

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.

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1 shall include, but not be limited to, bandages, compression garments,
2 pads, orthotic shoes and devices, with replacements when required to
3 maintain compressive function or to accommodate changes in the patient's
4 dimensions. Coverage shall be provided for follow-up treatments when
5 medically required or to periodically validate home techniques, to moni-
6 tor progress against the written treatment plan and to modify the treat-
7 ment plan as required. No individual, other than a licensed physician or
8 surgeon competent to evaluate the specific clinical issues involved in
9 the care requested, may deny requests for authorization of health care
10 services pursuant to this section.

11 (A) A policy which is a managed health care product may require such
12 health care professional be a member of such managed health care plan's
13 provider network, provided that such network includes sufficient health
14 care professionals who are qualified by specific education, experience
15 and credentials to provide the covered benefits described in this para-
16 graph.

17 (B) No insurer, corporation, or health maintenance organization shall
18 impose upon any person receiving benefits pursuant to this paragraph any
19 copayment, fee, policy year or calendar year, or durational benefit
20 limitation or maximum for benefits or services that is not equally
21 imposed upon all individuals in the same benefit category.

22 (C) This paragraph shall not apply to short-term travel, accident
23 only, limited or specified disease, or individual conversion policies or
24 contracts, nor to policies or contracts designed for issuance to persons
25 eligible for coverage under Title XVIII of the Social Security Act,
26 known as Medicare, or any other similar coverage under state or federal
27 governmental plans.

28 (D) For purposes of this paragraph, a "managed care product" shall
29 mean a policy which requires that medical or other health care services
30 covered under the policy, other than emergency care services, be
31 provided by, or pursuant to a referral from a primary care provider, and
32 that services provided pursuant to such a referral be rendered by a
33 health care provider participating in the insurer's managed care provid-
34 er network. In addition, a managed care product shall also mean the
35 in-network portion of a contract which requires that medical or other
36 health care services covered under the contract, other than emergency
37 care services, be provided by, or pursuant to a referral from a primary
38 care provider, and that services provided pursuant to such a referral be
39 rendered by a health care provider participating in the insurer's
40 managed care provider network, in order for the insured to be entitled
41 to the maximum reimbursement under the contract.

42 (36) Patients undergoing any surgery or radiotherapy procedure shall
43 be provided information on the risk of lymphedema associated with that
44 procedure, and the potential post-procedure symptoms of lymphedema.
45 Informed consent agreements for all surgeries and radiation therapies
46 shall include information on the risk of lymphedema associated with the
47 alternative procedures.

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

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

53 (iii) prostheses and physical complications of all stages of mastecto-
54 my, including lymphedema;

55 § 4. Subsection (k) of section 3221 of the insurance law is amended by
56 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.