

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 176 Session of
1997

INTRODUCED BY HOLL, JANUARY 21, 1997

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 29, 1997

AN ACT

1 ~~Providing mastectomy and breast cancer reconstructive surgery~~ <—
2 ~~coverage standards for health insurance policies.~~
3 AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN <—
4 ACT RELATING TO INSURANCE; AMENDING, REVISING, AND
5 CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF
6 INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND
7 PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS
8 ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND
9 FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND
10 SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,
11 ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY
12 THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND
13 REPEALING EXISTING LAWS," PROVIDING MASTECTOMY AND BREAST
14 CANCER RECONSTRUCTIVE SURGERY COVERAGE STANDARDS FOR HEALTH
15 INSURANCE POLICIES.

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

4 ~~Section 1.— Short title.~~

<—

5 ~~This act shall be known and may be cited as the Mastectomy~~
6 ~~and Breast Cancer Reconstructive Surgery Coverage Standards Act.~~

7 ~~Section 2.— Declaration of policy.~~

8 ~~The General Assembly finds and declares as follows:~~

9 ~~(1) Breast cancer is the most common cancer in American~~
10 ~~women, afflicting 182,000 women per year, striking one out of~~
11 ~~9 and killing 46,000 a year. Coping with this disease is a~~
12 ~~medical and emotional struggle since it carries with it the~~
13 ~~fear of disfigurement in a society that places great value on~~
14 ~~physical appearance.~~

15 ~~(2) Some insurance carriers deny coverage for breast~~
16 ~~reconstruction, considering the procedure not medically~~
17 ~~necessary. Most insurance companies will not cover procedures~~
18 ~~on the opposite breast to provide symmetry for the~~
19 ~~reconstruction, but do cover reconstruction of other body~~
20 ~~parts, which is discriminatory.~~

21 ~~Section 3.— Scope.~~

22 ~~This act shall not apply to the following types of policies:~~

23 ~~(1) Accident only.~~

24 ~~(2) Limited benefit.~~

25 ~~(3) Credit.~~

26 ~~(4) Dental.~~

27 ~~(5) Vision.~~

28 ~~(6) Specified disease.~~

29 ~~(7) Medicare supplement.~~

30 ~~(8) Civilian Health and Medical Program of the Uniformed~~

~~Services (CHAMPUS) supplement.~~

~~(9) Long term care or disability income.~~

~~(10) Workers' compensation.~~

~~(11) Automobile medical payment.~~

~~Section 4. Definitions.~~

~~The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Health insurance policy." Any individual or group health insurance policy, subscriber contract, certificate or plan which provides medical or health care coverage by any health care facility or licensed health care provider which is offered by or is governed under any of the following:~~

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

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

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

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

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

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

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

1 ~~"Mastectomy." The removal of all or part of the breast for~~
2 ~~medically necessary reasons, as determined by a licensed~~
3 ~~physician.~~

4 ~~"Prosthetic devices." The use of initial and subsequent~~
5 ~~artificial devices to replace the removed breast or portions~~
6 ~~thereof, pursuant to an order of the patient's physician.~~

7 ~~"Reconstructive surgery." A surgical procedure performed~~
8 ~~following a mastectomy on one breast or both breasts, as~~
9 ~~determined by the treating physician, to reestablish symmetry~~
10 ~~between the two breasts or alleviate functional impairment~~
11 ~~caused by the mastectomy. This term shall include, but is not~~
12 ~~limited to, augmentation mammoplasty, reduction mammoplasty and~~
13 ~~mastopexy.~~

14 ~~"Symmetry between breasts." Approximate equality in size and~~
15 ~~shape of the nondiseased breast with the diseased breast after~~
16 ~~definitive reconstructive surgery on the diseased breast has~~
17 ~~been performed.~~

18 ~~Section 5. Mastectomy coverage standards.~~

19 ~~(a) Outpatient care. No health insurance policy delivered,~~
20 ~~issued, executed or renewed in this Commonwealth on or after the~~
21 ~~effective date of this section shall require outpatient care~~
22 ~~following a mastectomy performed in a health care facility.~~

23 ~~(b) Inpatient care. Policies described in subsection (a)~~
24 ~~shall provide coverage for inpatient care following a mastectomy~~
25 ~~for the length of stay that the treating physician determines is~~
26 ~~necessary to meet generally accepted criteria for safe~~
27 ~~discharge.~~

28 ~~(c) Limitations. Coverage under this section shall,~~
29 ~~however, remain subject to any copayment, coinsurance or~~
30 ~~deductible amounts set forth in the policy.~~

~~Section 6. Breast cancer reconstructive surgery coverage.~~

~~(a) Included coverage. Every health care policy which is delivered, issued for delivery, renewed, extended or modified in this Commonwealth by a health care insurer which provides coverage for the surgical procedure known as mastectomy shall also include coverage for prosthetic devices and reconstructive surgery incident to the mastectomy.~~

~~(b) Deductible and coinsurance. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits.~~

~~(c) Limitations. The coverage for prosthetic devices inserted during reconstructive surgery and reconstructive surgery pursuant to this act may be limited to such surgical procedures performed within three years of the date of the mastectomy.~~

~~Section 7. Applicability.~~

~~This act shall apply to all insurance policies, subscriber contracts and group insurance certificates issued under any group master policy delivered or issued for delivery on or after the effective date of this act. This act shall also apply to all renewals of contracts on any renewal date which is on or after the effective date of this act.~~

~~Section 8. Effective date.~~

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

SECTION 1. THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED BY ADDING A SECTION TO READ:

SECTION 633. MASTECTOMY AND BREAST CANCER RECONSTRUCTION.--

(A) (1) NO HEALTH INSURANCE POLICY DELIVERED, ISSUED, EXECUTED

1 OR RENEWED IN THIS COMMONWEALTH ON OR AFTER THE EFFECTIVE DATE
2 OF THIS SECTION SHALL REQUIRE OUTPATIENT CARE FOLLOWING A
3 MASTECTOMY PERFORMED IN A HEALTH CARE FACILITY.

4 (2) POLICIES DESCRIBED IN CLAUSE (1) OF THIS SUBSECTION
5 SHALL PROVIDE COVERAGE FOR INPATIENT CARE FOLLOWING A MASTECTOMY
6 FOR THE LENGTH OF STAY THAT THE TREATING PHYSICIAN DETERMINES IS
7 NECESSARY TO MEET GENERALLY ACCEPTED CRITERIA FOR SAFE
8 DISCHARGE.

9 (3) SUCH POLICIES SHALL ALSO PROVIDE COVERAGE FOR A HOME <—
10 HEALTH CARE VISIT THAT THE TREATING PHYSICIAN DETERMINES IS
11 NECESSARY WITHIN FORTY-EIGHT HOURS AFTER DISCHARGE, WHEN THE
12 DISCHARGE OCCURS WITHIN FORTY-EIGHT HOURS FOLLOWING ADMISSION
13 FOR THE MASTECTOMY.

14 ~~(3)~~ (4) COVERAGE UNDER THIS SECTION SHALL, HOWEVER, REMAIN <—
15 SUBJECT TO ANY COPAYMENT, COINSURANCE OR DEDUCTIBLE AMOUNTS SET
16 FORTH IN THE POLICY.

17 (B) (1) EVERY HEALTH CARE POLICY WHICH IS DELIVERED, ISSUED
18 FOR DELIVERY, RENEWED, EXTENDED OR MODIFIED IN THIS COMMONWEALTH
19 BY A HEALTH CARE INSURER WHICH PROVIDES COVERAGE FOR THE
20 SURGICAL PROCEDURE KNOWN AS MASTECTOMY SHALL ALSO INCLUDE
21 COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE SURGERY
22 INCIDENT TO THE ANY MASTECTOMY. <—

23 (2) COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE
24 SURGERY SHALL BE SUBJECT TO THE DEDUCTIBLE AND COINSURANCE
25 CONDITIONS APPLIED TO THE MASTECTOMY AND ALL OTHER TERMS AND
26 CONDITIONS APPLICABLE TO OTHER BENEFITS.

27 (3) THE COVERAGE FOR PROSTHETIC DEVICES INSERTED DURING
28 RECONSTRUCTIVE SURGERY AND RECONSTRUCTIVE SURGERY PURSUANT TO
29 THIS SECTION MAY BE LIMITED TO SUCH SURGICAL PROCEDURES
30 PERFORMED WITHIN ~~THREE~~ SIX YEARS OF THE DATE OF THE MASTECTOMY. <—

(C) THIS SECTION SHALL NOT APPLY TO THE FOLLOWING TYPES OF
POLICIES:

(1) ACCIDENT ONLY.

(2) LIMITED BENEFIT.

(3) CREDIT.

(4) DENTAL.

(5) VISION.

(6) SPECIFIED DISEASE.

(7) MEDICARE SUPPLEMENT.

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

(9) LONG-TERM CARE OR DISABILITY INCOME.

(10) WORKERS' COMPENSATION.

(11) AUTOMOBILE MEDICAL PAYMENT.

(D) (1) THE TERM "HEALTH INSURANCE POLICY" WHEN USED IN
THIS SECTION MEANS ANY INDIVIDUAL OR GROUP HEALTH INSURANCE
POLICY, SUBSCRIBER CONTRACT, CERTIFICATE OR PLAN WHICH PROVIDES
MEDICAL OR HEALTH CARE COVERAGE BY ANY HEALTH CARE FACILITY OR
LICENSED HEALTH CARE PROVIDER WHICH IS OFFERED BY OR IS GOVERNED
UNDER THIS ACT OR ANY OF THE FOLLOWING:

(I) SUBARTICLE (F) OF ARTICLE IV OF THE ACT OF JUNE 13, 1967
(P.L.31, NO.21), KNOWN AS THE "PUBLIC WELFARE CODE."

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

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

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

(V) A NONPROFIT CORPORATION SUBJECT TO 40 PA.C.S. CHS. 61

1 (RELATING TO HOSPITAL PLAN CORPORATIONS) AND 63 (RELATING TO
2 PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).

3 (2) THE TERM "INSURER" WHEN USED IN THIS SECTION MEANS ANY
4 ENTITY THAT ISSUES AN INDIVIDUAL OR GROUP HEALTH INSURANCE
5 POLICY, CONTRACT OR PLAN DESCRIBED UNDER CLAUSE (1) OF THIS
6 SUBSECTION.

7 (3) THE TERM "MASTECTOMY" WHEN USED IN THIS SECTION MEANS
8 THE REMOVAL OF ALL OR PART OF THE BREAST FOR MEDICALLY NECESSARY
9 REASONS, AS DETERMINED BY A LICENSED PHYSICIAN.

10 (4) THE TERM "PROSTHETIC DEVICES" WHEN USED IN THIS SECTION
11 MEANS THE USE OF INITIAL AND SUBSEQUENT ARTIFICIAL DEVICES TO
12 REPLACE THE REMOVED BREAST OR PORTIONS THEREOF, PURSUANT TO AN
13 ORDER OF THE PATIENT'S PHYSICIAN.

14 (5) THE TERM "RECONSTRUCTIVE SURGERY" WHEN USED IN THIS
15 SECTION MEANS A SURGICAL PROCEDURE PERFORMED ON ONE BREAST OR <—
16 BOTH BREASTS FOLLOWING A MASTECTOMY ~~ON ONE BREAST OR BOTH~~ <—
17 BREASTS, AS DETERMINED BY THE TREATING PHYSICIAN, TO REESTABLISH
18 SYMMETRY BETWEEN THE TWO BREASTS OR ALLEVIATE FUNCTIONAL
19 IMPAIRMENT CAUSED BY THE MASTECTOMY. THE TERM "RECONSTRUCTIVE
20 SURGERY" SHALL INCLUDE, BUT IS NOT LIMITED TO, AUGMENTATION
21 MAMMOPLASTY, REDUCTION MAMMOPLASTY AND MASTOPEXY.

22 (6) THE TERM "SYMMETRY BETWEEN BREASTS" WHEN USED IN THIS
23 SECTION MEANS APPROXIMATE EQUALITY IN SIZE AND SHAPE OF THE
24 NONDISEASED BREAST WITH THE DISEASED BREAST AFTER DEFINITIVE
25 RECONSTRUCTIVE SURGERY ON THE DISEASED OR NONDISEASED BREAST HAS <—
26 BEEN PERFORMED.

27 SECTION 2. THIS ACT SHALL APPLY TO ALL INSURANCE POLICIES,
28 SUBSCRIBER CONTRACTS AND GROUP INSURANCE CERTIFICATES ISSUED
29 UNDER ANY GROUP MASTER POLICY DELIVERED OR ISSUED FOR DELIVERY
30 ON OR AFTER THE EFFECTIVE DATE OF THIS ACT. THIS ACT SHALL ALSO

1 APPLY TO ALL RENEWALS OF CONTRACTS ON ANY RENEWAL DATE WHICH IS
2 ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.
3 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.