperm; or
- Use one retrieval to retrieve sperm from a donor and procure two vials of semen.

Surrogates

1. Is a health plan required to cover medically necessary physical health and mental health screenings for surrogates who already underwent some screening when they contracted with an agency?

Yes. Even if a surrogacy agency has pre-screened a surrogate, the reproductive endocrinology and infertility clinic may conduct its own medical, physical, and psychological evaluations. Pursuant to the SB 729 APL, health plans must provide coverage for the diagnosis and treatment of infertility and medically necessary fertility

¹ The enrollee may select a cohort with less than the required number of oocytes.

² Please see note 1 above.

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). ASRM recommends infectious disease screening and testing, physical examination, laboratory testing, psychosocial evaluation and counseling, preconception testing, and uterine cavity evaluation for gestational carriers.³ Section III.3. of the SB 729 APL requires health plans to cover health care services such as laboratory and imaging services, genetic testing and screening, and infectious disease screening and testing. This section of the SB 729 APL is now updated to include physician services and physical examinations in line with ASRM recommendations.

2. Is a health plan required to cover physical health and mental health screenings for more than one potential surrogate at a time?

A health plan shall not be required to cover screenings for more than one potential surrogate at a time. However, a health plan will be required to cover subsequent screenings if the first or any subsequently screened surrogate is deemed to not be suitable as a result of the physical or mental health screening.

Embryo Transfers

May a health plan limit the transfers of embryos to one embryo at a time per active course of fertility treatment?

No. Health and Safety Code section 1374.55 (a)(1) and section III.2. of the SB 729 APL require unlimited embryo transfer in accordance with the guidelines of ASRM, using single embryo transfer when recommended and medically appropriate. According to ASRM, the number of embryos transferred should be determined by the physician and the patient(s), informed consents completed, and the information recorded in the clinical record. ASRM's guidelines on embryo transfers provide an upper limit based on patient's prognosis taking into consideration the quality of the embryo, patient's age, patient's medical history, and previous history of live births.⁴ For example, ASRM recommends the transfer of an additional embryo when the patient does not meet the criteria for a favorable prognosis. Same-sex couples may also elect to pursue reciprocal in vitro fertilization (IVF), where the oocytes are removed from one partner and are used

³ Practice Committee of the American Society for Reproductive Medicine and the Practice Committee for the Society for Assisted Reproductive Technologies. Recommendations for practices using gestational carriers: a committee opinion. *Fertility and Sterility*. 2022;118(1): 65-74.

⁴ Practice Committee of the American Society for Reproductive Medicine and the Practice Committee for the Society for Assisted Reproductive Technologies. Guidance on the limits to the number of embryos to transfer: a committee opinion. *Fertility and Sterility*. 2021;116(3): 651-654.

to create embryos, which are subsequently transferred to the other partner who carries the pregnancy.⁵ Additionally, a same-sex couple may choose simultaneous dual reciprocal IVF in which they both serve as the oocyte contributor and gestational carrier so both partners experience pregnancy and have a genetic connection to the family.

Cost Sharing

1. Is a health plan allowed to align gamete procurement cost-sharing with the cost-sharing requirements of gamete retrieval procedures?

Yes. Health plans may apply the same cost-sharing for gamete procurement as they do for gamete retrieval procedures.

2. Is a health plan allowed to align donor and surrogate services at the same cost-sharing as if the services were performed on the covered member?

Yes. The health plans may apply the same cost-sharing for donors and surrogates as they do for the enrollee. In other words, the donor and surrogate would stand in the shoes of the enrollee and would therefore be subject to the same cost-sharing the enrollee would be under the enrollee's health plan if the enrollee received the services provided to the donor and surrogate.

3. Does cost-sharing for services to diagnose and treat infertility count towards the deductible and annual out-of-pocket maximums?

Yes. Health and Safety Code section 1374.55 (c)(3) prohibit health care service plan contracts from including any deductible, copayment, coinsurance, benefit maximum, waiting period, or any other limitation on coverage for the diagnosis and treatment of infertility that are different from those imposed upon benefits for services not related to infertility.

⁵ Practice Committee of the American Society for Reproductive Medicine and the Practice Committee for the Society for Assisted Reproductive Technologies. Fertility evaluation of infertile women: a committee opinion. *Fertility and Sterility*. 2021;116(5):1255-1265.