

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 176 Session of
1997

INTRODUCED BY HOLL, JANUARY 21, 1997

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
APRIL 2, 1997

AN ACT

1 Providing mastectomy AND BREAST CANCER RECONSTRUCTIVE SURGERY <—
2 coverage standards for health insurance policies.

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

3 ~~Section 1. Short title.~~ <—

4 CHAPTER 1 <—

5 PRELIMINARY PROVISIONS

6 SECTION 101. SHORT TITLE.

7 This act shall be known and may be cited as the Mastectomy
8 AND BREAST CANCER RECONSTRUCTIVE SURGERY Coverage Standards Act. <—

9 ~~Section 2. Definitions.~~ <—

10 SECTION 102. SCOPE. <—

11 THIS ACT SHALL NOT APPLY TO THE FOLLOWING TYPES OF POLICIES:

12 (1) ACCIDENT ONLY.

13 (2) LIMITED BENEFIT.

14 (3) CREDIT.

15 (4) DENTAL.

16 (5) VISION.

17 (6) SPECIFIED DISEASE.

18 (7) MEDICARE SUPPLEMENT.

19 (8) CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED
20 SERVICES (CHAMPUS) SUPPLEMENT.

21 (9) LONG-TERM CARE OR DISABILITY INCOME.

22 (10) WORKERS' COMPENSATION.

23 (11) AUTOMOBILE MEDICAL PAYMENT.

24 CHAPTER 3

25 MASTECTOMY COVERAGE

26 SECTION 301. DEFINITIONS.

27 The following words and phrases when used in this act CHAPTER <—
28 shall have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Health insurance policy." Any individual or group health

1 insurance policy, contract or plan which provides medical or
2 health care coverage by any health care facility or licensed
3 health care provider on an expense-incurred service or prepaid
4 basis and which is offered by or is governed under any of the
5 following:

6 Act of May 17, 1921 (P.L.682, No.284), known as The
7 Insurance Company Law of 1921.

8 Subarticle (f) of Article IV of the act of June 13, 1967
9 (P.L.31, No.21), known as the Public Welfare Code.

10 Act of December 29, 1972 (P.L.1701, No.364), known as the
11 Health Maintenance Organization Act.

12 Act of May 18, 1976 (P.L.123, No.54), known as the
13 Individual Accident and Sickness Insurance Minimum Standards
14 Act.

15 Act of December 14, 1992 (P.L.835, No.134), known as the
16 Fraternal Benefit Societies Code.

17 A nonprofit corporation subject to 40 Pa.C.S. Chs. 61
18 (relating to hospital plan corporations) and 63 (relating to
19 professional health services plan corporations).

20 "Insurer." Any entity that issues an individual or group
21 health insurance policy, contract or plan described under the
22 definition of "health insurance policy" in this section.

23 Section 3 302. Mastectomy coverage standards. <—

24 ~~(a) General rule.~~ <—

25 ~~(1)~~ (A) OUTPATIENT CARE.--No health insurance policy <—
26 delivered, issued, executed or renewed in this Commonwealth on
27 or after the effective date of this ~~act~~ CHAPTER shall require <—
28 outpatient care following a mastectomy performed in a health
29 care facility.

30 ~~(2)~~ (B) INPATIENT CARE.--Policies described in ~~paragraph (1)~~ <—

1 SUBSECTION (A) shall provide coverage for inpatient care <—
2 following a mastectomy for the length of stay that the treating
3 physician determines is necessary to meet generally accepted
4 criteria for safe discharge.

5 ~~(3)~~ (C) LIMITATIONS.--Coverage under this ~~act~~ CHAPTER shall, <—
6 however, remain subject to any copayment, coinsurance or
7 deductible amounts set forth in the policy.

8 ~~(b) Exceptions. This act shall not apply to policies <—~~
9 ~~covering accident only, limited benefit, credit, dental, vision,~~
10 ~~specified disease, Medicare supplement, Civilian Health and~~
11 ~~Medical Program of the Uniformed Services (CHAMPUS) supplement,~~
12 ~~long term care or disability income, workers' compensation or~~
13 ~~automobile medical payment.~~

14 ~~Section 4. Effective date.~~

15 ~~This act shall take effect in 90 days.~~

16 CHAPTER 5 <—

17 BREAST CANCER RECONSTRUCTIVE SURGERY COVERAGE

18 SECTION 501. DECLARATION OF POLICY.

19 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

20 (1) BREAST CANCER IS THE MOST COMMON CANCER IN AMERICAN
21 WOMEN, AFFLICTING 182,000 WOMEN PER YEAR, STRIKING ONE OUT OF
22 9 AND KILLING 46,000 A YEAR. COPING WITH THIS DISEASE IS A
23 MEDICAL AND EMOTIONAL STRUGGLE SINCE IT CARRIES WITH IT THE
24 FEAR OF DISFIGUREMENT IN A SOCIETY THAT PLACES GREAT VALUE ON
25 PHYSICAL APPEARANCE.

26 (2) SOME INSURANCE CARRIERS DENY COVERAGE FOR BREAST
27 RECONSTRUCTION, CONSIDERING THE PROCEDURE NOT MEDICALLY
28 NECESSARY. MOST INSURANCE COMPANIES WILL NOT COVER PROCEDURES
29 ON THE OPPOSITE BREAST TO PROVIDE SYMMETRY FOR THE
30 RECONSTRUCTION, BUT DO COVER RECONSTRUCTION OF OTHER BODY

1 PARTS, WHICH IS DISCRIMINATORY.

2 SECTION 502. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 "HEALTH INSURANCE POLICY." ANY INDIVIDUAL OR GROUP HEALTH,
7 SICKNESS OR ACCIDENT POLICY OR SUBSCRIBER CONTRACT OR
8 CERTIFICATE ISSUED BY AN ENTITY SUBJECT TO ANY ONE OF THE
9 FOLLOWING:

10 ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE
11 INSURANCE COMPANY LAW OF 1921.

12 ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN AS THE
13 HEALTH MAINTENANCE ORGANIZATION ACT.

14 ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS THE
15 INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS
16 ACT.

17 ACT OF DECEMBER 14, 1992 (P.L.835, NO.134), KNOWN AS THE
18 FRATERNAL BENEFIT SOCIETIES CODE.

19 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
20 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
21 PLAN CORPORATIONS).

22 MEDICAL ASSISTANCE.

23 "MASTECTOMY." THE REMOVAL OF ALL OR PART OF THE BREAST FOR
24 MEDICALLY NECESSARY REASONS, AS DETERMINED BY A LICENSED
25 PHYSICIAN.

26 "PROSTHETIC DEVICES." THE USE OF INITIAL AND SUBSEQUENT
27 ARTIFICIAL DEVICES TO REPLACE THE REMOVED BREAST OR PORTIONS
28 THEREOF, PURSUANT TO AN ORDER OF THE PATIENT'S PHYSICIAN.

29 "RECONSTRUCTIVE SURGERY." A SURGICAL PROCEDURE PERFORMED
30 FOLLOWING A MASTECTOMY ON ONE BREAST OR BOTH BREASTS, AS

1 DETERMINED BY A LICENSED PHYSICIAN, TO RESTORE AND ACHIEVE
2 SYMMETRY BETWEEN THE TWO BREASTS. THIS TERM SHALL INCLUDE, BUT
3 IS NOT LIMITED TO, AUGMENTATION MAMMOPLASTY, REDUCTION
4 MAMMOPLASTY AND MASTOPEXY.

5 "SYMMETRY BETWEEN BREASTS." EQUALITY IN SIZE OF THE
6 NONDISEASED BREAST WITH THE DISEASED BREAST AFTER DEFINITIVE
7 RECONSTRUCTIVE SURGERY ON THE DISEASED BREAST HAS BEEN
8 PERFORMED.

9 SECTION 503. MANDATED COVERAGE FOR RECONSTRUCTIVE SURGERY
10 INCIDENT TO MASTECTOMY.

11 (A) INCLUDED COVERAGE.--EVERY HEALTH CARE POLICY WHICH IS
12 DELIVERED, ISSUED FOR DELIVERY, RENEWED, EXTENDED OR MODIFIED IN
13 THIS COMMONWEALTH BY A HEALTH CARE INSURER WHICH PROVIDES
14 COVERAGE FOR THE SURGICAL PROCEDURE KNOWN AS MASTECTOMY SHALL
15 ALSO INCLUDE COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE
16 SURGERY INCIDENT TO THE MASTECTOMY, WHICH SHALL INCLUDE
17 RECONSTRUCTIVE SURGERY TO RESTORE AND ACHIEVE SYMMETRY OF THE
18 OPPOSITE BREAST AFTER MASTECTOMY.

19 (B) DEDUCTIBLE AND COINSURANCE.--COVERAGE FOR PROSTHETIC
20 DEVICES AND RECONSTRUCTIVE SURGERY SHALL BE SUBJECT TO THE
21 DEDUCTIBLE AND COINSURANCE CONDITIONS APPLIED TO THE MASTECTOMY
22 AND ALL OTHER TERMS AND CONDITIONS APPLICABLE TO OTHER BENEFITS.

23 (C) LIMITATIONS.--IN THE EVENT THAT A MASTECTOMY IS
24 PERFORMED AND THERE IS NO EVIDENCE OF MALIGNANCY, THE COVERAGE
25 FOR PROSTHETIC DEVICES INSERTED DURING RECONSTRUCTIVE SURGERY
26 AND RECONSTRUCTIVE SURGERY IN THIS SECTION MAY BE LIMITED TO
27 SUCH SURGICAL PROCEDURES PERFORMED WITHIN TWO YEARS OF THE DATE
28 OF THE MASTECTOMY.

29 SECTION 504. APPLICABILITY.

30 THIS CHAPTER SHALL APPLY TO ALL INSURANCE POLICIES,

1 SUBSCRIBER CONTRACTS AND GROUP INSURANCE CERTIFICATES ISSUED
2 UNDER ANY GROUP MASTER POLICY DELIVERED OR ISSUED FOR DELIVERY
3 ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER. THIS CHAPTER
4 SHALL ALSO APPLY TO ALL RENEWALS OF CONTRACTS ON ANY RENEWAL
5 DATE WHICH IS ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER.

6 CHAPTER 51

7 MISCELLANEOUS PROVISIONS

8 SECTION 5101. EFFECTIVE DATE.

9 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

10 (1) CHAPTER 3 SHALL TAKE EFFECT IN 90 DAYS.

11 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

12 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
13 DAYS.