



The Honorable Rob Shriver
Acting Director
U.S. Office of Personnel Management
1900 E Street, NW
Washington, D.C. 20415

May 16, 2024

Dear Acting Director Shriver:

As organizations representing federal employees, the DOJ Gender Equality Network (DOJ GEN)¹ and DOJ Pride² want to express our deep gratitude for the steps the Office of Personnel Management (OPM) has taken to expand federal employees' access to assisted reproductive technology.³ In particular, we commend OPM for the 2024 Plan Year requirement that federal employee health insurance carriers cover in vitro fertilization (IVF) medications for three cycles annually. This new coverage has made it materially easier for civil servants to obtain this care.

OPM has the opportunity to break new ground again in 2025 by mandating not only coverage of IVF medications, but also medical treatments.

Medical treatments comprise the lion's share of the cost of IVF. Many of our members can attest first-hand to the financial strains that paying out of pocket for IVF placed on them. Some had to drain their savings; borrow money from family members; or forego treatments entirely. Others left DOJ for private-sector jobs that offered full IVF coverage, taking their invaluable skills and institutional knowledge with them.

Extending insurance coverage to IVF medical treatments will significantly reduce the economic barriers and burdens still faced by civil servants in need of fertility assistance, while increasing

¹ DOJ GEN, a nearly 2,000-member organization at the Department of Justice, was founded in 2016. In pursuit of gender equity and equality in the federal workforce, we have worked to eradicate pay inequities, convince DOJ to address systemic sexual misconduct and increase diversity in leadership, push for flexible work options and other family-friendly policies, persuade the Administration to provide abortion-related accommodations, and urge Congress to pass paid family leave legislation.

² Founded in 1994, DOJ Pride serves as the Department of Justice's recognized organization for LGBTQ+ employees and allies. DOJ Pride works with agency leadership to identify and address key issues and areas affecting DOJ's LGBTQ+ employees. We offer regular social events and brown-bag lectures featuring leaders and experts in fields affecting the LGBTQ+ community. We also serve as a resource for current and prospective employees.

³ DOJ GEN and DOJ Pride are recognized by the Justice Department but do not speak on its behalf. The views expressed in this letter are solely those of DOJ GEN, DOJ Pride, and the signatories.

the federal government’s ability to retain and recruit top talent at minimal additional cost.⁴ Few careers offer the professional pride that comes with public service, but in today’s competitive job market, accepting a position where an applicant will need to largely self-fund IVF makes the federal government less desirable—especially when federal employees already earn about 28% less on average than their private-sector counterparts, a discrepancy that keeps growing.⁵

Insurance coverage of fertility services has increased sharply across the nation. In 2022, 40% of U.S. organizations offered fertility benefits, and 30% covered IVF treatments.⁶ IVF coverage also has strong public support: 61% of U.S. adults support it, a position that carries bipartisan majorities.⁷ More and more states are mandating IVF insurance coverage of medications and treatments, and most of the nation’s largest employers provide insurance plans cover both.⁸ We hope that the nation’s largest employer, the federal government, will join their ranks.

Expanding IVF coverage will also advance this Administration’s historic commitment to diversity, equity, inclusion, and access. As we know, barriers to access of this healthcare disproportionately affect LGBTQ+ individuals, women, workers with disabilities, and workers of color⁹—communities that have faced systemic disparities that this Administration has made it a priority to eliminate.¹⁰

We are pleased that many Federal Employee Health Benefits (FEHB) plans are using an inclusive definition of infertility that covers LGBTQ+ and non-partnered individuals, although

⁴ A survey fielded by Mercer showed that 97% of employer respondents said that adding fertility coverage did not result in a significant cost increase. See Mercer, 2021 Survey on Fertility Benefits, <https://resolve.org/wp-content/uploads/2022/01/2021-Fertility-Survey-Report-Final.pdf>.

⁵ See Drew Friedman, FEDERAL NEWS NETWORK, *Federal pay falls even further behind the private sector* (Nov. 14, 2023), <https://federalnewsnetwork.com/pay/2023/11/federal-pay-falls-even-further-behind-the-private-sector/>.

⁶ Anne Patterson, *Fertility Benefits Rapidly Rising as Employers Look to Attract and Support Talent*, International Foundation of Employee Benefit Plans (March 10, 2023), <https://blog.ifebp.org/fertility-benefits-rapidly-rising-as-employers-look-to-attract-and-support-talent/>.

⁷ Pew Research Center analysis of 2017–2019 National Survey of Family Growth, National Center for Health Statistics, <https://www.pewresearch.org/short-reads/2023/09/14/a-growing-share-of-americans-say-theyve-had-fertility-treatments-or-know-someone-who-has/>.

⁸ Fourteen states and Washington, D.C. now mandate IVF insurance coverage of medications and treatments. See RESOLVE: The National Infertility Association, [https://resolve.org/learn/financial-resources-for-family-building/insurance-coverage/insurance-coverage-by-state/#:~:text=As%20of%20September%202023%2C%2021,\(medically%2Dinduced\)%20infertility](https://resolve.org/learn/financial-resources-for-family-building/insurance-coverage/insurance-coverage-by-state/#:~:text=As%20of%20September%202023%2C%2021,(medically%2Dinduced)%20infertility); Tom Murphy, FORTUNE, *Most of the biggest U.S. employers now cover fertility treatments, but many Americans still can’t afford it* (May 16, 2023), <https://fortune.com/2023/05/16/most-biggest-us-employers-cover-fertility-treatments-many-americans-still-cant-afford/>.

⁹ For example, while Black women of reproductive age are 80% more likely to report infertility, they are 20% less likely than white women to receive infertility care. See Ada C. Dieke et al., *Disparities in Assisted Reproductive Technology Utilization by Race and Ethnicity*, 26 J. WOMEN’S HEALTH 605 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5548290/>.

¹⁰ See, e.g., Executive Order 14075 on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals; Executive Order 14035 on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce; Executive Order 14020 on the Establishment of the Gender Policy Council.

many plans still do not cover the medical costs of donor egg and sperm that these communities need. Our hope is that every FEHB plan will require IVF coverage that is non-discriminatory and covers the medical costs associated with third-party reproduction.

This Administration has taken crucial steps to protect the right and access to reproductive healthcare, including IVF, in the face of unprecedented attacks. By providing full IVF coverage in federal employee health plans, OPM will send another powerful message that IVF is essential healthcare, and that civil servants' access to it should not depend on the depth of their pockets.

Sincerely,



Stacey Young
President
DOJ Gender Equality Network



David Heath
President
DOJ Pride