S T A T E O F N E W Y O R K

S. 6769 A. 9586

S E N A T E - A S S E M B L Y

March 20, 2012

IN SENATE -- Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to supplemental screenings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subparagraphs (A) and (C) of paragraph 11 of subsection (i) of section 3216 of the insurance law, as amended by chapter 219 of the laws of 2011, are amended to read as follows:

(A) Every policy that provides coverage for hospital, surgical or medical care shall provide the following coverage for mammography AND OTHER IMAGING screening for occult breast cancer:

(i) upon the recommendation of a physician, a mammogram at any age for covered persons having a prior history of breast cancer or who have a first degree relative with a prior history of breast cancer;

(ii) a single baseline mammogram for covered persons aged thirty-five through thirty-nine, inclusive; [and]

(iii) an annual mammogram for covered persons aged forty and older; AND

(IV) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A COVERED PERSON USING OTHER IMAGING MODALITIES DEEMED APPROPRIATE FOR ADJUVANT SCREENING BY AMERICAN COLLEGE OF RADIOLOGY GUIDELINES TO DETECT OCCULT BREAST CANCER IF:

(A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DOES NOT PROVIDE ADEQUATE SCREENING BECAUSE OF THE NATURE OF THE BREAST TISSUE, INCLUDING, BUT NOT LIMITED TO, THE PRESENCE OF HETEROGENEOUSLY OR EXTREMELY DENSE BREAST TISSUE, AS DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY THE AMERICAN COLLEGE OF RADIOLOGY, THAT MAY LOWER THE SENSITIVITY OF MAMMOGRAPHY; OR,

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

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(B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTENTIALLY AT HIGH RISK FOR BREAST CANCER ACCORDING TO SUCH GUIDELINES.

(C) (I) For purposes of subparagraphs (A) and (B) of this paragraph, mammography screening means an X-ray examination of the breast using dedicated equipment, including X-ray tube, filter, compression device, screens, films and cassettes, with an average glandular radiation dose less than 0.5 rem per view per breast.

(II) FOR PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH, IMAGING MODALITIES ARE MODALITIES USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

S 2. Subparagraphs (A) and (C) of paragraph 11 of subsection (l) of section 3221 of the insurance law, as amended by chapter 219 of the laws of 2011, are amended to read as follows:

(A) Every insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state that provides coverage for hospital, surgical or medical care shall provide the following coverage for mammography AND OTHER IMAGING screening for occult breast cancer:

(i) upon the recommendation of a physician, a mammogram at any age for covered persons having a prior history of breast cancer or who have a first degree relative with a prior history of breast cancer;

(ii) a single baseline mammogram for covered persons aged thirty-five through thirty-nine, inclusive; [and]

(iii) an annual mammogram for covered persons aged forty and older; AND

(IV) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A COVERED PERSON USING OTHER IMAGING MODALITIES DEEMED APPROPRIATE FOR ADJUVANT SCREENING BY AMERICAN COLLEGE OF RADIOLOGY GUIDELINES TO DETECT OCCULT BREAST CANCER IF:

(A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DOES NOT PROVIDE ADEQUATE SCREENING BECAUSE OF THE NATURE OF THE BREAST TISSUE, INCLUDING, BUT NOT LIMITED TO, THE PRESENCE OF HETEROGENEOUSLY OR EXTREMELY DENSE BREAST TISSUE, AS DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY THE AMERICAN COLLEGE OF RADIOLOGY, THAT MAY LOWER THE SENSITIVITY OF MAMMOGRAPHY; OR,

(B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTENTIALLY AT HIGH RISK FOR BREAST CANCER ACCORDING TO SUCH GUIDELINES.

(C) (I) For purposes of subparagraphs (A) and (B) of this paragraph, mammography screening means an X-ray examination of the breast using dedicated equipment, including X-ray tube, filter, compression device, screens, films and cassettes, with an average glandular radiation dose less than 0.5 rem per view per breast.

(II) FOR PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH, IMAGING MODALITIES ARE MODALITIES USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

S 3. Subsection (p) of section 4303 of the insurance law, as amended by chapter 219 of the laws of 2011, is amended to read as follows:

(p) (1) A medical expense indemnity corporation, a hospital service corporation or a health service corporation that provides coverage for hospital, surgical or medical care shall provide the following coverage for mammography AND OTHER IMAGING screening for occult breast cancer:

(A) upon the recommendation of a physician, a mammogram at any age for covered persons having a prior history of breast cancer or who have a first degree relative with a prior history of breast cancer;

(B) a single baseline mammogram for covered persons aged thirty-five through thirty-nine, inclusive; [and]

(C) an annual mammogram for covered persons aged forty and older[.]; AND

(D) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A COVERED PERSON USING OTHER IMAGING MODALITIES DEEMED APPROPRIATE FOR ADJUVANT SCREENING BY AMERICAN COLLEGE OF RADIOLOGY GUIDELINES TO DETECT OCCULT BREAST CANCER IF:

(A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DOES NOT PROVIDE ADEQUATE SCREENING BECAUSE OF THE NATURE OF THE BREAST TISSUE, INCLUDING, BUT NOT LIMITED TO, THE PRESENCE OF HETEROGENEOUSLY OR EXTREMELY DENSE BREAST TISSUE, AS DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY THE AMERICAN COLLEGE OF RADIOLOGY, THAT MAY LOWER THE SENSITIVITY OF MAMMOGRAPHY; OR,

(B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTENTIALLY AT HIGH RISK FOR BREAST CANCER ACCORDING TO SUCH GUIDELINES.

(E) The coverage required in this paragraph or paragraph two of this subsection may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given contract.

(2) (A) For purposes of paragraph one of this subsection, mammography screening means an X-ray examination of the breast using dedicated equipment, including X-ray tube, filter, compression device, screens, films and cassettes, with an average glandular radiation dose less than 0.5 rem per view per breast.

(B) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBSECTION, IMAGING MODALITIES ARE MODALITIES USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

(3) In addition to paragraph one or two of this subsection, every contract that provides coverage for hospital, surgical or medical care, except for a grandfathered health plan under paragraph four of this subsection, shall provide coverage for the following mammography screening services, and such coverage shall not be subject to annual deductibles or coinsurance:

(A) evidence-based items or services for mammography that have in effect a rating of 'A' or 'B' in the current recommendations of the United States preventive services task force; and

(B) with respect to women, such additional preventive care and screenings for mammography not described in subparagraph (A) of this paragraph and as provided for in comprehensive guidelines supported by the health resources and services administration.

(4) For purposes of this subsection, "grandfathered health plan" means coverage provided by a corporation in which an individual was enrolled on March twenty-third, two thousand ten for as long as the coverage maintains grandfathered status in accordance with section 1251(e) of the Affordable Care Act, 42 U.S.C. S 18011(e).

S 4. Paragraph 7 of subsection (d) of section 4326 of the insurance law, as added by chapter 1 of the laws of 1999, is amended to read as follows:

(7) adult preventive health services consisting of mammography screening, AS PROVIDED IN SUBSECTION (P) OF SECTION FOUR THOUSAND THREE HUNDRED THREE OF THIS ARTICLE; cervical cytology screening; periodic physical examinations no more than once every three years; and adult immunizations;

S 5. The public health law is amended by adding a new section 2404-c to read as follows:

S 2404-C. BREAST CANCER; DUTY OF PROVIDERS OF MAMMOGRAPHY SERVICES TO NOTIFY AND INFORM. 1. THE COMMISSIONER SHALL DEVELOP A STANDARD WRITTEN

NOTIFICATION IN PLAIN NON-TECHNICAL LANGUAGE FOR PATIENTS, WHO RECEIVE MAMMOGRAPHY SERVICES THAT DEMONSTRATE THE PATIENT HAS HETEROGENEOUSLY OR EXTREMELY DENSE BREAST TISSUE BASED ON THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY THE AMERICAN COLLEGE OF RADIOLOGY, WHICH SHALL EXPLAIN THAT:

(A) THE PATIENT'S MAMMOGRAPHY RESULTS DEMONSTRATE THAT THE PATIENT HAS DENSE BREAST TISSUE WHICH MAY REDUCE THE SENSITIVITY OF MAMMOGRAPHY SCREENING AND INTERFERE WITH THE DETECTION OF ABNORMALITIES;

(B) THE NOTIFICATION HAS ALSO BEEN SENT TO THE PATIENT'S PHYSICIAN; AND,

(C) THE NOTIFICATION IS PROVIDED TO ENCOURAGE THE PATIENT TO DISCUSS WITH THE PATIENT'S PHYSICIAN THE OPTION OF ADDITIONAL METHODS OF SCREENING FOR BREAST CANCER DEPENDING ON THE PATIENT'S RISK FACTORS.

2. EVERY PROVIDER OF MAMMOGRAPHY SERVICES SHALL, IF A PATIENT HAS HETEROGENEOUSLY DENSE OR EXTREMELY DENSE BREAST TISSUE, INCLUDE SUCH NOTIFICATION IN ANY MAMMOGRAPHY REPORT SENT, PURSUANT TO THE FEDERAL MAMMOGRAPHY QUALITY STANDARDS ACT, TO THE PATIENT AND THE PATIENT'S PHYSICIAN.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.