STATE OF NEW YORK

8537

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

Introduced by M. of A. PHEFFER AMATO -- read once and referred 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:

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

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

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

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

in the manner determined by the attending physician and the patient to be appropriate. **Chest wall reconstruction surgery shall include aesthetic flat closure as such term is defined by the National Cancer Institute.** Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception of such policy and annually thereafter.

§ 2. 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,

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

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the opening paragraph and clause (i) as amended by chapter 302 of the laws of 2012, is amended to read as follows:

(A) Every group or blanket policy delivered or issued for delivery in this state which provides medical, major medical, or similar comprehensive-type coverage shall provide the following coverage for breast **or chest wall** reconstruction surgery after a mastectomy or partial mastectomy:

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

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

in the manner determined by the attending physician and the patient to be appropriate. **Chest wall reconstruction surgery shall include aesthetic flat closure as such term is defined by the National Cancer Institute.** Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception of such policy and annually thereafter.

§ 3. Paragraph 1 of subsection (x) of section 4303 of the insurance law, as added by chapter 21 of the laws of 1997, the opening paragraph and subparagraph (A) as amended by chapter 302 of the laws of 2012, is amended to read as follows:

(1) Every contract issued by a medical expense indemnity corporation, hospital service corporation or health service corporation which provides coverage for surgical or medical care shall provide the following coverage for breast **or chest wall** reconstruction surgery after a mastectomy or partial mastectomy:

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

(B) surgery and reconstruction of the other breast **or chest wall** to produce a symmetrical appearance;

in the manner determined by the attending physician and the patient to be appropriate. **Chest wall reconstruction surgery shall include aesthetic flat closure as such term is defined by the National Cancer institute.** Such coverage may be subject to annual deductibles or coinsurance provisions as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy. Written notice of the availability of such coverage shall be delivered to the group remitting agent or group contract holder prior to the inception of such contract and annually thereafter.

§ 4. Subdivisions 1 and 1-a of section 2404 of the public health law, subdivision 1 as amended by chapter 179 of the laws of 1991 and subdivision 1-a as added by chapter 20 of the laws of 1997, are amended to read as follows:

1. The commissioner shall develop a standardized written summary, in plain non-technical language, which shall explain the alternative medically viable methods of treating breast cancer, including but not limited to hormonal, radiological, chemotherapeutic or surgical treatments, or combinations thereof. The summary shall contain information on breast **or chest wall** reconstructive surgery, including but not limited to, the use of breast implants, their side effects, risks and other pertinent information to aid a person in deciding on a course of treatment. **Chest wall reconstructive information shall include information**

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

1-a. The informational summary shall also include an explanation of the special provisions relating to mastectomy, lymph node dissection, or lumpectomy, and breast **or chest wall** reconstructive surgery coverage, and second opinion coverage (including out-of-network options) under the insurance law and section twenty-eight hundred three-o of this chapter, and suggest that patients undergoing such procedures check their health plans and/or insurance policies for the details of their coverage.

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

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

(a) a description of the various reconstructive options and the advantages and disadvantages of each**. Such description shall include aesthetic flat closure as such term is defined by the National Cancer Institute**;

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

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

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

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