

January 10, 2023

Chairman Louser and Members of the House Industry, Business and Labor Committee –

My name is Dylan Wheeler, Head of Government Affairs for Sanford Health Plan. Respectfully submitting comments in **opposition** to the House Industry, Business, and Labor committee today regarding HB 1146. To begin, I want to emphasize that Sanford and Sanford Health Plan strive to provide access to high quality health care. However, we do take the general position of opposing mandates. While true that this bill, if passed, would apply to the North Dakota Public Employees Retirement System health plan to begin, we must advocate at this time as if the mandate would apply to the commercial market in the subsequent years.

At a very high level, and as detailed below, we have concerns with the broad scope of the bill in terms of likely financial impact to premium; however, with the broad nature of the bill, it is difficult to estimate the exact impact at this time. As another resource, through the past interim, the North Dakota Insurance Department (NDID) conducted a [study](#) of potential new benefits to add to the ND state Essential Health Benefit (EHB) plan. A stark distinction needs to be noted – the interim study by the NDID scoped and evaluated a bill draft with a \$50,000 coverage limit; whereas, the bill before the committee today is uncapped. Carriers submitted a range of premium impact analysis ranging from \$1.98 per member per month (PMPM) to \$24.85 PMPM – the consultant retained to complete the study priced the benefit at \$2.38 PMPM.

In looking at HB 1146, we do have a few comments and concerns that I would like to highlight:

- **Coverage for Cryopreservation (page 4, lines 8-17):** As written, coverage for cryopreservation has no specified timeframe and could potentially continue in perpetuity or until used by the family in an attempt to conceive. With that long period of potential coverage, a person may be enrolled in different health insurance products: employer coverage, marketplace coverage, Medicaid, Medicaid Expansion, Medicare, etc. In the event that an individual who utilized cryopreservation services switches health plans and that new health plan does not offer coverage – who would continue to pay in this scenario? Finally, in light of the *Dobbs* decision, and in alignment with what has been noted by Deloitte (independent actuarial firm who assists in estimating financial impact of legislation) legal questions may arise in relation to cryopreservation services.
- **Coverage for 3rd Parties or Surrogates (page 3, lines 2-3):** Part of the bill appears to mandate coverage for surrogates or other 3rd parties who may carry a child on behalf of a family. People who are not enrolled or not a member of a health plan should not be covered under this benefit mandate. It is important to note that maternity coverage for a surrogate or third party is likely available under that individual's own benefit plan.
- **Breadth of Language:** The legislative proposal is extremely broad, as written, and difficult to operationalize. For example, the definition of “standard fertility preservation services,” as used in

the operative sections of the bill, is broad and vague in terms what actual coverage would be required.

- **Premium and Financial Impact:** as noted in the introduction, and as identified by independent consultants, the proposed legislation would have a substantial impact to the premium. In addition, and to reiterate the broadness of the bill, the true cost of implementing, operationalizing, and covering the full scope of the benefit is unclear at this time.

Thank you for your time and consideration – please do not hesitate to contact me directly with any questions.

Dylan Wheeler, JD, MPA
Head of Government Affairs
Sanford Health Plan