

3474--A

2013-2014 Regular Sessions

I N S E N A T E

February 4, 2013

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to requiring certain health insurance coverage for lymphedema

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

1 Section 1. Clause (ii) of subparagraph (A) of paragraph 20 of
2 subsection (i) of section 3216 of the insurance law, as added by chapter
3 21 of the laws of 1997, is amended and a new clause (iii) is added to
4 read as follows:
5 (ii) surgery and reconstruction of the other breast to produce a
6 symmetrical appearance; AND
7 (III) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTO-
8 MY, INCLUDING LYMPHEDEMA;
9 S 2. Subsection (i) of section 3216 of the insurance law is amended by
10 adding two new paragraphs 30 and 31 to read as follows:
11 (30) EVERY POLICY WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR
12 MEDICAL COVERAGE SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS
13 AND TREATMENT OF LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO
14 BENEFITS FOR A COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURA-
15 TION IS DETERMINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON
16 MEDICAL NECESSITY AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION
17 STANDARDS, BENEFITS FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGES-
18 TIVE THERAPY, AND OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR
19 THE TREATMENT OF LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL
20 LEGALLY AUTHORIZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT
21 OF THE EDUCATION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS
22 SECTION SHALL BE ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM

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

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1 LYMPHEDEMA TREATMENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA
2 (LANA) OR CERTIFIED IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE
3 CERTIFICATION STANDARDS OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES
4 SHALL INCLUDE, BUT NOT BE LIMITED TO, BANDAGES, COMPRESSION GARMENTS,
5 PADS, ORTHOTIC SHOES AND DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO
6 MAINTAIN COMPRESSIVE FUNCTION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S
7 DIMENSIONS. COVERAGE SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN
8 MEDICALLY REQUIRED OR TO PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONI-
9 TOR PROGRESS AGAINST THE WRITTEN TREATMENT PLAN AND TO MODIFY THE TREAT-
10 MENT PLAN AS REQUIRED. NO INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN
11 AND SURGEON COMPETENT TO EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED
12 IN THE CARE REQUESTED, MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH
13 CARE SERVICES PURSUANT TO THIS SECTION.

14 (A) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH
15 HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S
16 PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH
17 CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE
18 AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS PARA-
19 GRAPH.

20 (B) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL
21 IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS PARAGRAPH ANY
22 COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT
23 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
24 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

25 (C) THIS PARAGRAPH SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
26 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR
27 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
28 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
29 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
30 GOVERNMENTAL PLANS.

31 (D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL
32 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
33 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
34 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
35 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
36 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
37 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
38 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
39 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY
40 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY
41 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE
42 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S
43 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
44 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

45 (31) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL
46 BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT
47 PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA.
48 INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES
49 SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE
50 ALTERNATIVE PROCEDURES.

51 S 3. Clause (ii) of subparagraph (A) of paragraph 10 of subsection (k)
52 of section 3221 of the insurance law, as added by chapter 21 of the laws
53 of 1997, is amended and a new clause (iii) is added to read as follows:

54 (ii) surgery and reconstruction of the other breast to produce a
55 symmetrical appearance; AND

1 (III) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTO-
2 MY, INCLUDING LYMPHEDEMA;

3 S 4. Subsection (k) of section 3221 of the insurance law is amended by
4 adding two new paragraphs 19 and 20 to read as follows:

5 (19) EVERY GROUP POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE
6 WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR MEDICAL COVERAGE
7 SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS AND TREATMENT OF
8 LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO BENEFITS FOR A
9 COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURATION IS DETER-
10 MINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON MEDICAL NECESSITY
11 AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION STANDARDS, BENEFITS
12 FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGESTIVE THERAPY, AND
13 OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR THE TREATMENT OF
14 LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL LEGALLY AUTHOR-
15 IZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT OF THE EDUCA-
16 TION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS SECTION SHALL BE
17 ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM LYMPHEDEMA TREAT-
18 MENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA (LANA) OR CERTIFIED
19 IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE CERTIFICATION STANDARDS
20 OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES SHALL INCLUDE, BUT NOT BE
21 LIMITED TO, BANDAGES, COMPRESSION GARMENTS, PADS, ORTHOTIC SHOES AND
22 DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO MAINTAIN COMPRESSIVE FUNC-
23 TION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S DIMENSIONS. COVERAGE
24 SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN MEDICALLY REQUIRED OR TO
25 PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONITOR PROGRESS AGAINST THE
26 WRITTEN TREATMENT PLAN AND TO MODIFY THE TREATMENT PLAN AS REQUIRED. NO
27 INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN AND SURGEON COMPETENT TO
28 EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED IN THE CARE REQUESTED,
29 MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH CARE SERVICES PURSUANT TO
30 THIS SECTION.

31 (A) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH
32 HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S
33 PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH
34 CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE
35 AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS PARA-
36 GRAPH.

37 (B) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL
38 IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS PARAGRAPH ANY
39 COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT
40 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
41 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

42 (C) THIS PARAGRAPH SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
43 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR
44 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
45 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
46 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
47 GOVERNMENTAL PLANS.

48 (D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL
49 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
50 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
51 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
52 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
53 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
54 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
55 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
56 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY

CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

(20) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA. INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE ALTERNATIVE PROCEDURES.

S 5. Subparagraph (B) of paragraph 1 of subsection (x) of section 4303 of the insurance law, as added by chapter 21 of the laws of 1997, is amended and a new subparagraph (C) is added to read as follows:

(B) surgery and reconstruction of the other breast to produce a symmetrical appearance; AND

(C) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTOMY, INCLUDING LYMPHEDEMA;

S 6. Section 4303 of the insurance law is amended by adding two new subsections (oo) and (pp) to read as follows:

(OO) EVERY CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION OR HEALTH SERVICE CORPORATION WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR MEDICAL COVERAGE SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS AND TREATMENT OF LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO BENEFITS FOR A COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURATION IS DETERMINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON MEDICAL NECESSITY AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION STANDARDS, BENEFITS FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGESTIVE THERAPY, AND OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR THE TREATMENT OF LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL LEGALLY AUTHORIZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT OF THE EDUCATION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS SECTION SHALL BE ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM LYMPHEDEMA TREATMENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA (LANA) OR CERTIFIED IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE CERTIFICATION STANDARDS OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES SHALL INCLUDE, BUT NOT BE LIMITED TO, BANDAGES, COMPRESSION GARMENTS, PADS, ORTHOTIC SHOES AND DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO MAINTAIN COMPRESSIVE FUNCTION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S DIMENSIONS. COVERAGE SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN MEDICALLY REQUIRED OR TO PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONITOR PROGRESS AGAINST THE WRITTEN TREATMENT PLAN AND TO MODIFY THE TREATMENT PLAN AS REQUIRED. NO INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN AND SURGEON COMPETENT TO EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED IN THE CARE REQUESTED, MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH CARE SERVICES PURSUANT TO THIS SECTION.

(1) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS SUBSECTION.

(2) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS SUBSECTION ANY COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT

1 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
2 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

3 (3) THIS SUBSECTION SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
4 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR
5 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
6 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
7 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
8 GOVERNMENTAL PLANS.

9 (4) FOR PURPOSES OF THIS SUBSECTION, A "MANAGED CARE PRODUCT" SHALL
10 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
11 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
12 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
13 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
14 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
15 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
16 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
17 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY
18 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY
19 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE
20 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S
21 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
22 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

23 (PP) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL
24 BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT
25 PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA.
26 INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES
27 SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE
28 ALTERNATIVE PROCEDURES.

29 S 7. This act shall take effect on the first of January next succeed-
30 ing the date on which it shall have become a law and shall apply to all
31 insurance policies, contracts and plans issued, renewed, modified,
32 altered or amended on or after such effective date.