

# STATE OF NEW YORK

4867

2021-2022 Regular Sessions

## IN SENATE

February 17, 2021

Introduced by Sen. KENNEDY -- 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 36 and 37 to read as follows:

11 (36) Every policy which provides hospital, surgical, medical or major  
12 medical coverage shall provide coverage for the differential diagnosis  
13 and treatment of lymphedema, both primary and secondary lymphedema.  
14 Such coverage shall include, in addition to benefits for a course of  
15 manual lymph drainage whose frequency and duration is determined by the  
16 treating physician or therapist based on medical necessity and not based  
17 on physical therapy and rehabilitation standards, benefits for equip-  
18 ment, supplies, devices, complex decongestive therapy, and out-patient  
19 self-management training and education for the treatment of lymphedema,  
20 if prescribed by a health care professional legally authorized to  
21 prescribe or provide such items under title eight of the education law.  
22 Lymphedema therapy administered under this section shall be administered  
23 only by a therapist certified to perform lymphedema treatment by the  
24 Lymphology Association of North America (LANA) or certified in accord-  
25 ance with standards equivalent to the certification standards of LANA.

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

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1 Such equipment, supplies or devices shall include, but not be limited  
2 to, bandages, compression garments, pads, orthotic shoes and devices,  
3 with replacements when required to maintain compressive function or to  
4 accommodate changes in the patient's dimensions. Coverage shall be  
5 provided for follow-up treatments when medically required or to period-  
6 ically validate home techniques, to monitor progress against the written  
7 treatment plan and to modify the treatment plan as required. No individ-  
8 ual, other than a licensed physician or surgeon competent to evaluate  
9 the specific clinical issues involved in the care requested, may deny  
10 requests for authorization of health care services pursuant to this  
11 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 (37) 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 § 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;

§ 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, both primary and secondary 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 (23) 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 § 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 § 6. Section 4303 of the insurance law is amended by adding two new  
18 subsections (ss) and (tt) to read as follows:

19 (ss) 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, both primary and secondary lymphedema.  
23 Such coverage shall include, in addition to benefits for a course of  
24 manual lymph drainage whose frequency and duration is determined by the  
25 treating physician or therapist based on medical necessity and not based  
26 on physical therapy and rehabilitation standards, benefits for equip-  
27 ment, supplies, devices, complex decongestive therapy, and out-patient  
28 self-management training and education for the treatment of lymphedema,  
29 if prescribed by a health care professional legally authorized to  
30 prescribe or provide such items under title eight of the education law.  
31 Lymphedema therapy administered under this section shall be administered  
32 only by a therapist certified to perform lymphedema treatment by the  
33 Lymphology Association of North America (LANA) or certified in accord-  
34 ance with standards equivalent to the certification standards of LANA.  
35 Such equipment, supplies or devices shall include, but not be limited  
36 to, bandages, compression garments, pads, orthotic shoes and devices,  
37 with replacements when required to maintain compressive function or to  
38 accommodate changes in the patient's dimensions. Coverage shall be  
39 provided for follow-up treatments when medically required or to period-  
40 ically validate home techniques, to monitor progress against the written  
41 treatment plan and to modify the treatment plan as required. No individ-  
42 ual, other than a licensed physician or surgeon competent to evaluate  
43 the specific clinical issues involved in the care requested, may deny  
44 requests for authorization of health care services pursuant to this  
45 section.

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

52 (2) No insurer, corporation, or health maintenance organization shall  
53 impose upon any person receiving benefits pursuant to this subsection  
54 any copayment, fee, policy year or calendar year, or durational benefit  
55 limitation or maximum for benefits or services that is not equally  
56 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    (tt) 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    § 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.