

# STATE OF NEW YORK

1696--C

2023-2024 Regular Sessions

## IN ASSEMBLY

January 17, 2023

Introduced by M. of A. HUNTER, RAGA, WEPRIN, CRUZ, SHIMSKY -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to requiring certain insurance policies allow patients additional screenings for breast cancer when the provider deems such screening is necessary under nationally recognized clinical practice guidelines; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subparagraphs (A) and (B) of paragraph 11 of subsection (i)  
2 of section 3216 of the insurance law, subparagraph (A) as amended by  
3 chapter 414 of the laws of 2017, and subparagraph (B) as amended by  
4 chapter 74 of the laws of 2016, are amended to read as follows:  
5 (A) Every policy that provides coverage for hospital, surgical or  
6 medical care shall provide the following coverage for mammography  
7 screening for occult breast cancer:  
8 (i) upon the recommendation of a physician, a mammogram, which may be  
9 provided by breast tomosynthesis, at any age for covered persons having  
10 a prior history of breast cancer or who have a first degree relative  
11 with a prior history of breast cancer;  
12 (ii) a single baseline mammogram, which may be provided by breast  
13 tomosynthesis, for covered persons aged thirty-five through thirty-nine,  
14 inclusive; [~~and~~]

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

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1 (iii) an annual mammogram, which may be provided by breast tomosynthe-  
2 sis, for covered persons aged forty and older; and

3 (iv) upon the recommendation of a physician, screening and diagnostic  
4 imaging, including diagnostic mammograms, breast ultrasounds, or magnet-  
5 ic resonance imaging, recommended by nationally recognized clinical  
6 practice guidelines for the detection of breast cancer. For the purposes  
7 of this item, "nationally recognized clinical practice guidelines" means  
8 evidence-based clinical practice guidelines informed by a systematic  
9 review of evidence and an assessment of the benefits, and risks of  
10 alternative care options intended to optimize patient care developed by  
11 independent organizations or medical professional societies utilizing a  
12 transparent methodology and reporting structure and with a conflict of  
13 interest policy.

14 (B) Such coverage required pursuant to subparagraph (A) or (C) of this  
15 paragraph shall not be subject to annual deductibles or coinsurance. If  
16 under federal law, application of this requirement would result in  
17 health savings account ineligibility under 26 USC 223, this requirement  
18 shall apply for health savings account-qualified high deductible health  
19 plans with respect to the deductible of such a plan after the enrollee  
20 has satisfied the minimum deductible under 26 USC 223, except for with  
21 respect to items or services that are preventive care pursuant to 26  
22 USC 223(c)(2)(C), in which case the requirements of this paragraph shall  
23 apply regardless of whether the minimum deductible under 26 USC 223 has  
24 been satisfied.

25 § 2. Subparagraph (F) of paragraph 11 of subsection (i) of section  
26 3216 of the insurance laws is REPEALED.

27 § 3. Subparagraphs (A) and (B) of paragraph 11 of subsection (l) of  
28 section 3221 of the insurance law, subparagraph (A) as amended by chap-  
29 ter 143 of the laws of 2019, and subparagraph (B) as amended by chapter  
30 74 of the laws of 2016, are amended to read as follows:

31 (A) Every insurer delivering a group or blanket policy or issuing a  
32 group or blanket policy for delivery in this state that provides cover-  
33 age for hospital, surgical or medical care shall provide the following  
34 coverage for mammography screening for occult breast cancer:

35 (i) upon the recommendation of a physician, a mammogram, which may be  
36 provided by breast tomosynthesis, at any age for covered persons having  
37 a prior history of breast cancer or who have a first degree relative  
38 with a prior history of breast cancer;

39 (ii) a single baseline mammogram, which may be provided by breast  
40 tomosynthesis, for covered persons aged thirty-five through thirty-nine,  
41 inclusive;

42 (iii) an annual mammogram, which may be provided by breast tomosynthe-  
43 sis, for covered persons aged forty and older; ~~and~~

44 (iv) for large group policies that provide coverage for hospital,  
45 surgical or medical care, an annual mammogram for covered persons aged  
46 thirty-five through thirty-nine, inclusive, upon the recommendation of a  
47 physician, subject to the insurer's determination that the mammogram is  
48 medically necessary; and

49 (v) upon the recommendation of a physician, screening and diagnostic  
50 imaging, including diagnostic mammograms, breast ultrasounds, or magnet-  
51 ic resonance imaging, recommended by nationally recognized clinical  
52 practice guidelines for the detection of breast cancer. For the purposes  
53 of this item, "nationally recognized clinical practice guidelines" means  
54 evidence-based clinical practice guidelines informed by a systematic  
55 review of evidence and an assessment of the benefits, and risks of  
56 alternative care options intended to optimize patient care developed by

1 independent organizations or medical professional societies utilizing a  
2 transparent methodology and reporting structure and with a conflict of  
3 interest policy.

4 (B) Such coverage required pursuant to subparagraph (A) or (C) of this  
5 paragraph shall not be subject to annual deductibles or coinsurance. If  
6 under federal law, application of this requirement would result in  
7 health savings account ineligibility under 26 USC 223, this requirement  
8 shall apply for health savings account-qualified high deductible health  
9 plans with respect to the deductible of such a plan after the enrollee  
10 has satisfied the minimum deductible under 26 USC 223, except for with  
11 respect to items or services that are preventive care pursuant to 26  
12 USC 223(c)(2)(C), in which case the requirements of this paragraph shall  
13 apply regardless of whether the minimum deductible under 26 USC 223 has  
14 been satisfied.

15 § 4. Subparagraph (F) of paragraph 11 of subsection (l) of section  
16 3221 of the insurance law is REPEALED.

17 § 5. Paragraph 1 of subsection (p) of section 4303 of the insurance  
18 law, as amended by chapter 219 of the laws of 2011, subparagraph (A) as  
19 amended by chapter 414 of the laws of 2017, and subparagraphs (B), (C),  
20 (D), and (E) as amended by chapter 143 of the laws of 2019, is amended  
21 to read as follows:

22 (1) A medical expense indemnity corporation, a hospital service corpo-  
23 ration or a health service corporation that provides coverage for hospi-  
24 tal, surgical or medical care shall provide the following coverage for  
25 mammography screening for occult breast cancer:

26 (A) upon the recommendation of a physician, a mammogram, which may be  
27 provided by breast tomosynthesis, at any age for covered persons having  
28 a prior history of breast cancer or who have a first degree relative  
29 with a prior history of breast cancer;

30 (B) a single baseline mammogram, which may be provided by breast tomo-  
31 synthesis, for covered persons aged thirty-five through thirty-nine,  
32 inclusive;

33 (C) an annual mammogram, which may be provided by breast tomosynthesis,  
34 for covered persons aged forty and older;

35 (D) for large group contracts offered by a medical expense indemnity  
36 corporation, a hospital service corporation or a health service corpo-  
37 ration that provide coverage for hospital, surgical or medical care, an  
38 annual mammogram for covered persons aged thirty-five through thirty-  
39 nine, inclusive, upon the recommendation of a physician, subject to the  
40 corporation's determination that the mammogram is medically necessary;  
41 [~~and~~]

42 (E) upon the recommendation of a physician, screening and diagnostic  
43 imaging, including diagnostic mammograms, breast ultrasounds, or magnet-  
44 ic resonance imaging, recommended by nationally recognized clinical  
45 practice guidelines for the detection of breast cancer. For the purposes  
46 of this subparagraph, "nationally recognized clinical practice guide-  
47 lines" means evidence-based clinical practice guidelines informed by a  
48 systematic review of evidence and an assessment of the benefits, and  
49 risks of alternative care options intended to optimize patient care  
50 developed by independent organizations or medical professional societies  
51 utilizing a transparent methodology and reporting structure and with a  
52 conflict of interest policy; and

53 (F) The coverage required in this paragraph or paragraph two of this  
54 subsection shall not be subject to annual deductibles or coinsurance.  
55 If under federal law, application of this requirement would result in  
56 health savings account ineligibility under 26 USC 223, this requirement

1 shall apply for health savings account-qualified high deductible health  
2 plans with respect to the deductible of such a plan after the enrollee  
3 has satisfied the minimum deductible under 26 USC 223, except for with  
4 respect to items or services that are preventive care pursuant to 26  
5 USC 223(c)(2)(C), in which case the requirements of this paragraph shall  
6 apply regardless of whether the minimum deductible under 26 USC 223 has  
7 been satisfied.

8 § 6. Paragraph 5 of subsection (p) of section 4303 of the insurance  
9 law is REPEALED.

10 § 7. This act shall take effect January 1, 2026 and shall apply to  
11 all policies and contracts issued, renewed, modified, altered or amended  
12 on or after such date.