

252

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sens. LAVALLE, GOLDEN -- read twice and ordered printed,
and when printed to be committed 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 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 32 and 33 to read as follows:
11 (32) 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

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

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

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

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

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

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

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

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

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

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

S 4. Subsection (k) of section 3221 of the insurance law is amended by adding two new paragraphs 20 and 21 to read as follows:

(20) EVERY GROUP POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE 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 OR 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

1 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S
2 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
3 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

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

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

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

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

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

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

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

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

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

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

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

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