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I N   A S S E M B L Y

January 9, 2014

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Introduced by M. of A. ROSENTHAL, SCHIMEL, BROOK-KRASNY, LAVINE, PERRY,  
ROBINSON -- Multi-Sponsored by -- M. of A. BARRON, COOK, CYMBROWITZ,  
JACOBS, MARKEY, SWEENEY, TITONE, WEINSTEIN, WEISENBERG -- read once  
and referred to the Committee on Insurance

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 ASSEM-  
BLY, 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  
23    LYMPHEDEMA TREATMENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA  
24    (LANA) OR CERTIFIED IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE  
25    CERTIFICATION STANDARDS OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES  
26    SHALL INCLUDE, BUT NOT BE LIMITED TO, BANDAGES, COMPRESSION GARMENTS,

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

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.

(A) 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 PARAGRAPH.

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

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

(D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES COVERED UNDER THE POLICY, 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 ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER 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.

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

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

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

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

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

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

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

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

44 (D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL  
45 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES  
46 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE  
47 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND  
48 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A  
49 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-  
50 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE  
51 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER  
52 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY  
53 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY  
54 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE  
55 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 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

(3) THIS SUBSECTION SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR

1 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS  
2 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,  
3 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL  
4 GOVERNMENTAL PLANS.

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

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

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