

# STATE OF NEW YORK

7881

## IN SENATE

January 18, 2022

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to providing coverage and information on chest wall reconstruction surgery after a mastectomy or partial mastectomy

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 20 of subsection (i) of  
2 section 3216 of the insurance law, as added by chapter 21 of the laws of  
3 1997, the opening paragraph and clause (i) as amended by chapter 302 of  
4 the laws of 2012, is amended to read as follows:

5 (A) Every policy which provides medical, major medical, or similar  
6 comprehensive-type coverage shall provide the following coverage for  
7 breast or chest wall reconstruction surgery after a mastectomy or  
8 partial mastectomy:

9 (i) all stages of reconstruction of the breast or chest wall on which  
10 the mastectomy or partial mastectomy has been performed; and

11 (ii) surgery and reconstruction of the other breast or chest wall to  
12 produce a symmetrical appearance;

13 in the manner determined by the attending physician and the patient to  
14 be appropriate. Chest wall reconstruction surgery shall include aesthet-  
15 ic flat closure as such term is defined by the National Cancer Insti-  
16 tute. Such coverage may be subject to annual deductibles and coinsurance  
17 provisions as may be deemed appropriate by the superintendent and as are  
18 consistent with those established for other benefits within a given  
19 policy. Written notice of the availability of such coverage shall be  
20 delivered to the policyholder prior to inception of such policy and  
21 annually thereafter.

22 § 2. Subparagraph (A) of paragraph 10 of subsection (k) of section  
23 3221 of the insurance law, as added by chapter 21 of the laws of 1997,  
24 the opening paragraph and clause (i) as amended by chapter 302 of the  
25 laws of 2012, is amended to read as follows:

26 (A) Every group or blanket policy delivered or issued for delivery in  
27 this state which provides medical, major medical, or similar comprehen-

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

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1 sive-type coverage shall provide the following coverage for breast or  
2 chest wall reconstruction surgery after a mastectomy or partial mastec-  
3 tomy:

4 (i) all stages of reconstruction of the breast or chest wall on which  
5 the mastectomy or partial mastectomy has been performed; and

6 (ii) surgery and reconstruction of the other breast or chest wall to  
7 produce a symmetrical appearance;

8 in the manner determined by the attending physician and the patient to  
9 be appropriate. Chest wall reconstruction surgery shall include aesthet-

10 ic flat closure as such term is defined by the National Cancer Insti-

11 tute. Such coverage may be subject to annual deductibles and coinsurance

12 provisions as may be deemed appropriate by the superintendent and as are

13 consistent with those established for other benefits within a given

14 policy. Written notice of the availability of such coverage shall be

15 delivered to the policyholder prior to inception of such policy and

16 annually thereafter.

17 § 3. Paragraph 1 of subsection (x) of section 4303 of the insurance

18 law, as added by chapter 21 of the laws of 1997, the opening paragraph

19 and subparagraph (A) as amended by chapter 302 of the laws of 2012, is

20 amended to read as follows:

21 (1) Every contract issued by a medical expense indemnity corporation,

22 hospital service corporation or health service corporation which

23 provides coverage for surgical or medical care shall provide the follow-

24 ing coverage for breast or chest wall reconstruction surgery after a

25 mastectomy or partial mastectomy:

26 (A) all stages of reconstruction of the breast or chest wall on which

27 the mastectomy or partial mastectomy has been performed; and

28 (B) surgery and reconstruction of the other breast or chest wall to

29 produce a symmetrical appearance;

30 in the manner determined by the attending physician and the patient to

31 be appropriate. Chest wall reconstruction surgery shall include aesthet-

32 ic flat closure as such term is defined by the National Cancer insti-

33 tute. Such coverage may be subject to annual deductibles or coinsurance

34 provisions as may be deemed appropriate by the superintendent and as are

35 consistent with those established for other benefits within a given

36 policy. Written notice of the availability of such coverage shall be

37 delivered to the group remitting agent or group contract holder prior to

38 the inception of such contract and annually thereafter.

39 § 4. Subdivisions 1 and 1-a of section 2404 of the public health law,

40 subdivision 1 as amended by chapter 179 of the laws of 1991 and subdivi-

41 sion 1-a as added by chapter 20 of the laws of 1997, are amended to read

42 as follows:

43 1. The commissioner shall develop a standardized written summary, in

44 plain non-technical language, which shall explain the alternative

45 medically viable methods of treating breast cancer, including but not

46 limited to hormonal, radiological, chemotherapeutic or surgical treat-

47 ments, or combinations thereof. The summary shall contain information on

48 breast or chest wall reconstructive surgery, including but not limited

49 to, the use of breast implants, their side effects, risks and other

50 pertinent information to aid a person in deciding on a course of treat-

51 ment. Chest wall reconstructive information shall include information

52 on aesthetic flat closure as such term is defined by the National Cancer

53 Institute.

54 1-a. The informational summary shall also include an explanation of

55 the special provisions relating to mastectomy, lymph node dissection, or

56 lumpectomy, and breast or chest wall reconstructive surgery coverage,

1 and second opinion coverage (including out-of-network options) under the  
2 insurance law and section twenty-eight hundred three-o of this chapter,  
3 and suggest that patients undergoing such procedures check their health  
4 plans and/or insurance policies for the details of their coverage.

5 § 5. Subdivision 2 of section 2803-o of the public health law, as  
6 added by chapter 354 of the laws of 2010, is amended to read as follows:

7 2. Every general hospital that provides mastectomy surgery, lymph node  
8 dissection or a lumpectomy shall provide information to the patient  
9 concerning the option of reconstructive surgery following such proce-  
10 dures, including both breast and chest wall reconstructive surgery and  
11 the availability of coverage for reconstructive surgery, in accordance  
12 with the provisions of sections three thousand two hundred sixteen,  
13 three thousand two hundred twenty-one and four thousand three hundred  
14 three of the insurance law and applicable provisions of federal law. The  
15 information shall be provided to the patient in writing and in advance  
16 of obtaining consent to the surgical procedure. The information provided  
17 shall include at least the following:

18 (a) a description of the various reconstructive options and the advan-  
19 tages and disadvantages of each. Such description shall include aesthet-  
20 ic flat closure as such term is defined by the National Cancer  
21 Institute;

22 (b) a description of the provisions assuring coverage by public and  
23 private insurance plans of the costs related to reconstructive surgery  
24 under federal and state law;

25 (c) a description of how a patient may access reconstructive care,  
26 including the potential of transferring care to a facility that provides  
27 reconstructive care or choosing to pursue reconstruction after  
28 completion of breast cancer surgery and chemo/radiotherapy, if  
29 warranted;

30 (d) such other information as may be required by the commissioner.

31 §6. This act shall take effect on the ninetieth day after it shall  
32 have become a law and shall apply to all policies and contracts issued,  
33 renewed, modified, altered or amended on or after such date.