

3474--A

2013-2014 Regular Sessions

I N   S E N A T E

February 4, 2013

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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.

LBD07765-04-3

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.