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National Women's Law Center and Law Firm Emery Celli Brinckerhoff Abady Ward & Maazel, LLP Announce Settlement of Class Action Lawsuit Against Aetna over LGBTQ+ Fertility Coverage

NEW YORK, May 3, 2024 – The plaintiffs, who are represented by the National Women's Law Center and Emery Celli Brinckerhoff Abady Ward & Maazel LLP, who brought a federal class action suit against Aetna over claims of discriminatory practices faced by LGBTQ+ policyholders seeking fertility treatment have reached a settlement with the insurance company, subject to Court approval.

The suit had alleged Aetna's policy for coverage of artificial insemination and in vitro fertilization (IVF) treatments discriminated against LGBTQ+ beneficiaries by requiring them to pay more out of pocket and wait longer than heterosexual couples.

The proposed settlement between Aetna and plaintiffs, Emma Goidel, Ilana Lee, Madeleine Lee, and Lesley Brown was filed May 3, 2024, in the U.S. District Court for the Southern District of New York.

In the lawsuit [*Goidel et al. v. Aetna*](#), filed in September 2021, the plaintiffs challenged Aetna's definition of infertility, alleging it led to unequal insurance coverage treatment for LGBTQ+ couples. Under Aetna's policy, a female health plan beneficiary with a male partner could receive coverage for infertility treatments by claiming the couple had been unable to become pregnant after six or twelve months (depending on their age) of intercourse.

However, couples in LGBTQ+ relationships trying to conceive were required to pay out of pocket for their first six or twelve cycles of artificial insemination before they could get coverage for any additional rounds or become eligible for IVF if otherwise covered by their plan.

Plaintiffs alleged this policy violated Section 1557 of the Affordable Care Act, as well as state and city law for some types of insurance plans.

Under the proposed settlement, Aetna denies liability under these laws, but has agreed to implement the following policy changes:

- Aetna will modify its clinical policy to be consistent with guidelines recently published by the American Society for Reproductive Medicine, whereby all eligible plan members will have equal access to fertility treatment regardless of sexual orientation.

- Aetna will introduce a new standard health benefit plan that includes artificial insemination as a benefit for all Aetna members regardless of sexual orientation.
- Aetna will take steps to ensure that requirements to proceed to IVF in its clinical policies are no more burdensome for LGBTQ+ people than for heterosexual people.

Pursuant to the proposed settlement, Aetna will also compensate class action members (i.e. members of certain New York commercial insurance plans who were or would have been denied reimbursement for artificial insemination) as follows:

- A \$2 million common fund will be created to pay additional compensation to each class member.
- Aetna will re-process eligible insurance claims to reimburse class members for their out-of-pocket artificial insemination cycles, up to the plan limits.
- Aetna will also separately pay all the costs of the administrator and special master who will allocate the common fund.

"We celebrate this significant stride toward achieving justice for LGBTQ+ people who have faced obstacle after obstacle trying to access the health care services that they need to build their families," said **Alison Tanner, Senior Litigation Counsel for Reproductive Rights and Health at the National Women's Law Center**. "We are eager to identify all affected class members, and we remain dedicated to advocating for equal access to fertility treatments for everyone, regardless of their sexual orientation or gender identity."

"This settlement will deliver real compensation to LGBTQ+ people affected by this policy and ensure a new, fair policy going forward," said **Zoe Salzman, Partner at Emery Celli Brinckerhoff Abady Ward & Maazel LLP**.

"This settlement is a big win for queer families. It means so many of us who hope to become parents or have more children can now begin the journey to do that with the same access to fertility treatment coverage as heterosexual couples," said **Emma Goidel, lead plaintiff on the case**. "We hope other insurance companies will follow Aetna's example and review their policies to make sure everyone has equal access to fertility care."

If you believe you are in the class of individuals covered by this settlement, please visit this [page](#) or contact: 1-800-205-6861.

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