

# STATE OF NEW YORK

3321

2019-2020 Regular Sessions

## IN SENATE

February 5, 2019

Introduced by Sen. LAVALLE -- 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 § 2. Subsection (i) of section 3216 of the insurance law is amended by  
10 adding two new paragraphs 35 and 36 to read as follows:

11 (35) 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

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

LBD02513-01-9

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 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.

(36) 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.

§ 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;

§ 4. Subsection (k) of section 3221 of the insurance law is amended by adding two new paragraphs 22 and 23 to read as follows:

(22) 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 rendered by a health care provider participating in the insurer's

1 managed care provider network, in order for the insured to be entitled  
2 to the maximum reimbursement under the contract.

3 (23) Patients undergoing any surgery or radiotherapy procedure shall  
4 be provided information on the risk of lymphedema associated with that  
5 procedure, and the potential post-procedure symptoms of lymphedema.  
6 Informed consent agreements for all surgeries and radiation therapies  
7 shall include information on the risk of lymphedema associated with the  
8 alternative procedures.

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

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

14 (C) prostheses and physical complications of all stages of mastectomy,  
15 including lymphedema;

16 § 6. Section 4303 of the insurance law is amended by adding two new  
17 subsections (ss) and (tt) to read as follows:

18 (ss) Every contract issued by a hospital service corporation or health  
19 service corporation which provides hospital, surgical, medical or major  
20 medical coverage shall provide coverage for the differential diagnosis  
21 and treatment of lymphedema. Such coverage shall include, in addition to  
22 benefits for a course of manual lymph drainage whose frequency and dura-  
23 tion is determined by the treating physician or therapist based on  
24 medical necessity and not based on physical therapy and rehabilitation  
25 standards, benefits for equipment, supplies, devices, complex deconges-  
26 tive therapy, and out-patient self-management training and education for  
27 the treatment of lymphedema, if prescribed by a health care professional  
28 legally authorized to prescribe or provide such items under title eight  
29 of the education law. Lymphedema therapy administered under this  
30 section shall be administered only by a therapist certified to perform  
31 lymphedema treatment by the Lymphology Association of North America  
32 (LANA) or certified in accordance with standards equivalent to the  
33 certification standards of LANA. Such equipment, supplies or devices  
34 shall include, but not be limited to, bandages, compression garments,  
35 pads, orthotic shoes and devices, with replacements when required to  
36 maintain compressive function or to accommodate changes in the patient's  
37 dimensions. Coverage shall be provided for follow-up treatments when  
38 medically required or to periodically validate home techniques, to moni-  
39 tor progress against the written treatment plan and to modify the treat-  
40 ment plan as required. No individual, other than a licensed physician or  
41 surgeon competent to evaluate the specific clinical issues involved in  
42 the care requested, may deny requests for authorization of health care  
43 services pursuant to this section.

44 (1) A policy which is a managed health care product may require such  
45 health care professional be a member of such managed health care plan's  
46 provider network, provided that such network includes sufficient health  
47 care professionals who are qualified by specific education, experience  
48 and credentials to provide the covered benefits described in this  
49 subsection.

50 (2) No insurer, corporation, or health maintenance organization shall  
51 impose upon any person receiving benefits pursuant to this subsection  
52 any copayment, fee, policy year or calendar year, or durational benefit  
53 limitation or maximum for benefits or services that is not equally  
54 imposed upon all individuals in the same benefit category.

55 (3) This subsection shall not apply to short-term travel, accident  
56 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 (tt) 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 § 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.