



LEGAL UPDATES

What Does the Executive Order Expanding Access to IVF Mean for You?

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On February 18, President Trump signed an Executive Order titled, [“Expanding Access to In Vitro Fertilization,”](#) which simply instructs the Director of the Domestic Policy Council Vince Haley to submit policy recommendations, within 90 days, that protect IVF access and reduce out-of-pocket and health plan costs for IVF treatments.

The order acknowledges the emotional and financial struggles faced by “men and women experiencing fertility challenges,” and emphasizes “the importance of family formation.” It aims to make IVF treatments more accessible and affordable by reducing statutory or regulatory burdens.

Within 90 days, the director must propose policy recommendations to protect IVF access and reduce out-of-pocket and health plan costs for IVF treatments. Any proposed policy recommendations must not impair the authority of executive departments or agencies, and must be implemented consistent with applicable laws and subject to available appropriations.

Implications for Employer Health Plans

This Executive Order (EO) could have several implications for an employer’s health plans, including:

- **No Immediate Action Items** – The EO does not mandate offering IVF treatments in any particular form, at any particular price, or at any particular frequency. Therefore, no immediate action is required by employers. The recommendations that result from the review may seek to impose or reallocate costs or change access to IVF benefits, but these details still need to be determined and disclosed before any employer action is necessary.
- **Cost Management** – The order’s emphasis on reducing out-of-pocket and health plan costs for IVF treatments may require a corporation to review and potentially adjust its health plans to comply with new regulations or recommendations that emerge from this EO. This could involve negotiating with insurance providers to cover IVF treatments more comprehensively.

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- **Cost Reduction vs. Allocation** – Unless the costs of providing the IVF treatments are lowered, reallocating the cost away from an employee's out-of-pocket costs may only make the entire employer health plan more expensive. This EO does call for the reduction in both types of costs.
- **Regulatory Compliance** – Businesses will need to stay informed about any new policies or regulations that arise from this EO. Ensuring compliance with these changes will be crucial to avoid legal issues.
- **Recruiting and Retention** – Enhancing access to IVF treatments could be a significant benefit for employees, potentially improving employee satisfaction and retention. Corporations might consider promoting these benefits to attract and retain talent.

While, for now, this order does not contain specifics regarding implementation, we will continue to monitor implications as they unfold. Additionally, it is important to note that employers may have other obligations to employees undergoing IVF treatments outside of the recent Executive Order under state or federal law. For example, under the federal Pregnant Workers Fairness Act (PWFA), employers must provide reasonable accommodations for employees planning on and actively undergoing IVF treatment. Reasonable accommodations may take many forms, but would include protected time off from work for related appointments and to recover from treatments. Although there is active litigation surrounding the constitutionality of the PWFA, those challenges are primarily limited to other accommodation obligations under the law related to abortion access.

If you have questions about the impact of any executive actions on your employee benefits plan, please contact [Allie Itami](#) or [Caitlin Gehlen](#), or reach out to your regular Lathrop GPM attorney.