

STATE OF NEW YORK

8537

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to providing coverage and information on chest wall reconstruction surgery after a mastectomy or partial mastectomy

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 20 of subsection (i) of
2 section 3216 of the insurance law, as added by chapter 21 of the laws of
3 1997, the opening paragraph and clause (i) as amended by chapter 302 of
4 the laws of 2012, is amended to read as follows:

5 (A) Every policy which provides medical, major medical, or similar
6 comprehensive-type coverage shall provide the following coverage for
7 breast or chest wall reconstruction surgery after a mastectomy or
8 partial mastectomy:

9 (i) all stages of reconstruction of the breast or chest wall on which
10 the mastectomy or partial mastectomy has been performed; and

11 (ii) surgery and reconstruction of the other breast or chest wall to
12 produce a symmetrical appearance;

13 in the manner determined by the attending physician and the patient to
14 be appropriate. Chest wall reconstruction surgery shall include aesthet-
15 ic flat closure as such term is defined by the National Cancer Insti-
16 tute. Such coverage may be subject to annual deductibles and coinsurance
17 provisions as may be deemed appropriate by the superintendent and as are
18 consistent with those established for other benefits within a given
19 policy. Written notice of the availability of such coverage shall be
20 delivered to the policyholder prior to inception of such policy and
21 annually thereafter.

22 § 2. Subparagraph (A) of paragraph 10 of subsection (k) of section
23 3221 of the insurance law, as added by chapter 21 of the laws of 1997,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 the opening paragraph and clause (i) as amended by chapter 302 of the
2 laws of 2012, is amended to read as follows:

3 (A) Every group or blanket policy delivered or issued for delivery in
4 this state which provides medical, major medical, or similar comprehen-
5 sive-type coverage shall provide the following coverage for breast or
6 chest wall reconstruction surgery after a mastectomy or partial mastec-
7 tomy:

8 (i) all stages of reconstruction of the breast or chest wall on which
9 the mastectomy or partial mastectomy has been performed; and

10 (ii) surgery and reconstruction of the other breast or chest wall to
11 produce a symmetrical appearance;

12 in the manner determined by the attending physician and the patient to
13 be appropriate. Chest wall reconstruction surgery shall include aesthet-
14 ic flat closure as such term is defined by the National Cancer Insti-
15 tute. Such coverage may be subject to annual deductibles and coinsurance
16 provisions as may be deemed appropriate by the superintendent and as are
17 consistent with those established for other benefits within a given
18 policy. Written notice of the availability of such coverage shall be
19 delivered to the policyholder prior to inception of such policy and
20 annually thereafter.

21 § 3. Paragraph 1 of subsection (x) of section 4303 of the insurance
22 law, as added by chapter 21 of the laws of 1997, the opening paragraph
23 and subparagraph (A) as amended by chapter 302 of the laws of 2012, is
24 amended to read as follows:

25 (1) Every contract issued by a medical expense indemnity corporation,
26 hospital service corporation or health service corporation which
27 provides coverage for surgical or medical care shall provide the follow-
28 ing coverage for breast or chest wall reconstruction surgery after a
29 mastectomy or partial mastectomy:

30 (A) all stages of reconstruction of the breast or chest wall on which
31 the mastectomy or partial mastectomy has been performed; and

32 (B) surgery and reconstruction of the other breast or chest wall to
33 produce a symmetrical appearance;

34 in the manner determined by the attending physician and the patient to
35 be appropriate. Chest wall reconstruction surgery shall include aesthet-
36 ic flat closure as such term is defined by the National Cancer insti-
37 tute. Such coverage may be subject to annual deductibles or coinsurance
38 provisions as may be deemed appropriate by the superintendent and as are
39 consistent with those established for other benefits within a given
40 policy. Written notice of the availability of such coverage shall be
41 delivered to the group remitting agent or group contract holder prior to
42 the inception of such contract and annually thereafter.

43 § 4. Subdivisions 1 and 1-a of section 2404 of the public health law,
44 subdivision 1 as amended by chapter 179 of the laws of 1991 and subdivi-
45 sion 1-a as added by chapter 20 of the laws of 1997, are amended to read
46 as follows:

47 1. The commissioner shall develop a standardized written summary, in
48 plain non-technical language, which shall explain the alternative
49 medically viable methods of treating breast cancer, including but not
50 limited to hormonal, radiological, chemotherapeutic or surgical treat-
51 ments, or combinations thereof. The summary shall contain information on
52 breast or chest wall reconstructive surgery, including but not limited
53 to, the use of breast implants, their side effects, risks and other
54 pertinent information to aid a person in deciding on a course of treat-
55 ment. Chest wall reconstructive information shall include information

1 on aesthetic flat closure as such term is defined by the National Cancer
2 Institute.

3 1-a. The informational summary shall also include an explanation of
4 the special provisions relating to mastectomy, lymph node dissection, or
5 lumpectomy, and breast or chest wall reconstructive surgery coverage,
6 and second opinion coverage (including out-of-network options) under the
7 insurance law and section twenty-eight hundred three-o of this chapter,
8 and suggest that patients undergoing such procedures check their health
9 plans and/or insurance policies for the details of their coverage.

10 § 5. Subdivision 2 of section 2803-o of the public health law, as
11 added by chapter 354 of the laws of 2010, is amended to read as follows:

12 2. Every general hospital that provides mastectomy surgery, lymph node
13 dissection or a lumpectomy shall provide information to the patient
14 concerning the option of reconstructive surgery following such proce-
15 dures, including both breast and chest wall reconstructive surgery and
16 the availability of coverage for reconstructive surgery, in accordance
17 with the provisions of sections three thousand two hundred sixteen,
18 three thousand two hundred twenty-one and four thousand three hundred
19 three of the insurance law and applicable provisions of federal law. The
20 information shall be provided to the patient in writing and in advance
21 of obtaining consent to the surgical procedure. The information provided
22 shall include at least the following:

23 (a) a description of the various reconstructive options and the advan-
24 tages and disadvantages of each. Such description shall include aesthet-
25 ic flat closure as such term is defined by the National Cancer
26 Institute;

27 (b) a description of the provisions assuring coverage by public and
28 private insurance plans of the costs related to reconstructive surgery
29 under federal and state law;

30 (c) a description of how a patient may access reconstructive care,
31 including the potential of transferring care to a facility that provides
32 reconstructive care or choosing to pursue reconstruction after
33 completion of breast cancer surgery and chemo/radiotherapy, if
34 warranted;

35 (d) such other information as may be required by the commissioner.

36 §6. This act shall take effect on the ninetieth day after it shall
37 have become a law and shall apply to all policies and contracts issued,
38 renewed, modified, altered or amended on or after such date.