

**INSURANCE COMPANY LAW OF 1921 - COVERAGE FOR MAMMOGRAPHIC
EXAMINATIONS AND DIAGNOSTIC BREAST IMAGING AND COVERAGE FOR
BRCA-RELATED GENETIC COUNSELING AND GENETIC TESTING**

Act of May 1, 2023, P.L. 1, No. 1

Cl. 40

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SB 8

AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," in casualty insurance, further providing for coverage for mammographic examinations and diagnostic breast imaging and providing for coverage for BRCA-related genetic counseling and genetic testing.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 632 heading and (b) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, are amended and the section is amended by adding a subsection to read:

Section 632. Coverage for Mammographic Examinations and [Diagnostic] Breast Imaging.--* * *

(b) A group or individual health or sickness or accident insurance policy providing hospital or medical/surgical coverage and a group or individual subscriber contract or certificate issued by any entity subject to 40 Pa.C.S. Ch. 61 or 63, this act, the "Health Maintenance Organization Act," the "Fraternal Benefit Society Code" or an employee welfare benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974 providing hospital or medical/surgical coverage shall also provide coverage for breast imaging. The minimum coverage required shall include [supplemental magnetic resonance imaging or, if such imaging is not possible, ultrasound if recommended by the treating physician] **all costs associated with one supplemental breast screening every year** because the woman is believed to be at an increased risk of breast cancer due to:

- (1) personal history of atypical breast histologies;
- (2) personal history or family history of breast cancer;
- (3) genetic predisposition for breast cancer;
- (4) prior therapeutic thoracic radiation therapy;
- (5) heterogeneously dense breast tissue based on breast composition categories [of the Breast Imaging and Reporting Data System established by the American College of Radiology] with any one of the following risk factors:

- (i) lifetime risk of breast cancer of greater than 20%, according to risk assessment tools based on family history;
- (ii) personal history of BRCA1 or BRCA2 gene mutations;

(iii) first-degree relative with a BRCA1 or BRCA2 gene mutation but not having had genetic testing herself;
(iv) prior therapeutic thoracic radiation therapy between 10 and 30 years of age; or
(v) personal history of Li-Fraumeni syndrome, Cowden syndrome or Bannayan-Riley-Ruvalcaba syndrome or a first-degree relative with one of these syndromes[.]; **or**
(6) extremely dense breast tissue based on breast composition [categories of the Breast Imaging and Reporting Data System established by the American College of Radiology. Nothing in this subsection shall be construed to require an insurer to cover the surgical procedure known as mastectomy or to prevent the application of deductible, copayment or coinsurance provisions contained in the policy or plan.] **categories.**

Nothing in this subsection shall be construed as to preclude utilization review as provided under Article XXI of this act or to prevent the application of deductible, copayment or coinsurance provisions contained in the policy or plan for breast imaging in excess of the minimum coverage required.

* * *

(d) As used in this section:

"Supplemental breast screening" means a medically necessary and clinically appropriate examination of the breast using either standard or abbreviated magnetic resonance imaging or, if such imaging is not possible, ultrasound if recommended by the treating physician to screen for breast cancer when there is no abnormality seen or suspected in the breast.

Section 2. The act is amended by adding a section to read:

Section 633.1. Coverage for BRCA-related Genetic Counseling and Genetic Testing.--(a) A health insurance policy offered, issued or renewed in this Commonwealth shall provide coverage for BRCA-related genetic counseling and genetic testing provided by an individual licensed, certified or otherwise regulated to provide genetic counseling and genetic testing under the laws of this Commonwealth. The minimum coverage required shall include all costs associated with genetic counseling and, if indicated after genetic counseling, a genetic laboratory test of the BRCA1 and BRCA2 genes for individuals assessed to be at an increased risk, based on a clinical risk assessment tool, of potentially harmful mutations in the BRCA1 or BRCA2 genes due to a personal or family history of breast or ovarian cancer.

(b) As used in this section:

"Genetic counseling" means the provision of services to individuals, couples, families and organizations by one or more appropriately trained individuals to address the physical and psychological issues associated with the occurrence or risk of occurrence of a genetic disorder, birth defect or genetically influenced condition or disease in an individual or a family.

"Health insurance policy" means an individual or group insurance policy, subscriber contract, certificate or plan issued by an insurer that provides medical or health care coverage, including emergency services. The term does not include any of the following:

- (1) An accident only policy.
- (2) A credit only policy.
- (3) A long-term care or disability income policy.
- (4) A specified disease policy.
- (5) A Medicare supplement policy.
- (6) A fixed indemnity policy.
- (7) A hospital indemnity policy.
- (8) A dental only policy.

- (9) A vision only policy.
- (10) A worker's compensation policy.
- (11) An automobile medical payment policy.
- (12) A TRICARE policy, including a Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement policy.
- (13) Any other similar policy providing for limited benefits.

"Insurer" means an entity licensed by the Insurance Department with accident and health authority to issue a health insurance policy that is offered or governed under any of the following:

- (1) This act, including section 630 and Article XXIV.
- (2) The act of December 29, 1972 (P.L.1701, No.364), known as the "Health Maintenance Organization Act."
- (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

Section 3. This act shall apply as follows:

(1) For health insurance policies for which either rates or forms are required to be filed with the Federal Government or the Insurance Department, this act shall apply to any policy for which a form or rate is first filed on or after the effective date of this section.

(2) For health insurance policies for which neither rates nor forms are required to be filed with the Federal Government or the Insurance Department, this act shall apply to any policy issued or renewed on or after 180 days after the effective date of this section.

Section 4. This act shall take effect in 60 days.

APPROVED--The 1st day of May, A.D. 2023.

JOSH SHAPIRO