STATE OF NEW YORK

2465--C

2023-2024 Regular Sessions

IN SENATE

January 20, 2023

Introduced by Sens. PERSAUD, CHU, JACKSON, MYRIE, PALUMBO, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

Section 1. Subparagraphs (A) and (B) of paragraph 11 of subsection (i) of section 3216 of the insurance law, subparagraph (A) as amended by chapter 414 of the laws of 2017, and subparagraph (B) as amended by chapter 74 of the laws of 2016, are amended to read as follows:

(A) Every policy that provides coverage for hospital, surgical or medical care shall provide the following coverage for mammography screening for occult breast cancer:

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

(ii) a single baseline mammogram, which may be provided by breast tomosynthesis, for covered persons aged thirty-five through thirty-nine, inclusive; [~~and~~]

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

LBD02639-11-4

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

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

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

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

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

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

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

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

(iii) an annual mammogram, which may be provided by breast tomosynthesis, for covered persons aged forty and older; [~~and~~]

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

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

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

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

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

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

(1) A medical expense indemnity corporation, a hospital service corporation or a health service corporation that provides coverage for hospital, surgical or medical care shall provide the following coverage for mammography screening for occult breast cancer:

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

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

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

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

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

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

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

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

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