

S. 6769--A

A. 9586--A

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

March 20, 2012

IN SENATE -- Introduced by Sens. FLANAGAN, ALESII, BALL, GOLDEN, GRISANTI, HUNTLEY, JOHNSON, LAVALLE, OPPENHEIMER, PARKER, RITCHIE, STAVISKY, STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. JAFFEE, SWEENEY, GUNTHER, McENENY, ABINANTI, LANCMAN, COLTON, JACOBS, MILLMAN, BARRON, N. RIVERA, MAISEL, HOOPER, ROBERTS, RUSSELL, CASTRO, QUART, CAHILL, GALEF, ENGLEBRIGHT, O'DONNELL, SCHIMEL, SCARBOROUGH, WEPRIN, LINARES, COOK, ROBINSON, CLARK, CYMBROWITZ, LATIMER, LIFTON, LAVINE, BRAUNSTEIN, PRETLOW, MOYA, J. RIVERA, GRAF -- Multi-Sponsored by -- M. of A. AMEDORE, ARROYO, AUBRY, BRENNAN, BURLING, CALHOUN, CONTE, CROUCH, CURRAN, DUPREY, HAWLEY, HEVESI, LOSQUADRO, PEOPLES-STOKES, PERRY, RA, RAIA, P. RIVERA, SALADINO, SAYWARD, TENNEY, THIELE, TITONE, WEISENBERG -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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]

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

LBD15074-03-2

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

3 (IV) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A
4 COVERED PERSON USING OTHER IMAGING MODALITIES FOR ADJUVANT SCREENING IF:

5 (A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DEMONSTRATES
6 THAT THE COVERED PERSON HAS DENSE BREAST TISSUE; OR,

7 (B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTEN-
8 Tially AT HIGH RISK FOR BREAST CANCER IN ACCORDANCE WITH RECOGNIZED
9 PRACTICE GUIDELINES OR RISK ASSESSMENT TOOLS.

10 FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL HAVE
11 THE SAME MEANING AS HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS
12 DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY
13 THE AMERICAN COLLEGE OF RADIOLOGY AND ANY EQUIVALENT NEW TERMS AS SUCH
14 SYSTEM IS UPDATED.

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

20 (II) FOR PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH,
21 IMAGING MODALITIES ARE MODALITIES, APPROVED BY THE FEDERAL FOOD AND DRUG
22 ADMINISTRATION, USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

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

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

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

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

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

38 (IV) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A
39 COVERED PERSON USING OTHER IMAGING MODALITIES FOR ADJUVANT SCREENING IF:

40 (A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DEMONSTRATES
41 THAT THE COVERED PERSON HAS DENSE BREAST TISSUE; OR,

42 (B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTEN-
43 Tially AT HIGH RISK FOR BREAST CANCER IN ACCORDANCE WITH RECOGNIZED
44 PRACTICE GUIDELINES OR RISK ASSESSMENT TOOLS.

45 FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL HAVE
46 THE SAME MEANING AS HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS
47 DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY
48 THE AMERICAN COLLEGE OF RADIOLOGY AND ANY EQUIVALENT NEW TERMS AS SUCH
49 SYSTEM IS UPDATED.

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

1 (II) FOR PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH,
2 IMAGING MODALITIES ARE MODALITIES, APPROVED BY THE FEDERAL FOOD AND DRUG
3 ADMINISTRATION, USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

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

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

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

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

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

17 (D) UPON RECOMMENDATION OF A PHYSICIAN, SUPPLEMENTAL SCREENING FOR A
18 COVERED PERSON USING OTHER IMAGING MODALITIES FOR ADJUVANT SCREENING IF:

19 (A) A MAMMOGRAM PERFORMED PURSUANT TO THIS SUBPARAGRAPH DEMONSTRATES
20 THAT THE COVERED PERSON HAS DENSE BREAST TISSUE; OR,

21 (B) IT IS DETERMINED BY A PHYSICIAN THAT THE COVERED PERSON IS POTEN-
22 Tially AT HIGH RISK FOR BREAST CANCER IN ACCORDANCE WITH RECOGNIZED
23 PRACTICE GUIDELINES OR RISK ASSESSMENT TOOLS.

24 FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL HAVE
25 THE SAME MEANING AS HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS
26 DEFINED BY THE BREAST IMAGING REPORTING AND DATA SYSTEM ESTABLISHED BY
27 THE AMERICAN COLLEGE OF RADIOLOGY AND ANY EQUIVALENT NEW TERMS AS SUCH
28 SYSTEM IS UPDATED.

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

33 (2) (A) For purposes of paragraph one of this subsection, mammography
34 screening means an X-ray examination of the breast using dedicated
35 equipment, including X-ray tube, filter, compression device, screens,
36 films and cassettes, with an average glandular radiation dose less than
37 0.5 rem per view per breast.

38 (B) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBSECTION, IMAGING MODALI-
39 TIES ARE MODALITIES, APPROVED BY THE FEDERAL FOOD AND DRUG ADMINIS-
40 TRATION, USED TO SCREEN FOR, OR DIAGNOSE, OCCULT BREAST CANCER.

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

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

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

54 (4) For purposes of this subsection, "grandfathered health plan" means
55 coverage provided by a corporation in which an individual was enrolled
56 on March twenty-third, two thousand ten for as long as the coverage

1 maintains grandfathered status in accordance with section 1251(e) of the
2 Affordable Care Act, 42 U.S.C. S 18011(e).

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

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

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

13 S 2404-C. BREAST CANCER; DUTY OF PROVIDERS OF MAMMOGRAPHY SERVICES TO
14 NOTIFY AND INFORM. EVERY PROVIDER OF MAMMOGRAPHY SERVICES SHALL, IF A
15 PATIENT'S MAMMOGRAM DEMONSTRATES DENSE BREAST TISSUE AS DEFINED IN
16 SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THE INSURANCE LAW,
17 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION, IN ANY SUMMA-
18 RY OF THE MAMMOGRAPHY REPORT SENT, PURSUANT TO THE FEDERAL MAMMOGRAPHY
19 QUALITY STANDARDS ACT, TO THE PATIENT AND THE PATIENT'S PHYSICIAN:

20 YOUR MAMMOGRAM SHOWS THAT YOUR BREAST TISSUE IS DENSE. DENSE BREAST
21 TISSUE IS VERY COMMON AND IS NOT ABNORMAL. HOWEVER, DENSE BREAST TISSUE
22 CAN MAKE IT HARDER TO FIND CANCER ON A MAMMOGRAM AND MAY ALSO INCREASE
23 YOUR BREAST CANCER RISK.

24 THIS INFORMATION ABOUT THE RESULT OF YOUR MAMMOGRAM IS GIVEN TO YOU TO
25 RAISE YOUR AWARENESS. USE THIS INFORMATION TO TALK TO YOUR DOCTOR ABOUT
26 YOUR OWN RISKS FOR BREAST CANCER. AT THAT TIME, ASK YOUR DOCTOR IF MORE
27 SCREENING TESTS MIGHT BE USEFUL, BASED ON YOUR RISK. A REPORT OF YOUR
28 RESULTS WAS SENT TO YOUR PHYSICIAN.

29 S 6. This act shall take effect on the one hundred eightieth day after
30 it shall have become a law.