

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:

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

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

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

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

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

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

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

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

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

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

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

11 S 2. Subparagraphs (A) and (C) of paragraph 11 of subsection (1) of  
12 section 3221 of the insurance law, as amended by chapter 219 of the laws  
13 of 2011, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) (A) For purposes of paragraph one of this subsection, mammography  
20 screening means an X-ray examination of the breast using dedicated  
21 equipment, including X-ray tube, filter, compression device, screens,  
22 films and cassettes, with an average glandular radiation dose less than  
23 0.5 rem per view per breast.

24 (B) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBSECTION, IMAGING MODALI-  
25 TIES ARE MODALITIES USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST  
26 CANCER.

27 (3) In addition to paragraph one or two of this subsection, every  
28 contract that provides coverage for hospital, surgical or medical care,  
29 except for a grandfathered health plan under paragraph four of this  
30 subsection, shall provide coverage for the following mammography screen-  
31 ing services, and such coverage shall not be subject to annual deduct-  
32 ibles or coinsurance:

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

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

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

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

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

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

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

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

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

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

11 (C) THE NOTIFICATION IS PROVIDED TO ENCOURAGE THE PATIENT TO DISCUSS  
12 WITH THE PATIENT'S PHYSICIAN THE OPTION OF ADDITIONAL METHODS OF SCREEN-  
13 ING FOR BREAST CANCER DEPENDING ON THE PATIENT'S RISK FACTORS.

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

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