

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:

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.

LBD02639-11-4

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.