

REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 1-I-16

Subject: Infertility Benefits for Veterans
(Resolution 223-I-15)

Presented by: Peter S. Lund, MD, Chair

Referred to: Reference Committee J
(Candace E. Keller, MD, Chair)

1 At the American Medical Association’s (AMA) 2015 Interim Meeting, the House of Delegates
2 referred Resolution 223, “Infertility Benefits for Wounded Warriors,” submitted by the Young
3 Physicians Section (YPS). The Board of Trustees referred this issue to the Council on Medical
4 Service for a report back to the House of Delegates at the 2016 Interim Meeting. Resolution
5 223-I-15 asked that our AMA:

- 6
7 (1) support lifting the congressional ban on the Department of Veterans Affairs (VA)
8 from covering in vitro fertilization (IVF) costs and (2) work with the American Society for
9 Reproductive Medicine (ASRM) and other interested organizations to encourage lifting the
10 congressional ban on the VA from covering IVF costs.

11
12 This report summarizes the increase in combat-related injuries that cause infertility; outlines
13 coverage of IVF benefits through the Department of Defense (DOD), the Veterans Health
14 Administration (VHA) and private health insurers; highlights the medical community’s efforts to
15 provide IVF to veterans; summarizes AMA policy; discusses strategies to eliminate barriers to
16 accessing IVF for veterans; and presents policy recommendations.

17
18 **BACKGROUND**

19
20 Testimony on Resolution 223-I-15 expressed concern that there may be inconsistency in health
21 care coverage of IVF between TRICARE, the health care program through the DOD for active duty
22 service members, and the VHA, the health care program through the US Department of Veterans
23 Affairs for veterans. Testimony urged the AMA to address the lack of access to IVF for veterans,
24 review the categories of veterans who are entitled to IVF, consider advocating for parity between
25 private and VA health insurance coverage of IVF, and take into account the cost of such services.

26
27 The majority of active duty service members are of childbearing age. Approximately 65 percent of
28 enlisted personnel are younger than 30 years old and about 50 percent of all military officers are
29 between the ages of 26 and 35. About 50 percent of enlisted military members and 70 percent of all
30 officers are married. An estimated 84,000 marriages are unions between two members of the
31 military. Many service members and their partners make family planning decisions to
32 accommodate their military service duties.

1 COMBAT-RELATED INFERTILITY

2
3 Service members may be exposed to job-related risks that can result in injuries impacting their
4 fertility. In recent years, there has been an increased use of improvised explosive devices (IEDs),
5 which are homemade bombs that can be hidden on roads and walkways. A blast from an IED can
6 cause severe damage to the genitourinary system, which includes the kidneys, and reproductive and
7 urinary tract organs. Because of increased ground patrol in the Afghanistan War, the incidence of
8 service members sustaining genitourinary injuries is 350 percent higher than for those who served
9 in the Iraq War. Since 2001, IEDs have caused more US military casualties than traditional
10 weapons.

11
12 Gunshot wounds and exposure to hazardous materials are also common causes of infertility.
13 Approximately 1,400 service members returned from Iraq and Afghanistan with severe injuries to
14 their reproductive organs. It is estimated that thousands more sustained paralysis, brain injuries or
15 other conditions that make IVF their best option to conceive a child. Results from the National
16 Health Study for a New Generation of US Veterans indicated that about 16 percent of female
17 veterans and 14 percent of male veterans reported experiencing infertility.¹ According to the most
18 recent Centers for Disease Control and Prevention surveys, approximately 11 percent of female and
19 male civilians aged 15-44 experience infertility.^{2,3}

20
21 ACCESS TO IN VITRO FERTILIZATION

22
23 *TRICARE*

24
25 Communication with the DOD's Defense Health Agency clarified that IVF is not included as a
26 TRICARE covered benefit for all active duty service members. By law TRICARE covers
27 medically necessary treatments and procedures that include infertility testing and correction of
28 physical causes of infertility. Assisted Reproductive Technologies (ART), such as IVF, are not
29 covered because they are not considered medically necessary treatments. However, section 1633 of
30 the National Defense Authorization Act for FY 2008 (HR 4986) allows for the provision of ART,
31 including IVF, for certain active duty service members. The limited IVF benefit was implemented
32 in 2012.

33
34 If health care providers who specialize in urogenital trauma and ART determine that a service
35 member and their spouse are good candidates for IVF they can request this benefit for their patients
36 who have sustained a serious or severe illness or injury while on active duty that led to the loss of
37 their natural procreative ability. To qualify as seriously ill or injured a service member must meet
38 the following criteria: (1) have a serious injury or illness; (2) be unlikely to return to duty within a
39 time specified by his or her military department; and (3) may be medically separated or retired
40 from the military. To qualify as severely ill or injured a service member must meet the following
41 criteria: (1) have a severe or catastrophic injury or illness; (2) be highly unlikely to return to duty;
42 and (3) will most likely be medically separated or retired from the military. By law, no other
43 TRICARE beneficiaries are eligible for this benefit.

44
45 Communication with the DOD's Defense Health Agency indicated that military providers are
46 aware of the DOD policy and make every effort to request the IVF benefit for those who qualify.
47 The most recent data available from the Office of the Secretary of Defense indicates that from
48 2012 – 2015, a total of 20 active duty service members met the criteria to receive the IVF benefit.
49 The DOD paid an average of \$5,000 for each IVF cycle.⁴ To date, a total of 26 service members
50 have qualified for the IVF benefit.

1 As part of the “Force of the Future” initiative, the DOD recently announced plans to implement a
2 two-year fertility preservation pilot program to provide sperm banking and egg freezing to active
3 duty service members.⁵ While the program is not available to current veterans, it is a proactive
4 approach to address potential infertility issues for active duty service members and future veterans.
5 The program will only cover fertility preservation, not the cost of IVF, which may pose a
6 significant financial barrier to the use of the benefit.

7
8 *Veterans Affairs*

9
10 The VA covers fertility assessments, counseling and some treatment, such as surgeries,
11 medications and intrauterine insemination, but has not been able to provide IVF benefits as
12 stipulated by the Veterans Health Care Act of 1992 (PL 102-585).^[i] When the law was enacted,
13 IVF was considered to be experimental, which is no longer the case. Providing IVF health care
14 benefits to veterans has been and still is controversial. Some individuals who are in the position to
15 advocate for changing the VA’s coverage policy on IVF are opposed to the treatment based on
16 religious grounds. However, in October 2016, the Military Construction, Veterans Affairs, and
17 Related Agencies Appropriations Bill for FY 2017 was signed into law, which allows the VA to
18 cover IVF costs for the next two years. While this is a step in the right direction, the legislation is
19 temporary and does not lift the ban on the VA from covering IVF.

20
21 Service members who complete a length of service in any branch of the armed forces are classified
22 as veterans as long as they were not dishonorably discharged. Retired veterans are service members
23 who remain on active duty or have served in the Army National Guard, Army Reserve, Navy
24 Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve or the Coast Guard
25 Reserve for a sufficient period of time, which is usually a minimum of 20 years. Veterans who are
26 not retired do not qualify for the TRICARE program, whereas retired veterans do qualify with the
27 stipulation that they are no longer eligible for the IVF benefit. Service members who become
28 disabled while on duty may be medically retired and receive a disability retirement before serving
29 20 years in the military. Most of the seriously or severely ill or injured service members are
30 medically retired before serving 20 years, receive the same benefits as other retirees, are eligible to
31 enroll in TRICARE and may qualify for IVF.

32
33 *Private Insurance*

34
35 The Affordable Care Act does not mandate coverage for infertility treatments as one of the 10
36 essential health benefits that must be included in all health plans sold through state health insurance
37 marketplaces. Most health insurance plans provide limited, if any, coverage for infertility
38 treatments according to the National Conference of State Legislatures. However, about a dozen
39 states have laws that require private insurers to cover infertility treatment, with eight of these states
40 having insurance mandates requiring qualified employers to include IVF coverage in the plans they
41 offer to their employees (AR, CT, HI, IL, MD, MA, NJ and RI).⁶ The infertility benefits these
42 states require from health insurers vary. Massachusetts requires insurance policies that provide
43 pregnancy-related benefits to also provide coverage for the diagnosis and treatment of infertility,
44 including IVF. Hawaii requires a one-time benefit for outpatient expenses related to IVF
45 procedures when a couple has a history of infertility for at least five years.^{7, 8} In addition, the
46 federal government does not require coverage of infertility treatment for federally sponsored plans
47 through the Federal Employee Health Benefits Program.

1 MEDICAL ASSISTANCE FOR IN VITRO FERTILIZATION

2
3 In November 2015, the American Society for Reproductive Medicine (ASRM), along with the
4 Society for Assisted Reproductive Technology (SART), announced the “Serving Our Veterans”
5 program.⁹ Through the program, participating ASRM and SART members provide discounted IVF
6 treatments to veterans with service-related injuries that have caused infertility. The discount
7 amount is determined by each individual participating clinic, although ASRM and SART
8 recommend that each clinic follow the eligibility criteria established for active duty service
9 members by the DOD, which is a discount of at least 50 percent. In order to provide IVF treatments
10 to as many veterans as possible, the program allows for each clinic to cap the number of discounted
11 treatments it offers each individual. The program will expire when the ban on IVF is lifted or at the
12 end of the 2016 congressional calendar year.

13
14 RELEVANT AMA POLICY

15
16 AMA Policy H-185.990 encourages health insurers to provide benefits for the diagnosis and
17 treatment of male and female infertility; however, AMA Policy H-165.856 cautions that benefit
18 mandates should be minimized to allow markets to determine benefit packages and permit a wide
19 choice of coverage options. Consistent with the ASRM and SART “Serving Our Veterans”
20 program, AMA Policy H-510.986 urges all physicians to participate, when needed, in providing
21 health care to veterans. Policy further encourages state and local medical societies to create a
22 registry of physicians who are willing to provide health care to veterans in their community. The
23 AMA supports improved access to health care for veterans, including in the civilian sector, for
24 returning military personnel when their needs are not being met by locally available resources
25 through the DOD or the VA (Policies H-510.985, H-510.990, H-510.991 and D-510.994).

26
27 DISCUSSION

28
29 Proponents of lifting the congressional ban on the VA from covering IVF costs emphasize that
30 the VA provides comprehensive health care services for injuries sustained in the line of duty so that
31 veterans can live as normal of a life as possible. Veterans who have become infertile due to a
32 service-related injury may view access to IVF treatments as their only opportunity to conceive a
33 child, start a family and live a “normal life.”

34
35 The Council notes that most private insurers do not offer IVF and state laws vary on whether
36 private health insurance companies must provide such coverage. Accordingly, due to the variation
37 in coverage of IVF among private health insurers, parity of IVF treatments between private and VA
38 health insurance is not recommended.

39
40 The Council believes that advocating for the VA to have the option to offer IVF is consistent with
41 AMA policy supporting access to health care for veterans while limiting benefit mandates. As
42 such, the Council suggests that our AMA support lifting the congressional ban on the VA from
43 covering IVF costs for veterans who have become infertile due to service-related injuries and
44 encourage interested stakeholders to collaborate in lifting the ban.

45
46 The potential for active duty service members to sustain injuries impacting their fertility has
47 increased in recent years and should be proactively addressed. The Council believes that service
48 members should be offered pre-deployment fertility counseling and information on the relevant
49 health care benefits provided through TRICARE and the VA before they are deployed and that the
50 same information be provided during the medical discharge process.

1 The DOD's new pilot program offering sperm freezing and egg harvesting to active duty service
2 members has been applauded by stakeholders as a step in the right direction to assist service
3 members with a fertility preservation option. The program was announced earlier this year, has yet
4 to be implemented and may have limited impact because it does not cover the cost of IVF.
5 Accordingly, the Council believes that the AMA should support efforts by the DOD and VA to
6 offer service members comprehensive health care services to preserve their ability to conceive a
7 child and offer treatment to address infertility due to service-related injuries.

8
9 RECOMMENDATIONS

10
11 The Council on Medical Service recommends that the following be adopted in lieu of Resolution
12 223-I-15 and that the remainder of the report be filed:

- 13
14 1. That our American Medical Association (AMA) support lifting the congressional ban on the
15 Department of Veterans Affairs (VA) from covering in vitro fertilization (IVF) costs for
16 veterans who have become infertile due to service-related injuries. (New HOD Policy)
17
18 2. That our AMA encourage interested stakeholders to collaborate in lifting the congressional ban
19 on the VA from covering IVF costs for veterans who have become infertile due to service-
20 related injuries. (New HOD Policy)
21
22 3. That our AMA encourage the Department of Defense (DOD) to offer service members fertility
23 counseling and information on relevant health care benefits provided through TRICARE and
24 the VA at pre-deployment and during the medical discharge process. (New HOD Policy)
25
26 4. That our AMA support efforts by the DOD and VA to offer service members
27 comprehensive health care services to preserve their ability to conceive a child and provide
28 treatment within the standard of care to address infertility due to service-related injuries. (New
29 HOD Policy)

Fiscal Note: Less than \$500.

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⁴ Report to Congress: Efforts to Treat Infertility of Military Families. Department of Defense. Office of the Secretary of Defense. December 2015. Available at: [file:///C:/Users/dberthma/Downloads/Report%20on%20Efforts%20to%20Treat%20Infertility%20of%20Military%20Families%20\(2\).pdf](file:///C:/Users/dberthma/Downloads/Report%20on%20Efforts%20to%20Treat%20Infertility%20of%20Military%20Families%20(2).pdf)

⁵ US Department of Defense. Department of Defense Press Briefing by Secretary Carter on Force of the Future Reforms in the Pentagon Press Briefing Room. Secretary of Defense Ash Carter. 2016. Available at: <http://cc.bingj.com/cache.aspx?q=Department+of+Defense+2016+Press+Briefing+by+Secretary+Carter+on+Force+of+the+Future+Reforms+in+the+Pentagon+Press+Briefing+Room&d=5007576942773710&mkt=en-US&setlang=en-US&w=ludcUoi4DlzILvyKwa1p6wPPuvW0kyOa>

^[i] US Department of Health and Human Services. Health Resources and Services Administration. Veterans Health Care Act of 1992, Public Law 102-585. 1992. Available at: <http://www.hrsa.gov/opa/programrequirements/publiclaw102585.html>

⁶ Fast Facts about Infertility. Resolve: The National Infertility Association. 2015. Available at: <http://www.resolve.org/about/fast-facts-about-fertility.html?referrer=https://www.google.com/>

⁷ National Conference of State Legislatures. State Laws Related to Insurance Coverage for infertility Treatment. 2014. Available at: <http://www.ncsl.org/research/health/insurance-coverage-for-infertility-laws.aspx>

⁸ Resolve: The National Infertility Association. Fast Facts about Infertility. 2015. Available at: <http://www.resolve.org/about/fast-facts-about-fertility.html>

⁹ American Society for Reproductive Medicine. Serving Our Veterans: Discounted Fertility Treatments for Wounded Warriors. 2015. Available at: https://www.asrm.org/IVF4VETS_Serving_Our_Veterans/