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

8319

2013-2014 Regular Sessions

I N A S S E M B L Y

December 18, 2013

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 authorizing coverage for mammography and other imaging screening for occult breast cancer and to provide notification of dense breast tissue results to the patient's physician

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

Section 1. Subparagraphs (A), (C) and (D) 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 AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

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

(B) A COVERED PERSON IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

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

LBD13128-01-3

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

(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.

(D) In addition to subparagraph (A), (B) or (C) of this paragraph, every policy that provides coverage for hospital, surgical or medical care, except for a grandfathered health plan under subparagraph (E) of this paragraph, shall provide coverage for the following mammography screening services AND FOR THE FOLLOWING COMPREHENSIVE ULTRASOUND SCREENINGS OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS, and such coverage shall not be subject to annual deductibles or coinsurance:

(i) 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]

(ii) with respect to women, such additional preventive care and screenings for mammography not described in item (i) of this subparagraph and as provided for in comprehensive guidelines supported by the health resources and services administration[.]; AND

(III) COMPREHENSIVE ULTRASOUND SCREENINGS AS LONG AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

(A) A MAMMOGRAM DEMONSTRATES THAT A WOMAN HAS DENSE BREAST TISSUE; OR

(B) A WOMAN IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

S 2. Subparagraphs (A), (C) and (D) of paragraph 11 of subsection (1) 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 AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

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

(B) A COVERED PERSON IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

(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.

(D) In addition to subparagraph (A), (B) or (C) of this paragraph, every group or blanket policy that provides coverage for hospital, surgical or medical care, except for a grandfathered health plan under subparagraph (E) of this paragraph, shall provide coverage for the following mammography screening services AND FOR COMPREHENSIVE ULTRASOUND SCREENINGS OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS, and such coverage shall not be subject to annual deductibles or coinsurance:

(i) 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]

(ii) with respect to women, such additional preventive care and screenings for mammography not described in item (i) of this subparagraph and as provided for in comprehensive guidelines supported by the health resources and services administration[.]; AND

(III) COMPREHENSIVE ULTRASOUND SCREENINGS AS LONG AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

(A) A MAMMOGRAM DEMONSTRATES THAT A WOMAN HAS DENSE BREAST TISSUE; OR

(B) A WOMAN IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

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 AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

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

(B) A COVERED PERSON IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

(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 FOR COMPREHENSIVE ULTRASOUND SCREENINGS OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS, 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[.]; AND

(C) COMPREHENSIVE ULTRASOUND SCREENINGS AS LONG AS DEEMED APPROPRIATE BY THE AMERICAN COLLEGE OF RADIOLOGY OR THE AMERICAN CANCER SOCIETY OF AN ENTIRE BREAST OR THE ENTIRETY OF BOTH BREASTS IF:

(I) A MAMMOGRAM DEMONSTRATES THAT A WOMAN HAS DENSE BREAST TISSUE; OR

(II) A WOMAN IS BELIEVED TO BE AT INCREASED RISK FOR BREAST CANCER DUE TO FAMILY HISTORY OR PRIOR PERSONAL HISTORY OF BREAST CANCER, POSITIVE GENETIC TESTING OR OTHER INDICATIONS AS DETERMINED BY A PHYSICIAN.

FOR THE PURPOSES OF THIS SUBPARAGRAPH DENSE BREAST TISSUE SHALL MEAN HETEROGENEOUSLY DENSE OR EXTREMELY DENSE TISSUE AS DEFINED IN NATIONALLY RECOGNIZED GUIDELINES OR SYSTEMS FOR BREAST IMAGING REPORTING OF MAMMOGRAPHY SCREENING, INCLUDING, BUT NOT LIMITED TO, THE BREAST IMAGING REPORTING AND DATA SYSTEM OF THE AMERICAN COLLEGE OF RADIOLOGY, AND ANY EQUIVALENT NEW TERMS, AS SUCH GUIDELINES OR SYSTEMS ARE UPDATED.

(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. Section 2404-c of the public health law, as added by chapter 265 of the laws of 2012, is amended to read as follows:

S 2404-c. Breast cancer; duty of providers of mammography services to notify and inform. Every provider of mammography services shall, if a patient's mammogram demonstrates dense breast tissue, provide notification to such patient that shall include, but not be limited to, the following information, in any summary of the mammography report sent, pursuant to the federal mammography quality standards act, to the patient AND THE PATIENT'S PHYSICIAN:

Your mammogram shows that your breast tissue is dense. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with an increased risk of breast cancer.

This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your doctor about your own risks for breast cancer. At that time, ask your doctor if more screening tests might be useful, based on your risk. A report of your results was sent to your physician.

For the purposes of this section dense breast tissue shall mean heterogeneously dense or extremely dense tissue as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening, including, but not limited to, the breast imaging reporting and data system of the American College of Radiology, and any equivalent new terms, as such guidelines or systems are updated.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.