

17:48-69

LEGISLATIVE HISTORY CHECKLIST

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(Mastectomies--hospital stay)

NJSA: 17:48-69 et al

LAWS OF: 1997 CHAPTER: 149

BILL NO: S1704

SPONSOR(S): Inverso

DATE INTRODUCED: November 25, 1996

COMMITTEE: ASSEMBLY: ---
SENATE: Health

AMENDED DURING PASSAGE: Yes Assembly Substitute (1R) enacted

DATE OF PASSAGE: ASSEMBLY: February 27, 1997 Re-enacted 6-19-97
SENATE: January 27, 1997 Re-enacted 6-26-96

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

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17:48-69
CHAPTER 149
ASSEMBLY
SENATE

KBP:pp

[Corrected Copy]

ASSEMBLY SUBSTITUTE FOR
SENATE, No. 1704 and
ASSEMBLY, Nos. 10, 2551, 2524 and 2575 ACS

STATE OF NEW JERSEY

ADOPTED FEBRUARY 20, 1997

Sponsored by Senators INVERSO, SINAGRA, Assemblymen AZZOLINA, CORODEMUS, Assemblywomen HECK, VANDERVALK, TURNER, MURPHY, Assemblymen O'TOOLE, WEINGARTEN, BLEE, Senators McGreevey, Matheussen, Rice, Codey, Bubba, LaRossa, Bark, Sacco, Baer, Assemblymen Augustine, Barnes, Bucco, Assemblywoman Buono, Assemblymen Dalton, DiGaetano, Felice, Gibson, Assemblywomen Gill, Quigley, Assemblyman Rocco, Assemblywoman Weinberg, Assemblyman Wolfe, Senators Kosco, McNamara and Scott

1 AN ACT concerning coverage for inpatient care following a
2 mastectomy and supplementing P.L.1938, c.366 (C.17:48-1 et
3 seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236
4 (C.17:48E-1 et seq.), Chapters 26 and 27 of Title 17B of the New
5 Jersey Statutes, P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992,
6 c.162 (C.17B:27A-17 et seq.), P.L.1973, c.337 (C.26:2J-1 et seq.)
7 and Titles 34 and 45 of the Revised Statutes.

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 1. a. Every individual or group hospital service corporation
13 contract that provides hospital or medical expense benefits and is
14 delivered, issued, executed or renewed in this State pursuant to
15 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
16 renewal in this State by the Commissioner of Banking and Insurance
17 on or after the effective date of this act shall provide coverage for a
18 minimum of 72 hours of inpatient care following a modified radical
19 mastectomy and a minimum of 48 hours of inpatient care following a
20 simple mastectomy. The contract shall not require a health care
21 provider to obtain authorization from the hospital service corporation

1 for prescribing 72 or 48 hours, as appropriate, of inpatient care as
2 provided for in this section.

3 The provisions of this section shall not be construed to: require a
4 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
5 the patient in consultation with the patient's physician determines that
6 a shorter length of stay is medically appropriate; or relieve a patient or
7 a patient's physician, if appropriate, of any notification requirements
8 to the hospital service corporation under the contract.

9 The benefits shall be provided to the same extent as for any other
10 sickness under the contract.

11 The provisions of this section shall apply to all contracts in which
12 the hospital service corporation has reserved the right to change the
13 premium.

14 b. The Commissioner of Banking and Insurance shall adopt
15 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
16 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

17

18 2. a. Every individual or group medical service corporation
19 contract that provides hospital or medical expense benefits and is
20 delivered, issued, executed or renewed in this State pursuant to
21 P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or
22 renewal in this State by the Commissioner of Banking and Insurance
23 on or after the effective date of this act shall provide coverage for a
24 minimum of 72 hours of inpatient care following a modified radical
25 mastectomy and a minimum of 48 hours of inpatient care following a
26 simple mastectomy. The contract shall not require a health care
27 provider to obtain authorization from the medical service corporation
28 for prescribing 72 or 48 hours, as appropriate, of inpatient care as
29 provided for in this section.

30 The provisions of this section shall not be construed to: require
31 a patient to receive inpatient care for 72 or 48 hours, as appropriate,
32 if the patient in consultation with the patient's physician determines
33 that a shorter length of stay is medically appropriate; or relieve a
34 patient or a patient's physician, if appropriate, of any notification
35 requirements to the medical service corporation under the contract.

36 The benefits shall be provided to the same extent as for any other
37 sickness under the contract.

38 The provisions of this section shall apply to all contracts in which
39 the medical service corporation has reserved the right to change the
40 premium.

41 b. The Commissioner of Banking and Insurance shall adopt
42 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
43 c.410 (C.52:14B-1 et seq.) to implement the provisions of this
44 section.

1 3. a. Every individual or group health service corporation
2 contract that provides hospital or medical expense benefits and is
3 delivered, issued, executed or renewed in this State pursuant to
4 P.L.1985, c.236 (C.17:48E-1 et seq.) or approved for issuance or
5 renewal in this State by the Commissioner of Banking and Insurance
6 on or after the effective date of this act shall provide coverage for a
7 minimum of 72 hours of inpatient care following a modified radical
8 mastectomy and a minimum of 48 hours of inpatient care following a
9 simple mastectomy. The contract shall not require a health care
10 provider to obtain authorization from the health service corporation
11 for prescribing 72 or 48 hours, as appropriate, of inpatient care as
12 provided for in this section.

13 The provisions of this section shall not be construed to: require
14 a patient to receive inpatient care for 72 or 48 hours, as appropriate,
15 if the patient in consultation with the patient's physician determines
16 that a shorter length of stay is medically appropriate; or relieve a
17 patient or a patient's physician, if appropriate, of any notification
18 requirements to the health service corporation under the contract.

19 The benefits shall be provided to the same extent as for any other
20 sickness under the contract.

21 The provisions of this section shall apply to all contracts in which
22 the health service corporation has reserved the right to change the
23 premium.

24 b. The Commissioner of Banking and Insurance shall adopt
25 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
26 c.410 (C.52:14B-1 et seq.) to implement the provisions of this
27 section.

28

29 4. a. Every individual policy that provides hospital or medical
30 expense benefits and is delivered, issued, executed or renewed in this
31 State pursuant to N.J.S.17B:26-1 et seq., or approved for issuance or
32 renewal in this State by the Commissioner of Banking and Insurance
33 on or after the effective date of this act shall provide coverage for a
34 minimum of 72 hours of inpatient care following a modified radical
35 mastectomy and a minimum of 48 hours of inpatient care following a
36 simple mastectomy. The policy shall not require a health care provider
37 to obtain authorization from the insurer for prescribing 72 or 48
38 hours, as appropriate, of inpatient care as provided for in this section.

39 The provisions of this section shall not be construed to: require a
40 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
41 the patient in consultation with the patient's physician determines that
42 a shorter length of stay is medically appropriate; or relieve a patient or
43 a patient's physician, if appropriate, of any notification requirements
44 to the insurer under the policy.

45 The benefits shall be provided to the same extent as for any other

1 sickness under the policy.

2 The provisions of this section shall apply to all policies in which
3 the insurer has reserved the right to change the premium.

4 b. The Commissioner of Banking and Insurance shall adopt
5 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
6 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

7

8 5. a. Every group policy that provides hospital or medical
9 expense benefits and is delivered, issued, executed or renewed in this
10 State pursuant to N.J.S.17B:27-26 et seq., or approved for issuance
11 or renewal in this State by the Commissioner of Banking and Insurance
12 on or after the effective date of this act shall provide benefits for a
13 minimum of 72 hours of inpatient care following a modified radical
14 mastectomy and a minimum of 48 hours of inpatient care following a
15 simple mastectomy. The policy shall not require a health care provider
16 to obtain authorization from the insurer for prescribing 72 or 48
17 hours, as appropriate, of inpatient care as provided for in this section.

18 The provisions of this section shall not be construed to: require
19 a patient to receive inpatient care for 72 or 48 hours, as appropriate,
20 if the patient in consultation with the patient's physician determines
21 that a shorter length of stay is medically appropriate; or relieve a
22 patient or a patient's physician, if appropriate, of any notification
23 requirements to the insurer under the policy.

24 The benefits shall be provided to the same extent as for any other
25 sickness under the policy.

26 The provisions of this section shall apply to all policies in which
27 the insurer has reserved the right to change the premium.

28 b. The Commissioner of Banking and Insurance shall adopt
29 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
30 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

31

32 6. a. Every individual health benefits plan that provides hospital
33 or medical expense benefits and is delivered, issued, executed or
34 renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
35 seq.) or approved for issuance or renewal in this State on or after the
36 effective date of this act shall provide benefits for a minimum of 72
37 hours of inpatient care following a modified radical mastectomy and
38 a minimum of 48 hours of inpatient care following a simple
39 mastectomy. The health benefits plan shall not require a health care
40 provider to obtain authorization from the carrier for prescribing 72 or
41 48 hours as appropriate, of inpatient care as provided for in this
42 section.

43 The provisions of this section shall not be construed to: require a
44 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
45 the patient in consultation with the patient's physician determines that

1 a shorter length of stay is medically appropriate; or relieve a patient or
2 a patient's physician, if appropriate, of any notification requirements
3 to the carrier under the health benefits plan.

4 The benefits shall be provided to the same extent as for any other
5 sickness under the health benefits plan.

6 The provisions of this section shall apply to all health benefit plans
7 in which the carrier has reserved the right to change the premium.

8 b. The New Jersey Individual Health Coverage Program Board
9 shall adopt regulations pursuant to the "Administrative Procedure
10 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
11 provisions of this section.
12

13 7. a. Every small employer health benefits plan that provides
14 hospital or medical expense benefits and is delivered, issued, executed
15 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17
16 et seq.) or approved for issuance or renewal in this State on or after
17 the effective date of this act shall provide benefits for a minimum of 72
18 hours of inpatient care following a modified radical mastectomy and
19 a minimum of 48 hours of inpatient care following a simple
20 mastectomy. The health benefits plan shall not require a health care
21 provider to obtain authorization from the carrier for prescribing 72 or
22 48 hours, as appropriate, of inpatient care as provided for in this
23 section.

24 The provisions of this section shall not be construed to: require
25 a patient to receive inpatient care for 72 or 48 hours, as appropriate,
26 if the patient in consultation with the patient's physician determines
27 that a shorter length of stay is medically appropriate: or relieve a
28 patient or a patient's physician, if appropriate, of any notification
29 requirements to the carrier under the health benefits plan.

30 The benefits shall be provided to the same extent as for any other
31 sickness under the health benefits plan.

32 The provisions of this section shall apply to all health benefit plans
33 in which the carrier has reserved the right to change the premium.

34 b. The New Jersey Small Employer Health Benefits Program
35 Board shall adopt regulations pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement
37 the provisions of this section.
38

39 8. a. Every enrollee agreement that provides hospital or medical
40 expense benefits and is delivered, issued, executed or renewed in this
41 State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for
42 issuance or renewal in this State by the Commissioner of Health and
43 Senior Services on or after the effective date of this act shall provide
44 health care services for a minimum of 72 hours of inpatient care
45 following a modified radical mastectomy and a minimum of 48 hours
46 of inpatient care following a simple mastectomy. The enrollee

1 agreement shall not require a health care provider to obtain
2 authorization from the health maintenance organization for prescribing
3 72 or 48 hours, as appropriate, of inpatient care as provided for in
4 this section.

5 The provisions of this section shall not be construed to: require a
6 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
7 the patient in consultation with the patient's physician determines that
8 a shorter length of stay is medically appropriate; or relieve a patient or
9 a patient's physician, if appropriate, of any notification requirements
10 to the health maintenance organization under the enrollee agreement.

11 The health care services shall be provided to the same extent as for
12 any other sickness under the enrollee agreement.

13 The provisions of this section shall apply to enrollee agreements in
14 which the health maintenance organization has reserved the right to
15 change the schedule of charges.

16 b. The Commissioner of Health and Senior Services shall adopt
17 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

19

20 9. An employer in this State who provides coverage to his
21 employees or their dependents for treatment of breast cancer shall
22 annually and upon request of an employee at other times during the
23 year, notify his employees whether the employees' coverage for
24 treatment of breast cancer is subject to the requirements of P.L. , c.
25 (pending before the Legislature as this bill) concerning the minimum
26 time a patient shall be permitted to remain at an inpatient care facility
27 following a mastectomy.

28

29 10. The attending physician of a patient who will undergo a
30 mastectomy or lymph node dissection who has health care insurance
31 coverage for the treatment of breast cancer, shall, prior to the
32 surgery, determine if the coverage is subject to the requirements of
33 P.L. , c. (pending before the Legislature as this bill) concerning the
34 minimum time a patient shall be permitted to remain at an inpatient
35 care facility following a mastectomy. If the physician determines
36 that the patient's coverage is not subject to the requirements of
37 P.L. , c. (pending before the Legislature as this bill), the physician
38 shall promptly notify the patient of that fact and, if known, the
39 duration of inpatient care to which the patient is entitled under the
40 patient's insurance coverage.

41

42 11. This act shall take effect immediately.

STATEMENT

1
2
3 This substitute requires hospital, medical and health service
4 corporations, individual and small and large group commercial
5 insurers, and health maintenance organizations to provide a minimum
6 of 72 hours of inpatient care following a modified radical mastectomy
7 and a minimum of 48 hours inpatient care following a simple
8 mastectomy. The substitute also provides that the insurer or health
9 maintenance organization shall not require a health care provider to
10 obtain authorization from the insurer or health maintenance
11 organization for prescribing the 72 or 48 hours, as appropriate, of
12 inpatient care as provided for in this substitute. The terminology used
13 in the substitute, that is, modified radical mastectomy and simple
14 mastectomy, refers to the most frequently performed types of
15 mastectomies.

16 The substitute also clarifies that the mandate in the substitute is for
17 a carrier to provide coverage for a minimum amount of inpatient care,
18 but if a patient in consultation with the patient's physician determines
19 that a shorter length of stay is medically appropriate, the patient may
20 be discharged sooner. Also, the substitute clarifies that the provisions
21 of the substitute do not relieve a patient or the patient's physician
22 from any notification requirements to the insurer or health
23 maintenance organization that may be contained in the insurance
24 contract or policy or health maintenance organization enrollee
25 agreement.

26 The substitute requires an employer in this State who provides
27 coverage to his employees or their dependents for treatment of breast
28 cancer to annually and upon request of an employee at other times
29 during the year, notify his employees whether the employees' coverage
30 for treatment of breast cancer is subject to the requirements of this
31 substitute.

32 The substitute also requires the attending physician of a patient
33 who will undergo a mastectomy, prior to the surgery, to determine if
34 the coverage is subject to the requirements of this substitute. If the
35 physician determines that the patient's coverage is not subject to the
36 requirements of this substitute, the physician shall promptly notify the
37 patient of that fact and, if known, the duration of inpatient care to
38 which the patient is entitled under the patient's insurance coverage.

39
40
41
42 Requires health insurers to provide minimum hospital care for certain
43 breast cancer surgeries and requires employers and physicians to notify
44 insured if health insurance coverage is not subject to requirements of
45 bill.

SENATE, No. 1704

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 25, 1996

By Senator INVERSO

1 AN ACT concerning coverage for inpatient care following a
2 mastectomy and supplementing P.L.1938, c.366 (C.17:48-1 et
3 seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236
4 (C. 17:48E-1 et seq.), Chapters 26 and 27 of Title 17B of the New
5 Jersey Statutes, P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992,
6 c.162 (C.17B:27A-17 et seq.) and P.L.1973, c.337 (C.26:2J-1 et
7 seq.).

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 1. a. Every individual or group hospital service corporation
13 contract that provides hospital or medical expense benefits and is
14 delivered, issued, executed or renewed in this State pursuant to
15 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
16 renewal in this State by the Commissioner of Banking and Insurance
17 on or after the effective date of this act shall provide coverage for a
18 minimum of 72 hours of inpatient care following surgery for a
19 mastectomy. The contract shall not require a health care provider to
20 obtain authorization from the hospital service corporation for
21 prescribing 72 hours of inpatient care as provided for in this section.

22 The benefits shall be provided to the same extent as for any other
23 sickness under the contract.

24 The provisions of this section shall apply to all contracts in which
25 the hospital service corporation has reserved the right to change the
26 premium.

27 b. The Commissioner of Banking and Insurance shall adopt
28 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

30
31 2. a. Every individual or group medical service corporation contract
32 that provides hospital or medical expense benefits and is delivered,
33 issued, executed or renewed in this State pursuant to P.L.1940, c.74
34 (C.17:48A-1 et seq.) or approved for issuance or renewal in this State
35 by the Commissioner of Banking and Insurance on or after the
36 effective date of this act shall provide coverage for a minimum of 72
37 hours of inpatient care following surgery for a mastectomy. The

1 contract shall not require a health care provider to obtain authorization
2 from the medical service corporation for prescribing 72 hours of
3 inpatient care as provided for in this section.

4 The benefits shall be provided to the same extent as for any other
5 sickness under the contract.

6 The provisions of this section shall apply to all contracts in which
7 the medical service corporation has reserved the right to change the
8 premium.

9 b. The Commissioner of Banking and Insurance shall adopt
10 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
11 c.410 (C.52:14B-1 et seq.) to implement the provisions of this
12 section.

13

14 3. a. Every individual or group health service corporation contract
15 that provides hospital or medical expense benefits and is delivered,
16 issued, executed or renewed in this State pursuant to P.L.1985, c.236
17 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State
18 by the Commissioner of Banking and Insurance on or after the
19 effective date of this act shall provide coverage for a minimum of 72
20 hours of inpatient care following surgery for a mastectomy. The
21 contract shall not require a health care provider to obtain authorization
22 from the health service corporation for prescribing 72 hours of
23 inpatient care as provided for in this section.

24 The benefits shall be provided to the same extent as for any other
25 sickness under the contract.

26 The provisions of this section shall apply to all contracts in which
27 the health service corporation has reserved the right to change the
28 premium.

29 b. The Commissioner of Banking and Insurance shall adopt
30 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
31 c.410 (C.52:14B-1 et seq.) to implement the provisions of this
32 section.

33

34 4. a. Every individual policy that provides hospital or medical
35 expense benefits and is delivered, issued, executed or renewed in this
36 State pursuant to N.J.S.17B:26-1 et seq., or approved for issuance or
37 renewal in this State by the Commissioner of Banking and Insurance
38 on or after the effective date of this act shall provide coverage for a
39 minimum of 72 hours of inpatient care following surgery for a
40 mastectomy. The policy shall not require a health care provider to
41 obtain authorization from the insurer for prescribing 72 hours of
42 inpatient care as provided for in this section.

43 The benefits shall be provided to the same extent as for any other
44 sickness under the policy.

45 The provisions of this section shall apply to all policies in which the
46 insurer has reserved the right to change the premium.

1 b. The Commissioner of Banking and Insurance shall adopt
2 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
3 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.
4

5 5. a. Every group policy that provides hospital or medical expense
6 benefits and is delivered, issued, executed or renewed in this State
7 pursuant to N.J.S.17B:27-26 et seq., or approved for issuance or
8 renewal in this State by the Commissioner of Banking and Insurance
9 on or after the effective date of this act shall provide benefits for a
10 minimum of 72 hours of inpatient care following surgery for a
11 mastectomy. The policy shall not require a health care provider to
12 obtain authorization from the insurer for prescribing 72 hours of
13 inpatient care as provided for in this section.

14 The benefits shall be provided to the same extent as for any other
15 sickness under the policy.

16 The provisions of this section shall apply to all policies in which the
17 insurer has reserved the right to change the premium.

18 b. The Commissioner of Banking and Insurance shall adopt
19 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
20 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.
21

22 6. a. Every individual health benefits plan that provides hospital
23 or medical expense benefits and is delivered, issued, executed or
24 renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
25 seq.) or approved for issuance or renewal in this State on or after the
26 effective date of this act shall provide benefits for a minimum of 72
27 hours inpatient care following surgery for a mastectomy. The health
28 benefits plan shall not require a health care provider to obtain
29 authorization from the carrier for prescribing 72 hours of inpatient
30 care as provided for in this section.

31 The benefits shall be provided to the same extent as for any other
32 sickness under the health benefits plan.

33 The provisions of this section shall apply to all health benefit plans
34 in which the carrier has reserved the right to change the premium.

35 b. The New Jersey Individual Health Coverage Program Board
36 shall adopt regulations pursuant to the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
38 provisions of this section.
39

40 7. a. Every small employer health benefits plan that provides
41 hospital or medical expense benefits and is delivered, issued, executed
42 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17
43 et seq.) or approved for issuance or renewal in this State on or after
44 the effective date of this act shall provide benefits for a minimum of 72
45 hours inpatient care following surgery for a mastectomy. The health
46 benefits plan shall not require a health care provider to obtain

1 authorization from the carrier for prescribing 72 hours of inpatient
2 care as provided for in this section.

3 The benefits shall be provided to the same extent as for any other
4 sickness under the health benefits plan.

5 The provisions of this section shall apply to all health benefit plans
6 in which the carrier has reserved the right to change the premium.

7 b. The New Jersey Small Employer Health Benefits Program Board
8 shall adopt regulations pursuant to the "Administrative Procedure
9 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
10 provisions of this section.

11

12 8. a. Every enrollee agreement that provides hospital or medical
13 expense benefits and is delivered, issued, executed or renewed in this
14 State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for
15 issuance or renewal in this State by the Commissioner of Health and
16 Senior Services on or after the effective date of this act shall provide
17 health care services for a minimum of 72 hours of inpatient care
18 following surgery for a mastectomy. The enrollee agreement shall not
19 require a health care provider to obtain authorization from the health
20 maintenance organization for prescribing 72 hours of inpatient care as
21 provided for in this section.

22 The health care services shall be provided to the same extent as for
23 any other sickness under the enrollee agreement.

24 The provisions of this section shall apply to enrollee agreements in
25 which the health maintenance organization has reserved the right to
26 change the schedule of charges.

27 b. The Commissioner of Health and Senior Services shall adopt
28 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

30

31 9. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill requires hospital, medical and health service corporations,
37 individual and small and large group commercial insurers, and health
38 maintenance organizations to provide a minimum of 72 hours inpatient
39 care following surgery for a mastectomy. The bill also provides that
40 the insurer or health maintenance organization shall not require a
41 health care provider to obtain authorization from the insurer or health
42 maintenance organization for prescribing the 72 hours of inpatient care
43 as provided for in this bill.

44 The provisions of this bill are based on recommendations of the
45 New Jersey Division of the American Cancer Society.

1



2

3 Requires health insurers to provide a minimum of 72 hours inpatient

4 care following surgery for a mastectomy.

ASSEMBLY, No. 10

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1996

By Assemblymen AZZOLINA and CORODEMUS

1 AN ACT concerning coverage for inpatient care following a
2 mastectomy and supplementing P.L.1938, c.366 (C.17:48-1 et
3 seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236
4 (C.17:48E-1 et seq.), Chapters 26 and 27 of Title 17B of the New
5 Jersey Statutes, P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992,
6 c.162 (C.17B:27A-17 et seq.), P.L.1973, c.337 (C.26:2J-1 et seq.)
7 and Titles 34 and 45 of the Revised Statutes.

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 1. a. Every individual or group hospital service corporation
13 contract that provides hospital or medical expense benefits and is
14 delivered, issued, executed or renewed in this State pursuant to
15 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
16 renewal in this State by the Commissioner of Banking and Insurance
17 on or after the effective date of this act shall provide coverage for a
18 minimum of 72 hours of inpatient care following surgery for a
19 mastectomy. The contract shall not require a health care provider to
20 obtain authorization from the hospital service corporation for
21 prescribing 72 hours of inpatient care as provided for in this section.

22 The benefits shall be provided to the same extent as for any other
23 sickness under the contract.

24 The provisions of this section shall apply to all contracts in which
25 the hospital service corporation has reserved the right to change the
26 premium.

27 b. The Commissioner of Banking and Insurance shall adopt
28 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
29 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

30
31 2. a. Every individual or group medical service corporation
32 contract that provides hospital or medical expense benefits and is
33 delivered, issued, executed or renewed in this State pursuant to
34 P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or
35 renewal in this State by the Commissioner of Banking and Insurance
36 on or after the effective date of this act shall provide coverage for a
37 minimum of 72 hours of inpatient care following surgery for a

1 mastectomy. The contract shall not require a health care provider to
2 obtain authorization from the medical service corporation for
3 prescribing 72 hours of inpatient care as provided for in this section.

4 The benefits shall be provided to the same extent as for any other
5 sickness under the contract.

6 The provisions of this section shall apply to all contracts in which
7 the medical service corporation has reserved the right to change the
8 premium.

9 b. The Commissioner of Banking and Insurance shall adopt
10 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
11 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

12
13 3. a. Every individual or group health service corporation contract
14 that provides hospital or medical expense benefits and is delivered,
15 issued, executed or renewed in this State pursuant to P.L.1985, c.236
16 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State
17 by the Commissioner of Banking and Insurance on or after the
18 effective date of this act shall provide coverage for a minimum of 72
19 hours of inpatient care following surgery for a mastectomy. The
20 contract shall not require a health care provider to obtain authorization
21 from the health service corporation for prescribing 72 hours of
22 inpatient care as provided for in this section.

23 The benefits shall be provided to the same extent as for any other
24 sickness under the contract.

25 The provisions of this section shall apply to all contracts in which
26 the health service corporation has reserved the right to change the
27 premium.

28 b. The Commissioner of Banking and Insurance shall adopt
29 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
30 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

31
32 4. a. Every individual policy that provides hospital or medical
33 expense benefits and is delivered, issued, executed or renewed in this
34 State pursuant to N.J.S.17B:26-1 et seq., or approved for issuance or
35 renewal in this State by the Commissioner of Banking and Insurance
36 on or after the effective date of this act shall provide coverage for a
37 minimum of 72 hours of inpatient care following surgery for a
38 mastectomy. The policy shall not require a health care provider to
39 obtain authorization from the insurer for prescribing 72 hours of
40 inpatient care as provided for in this section.

41 The benefits shall be provided to the same extent as for any other
42 sickness under the policy.

43 The provisions of this section shall apply to all policies in which the
44 insurer has reserved the right to change the premium.

45 b. The Commissioner of Banking and Insurance shall adopt
46 regulations pursuant to the "Administrative Procedure Act," P.L.1968.

1 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

2

3 5. a. Every group policy that provides hospital or medical expense
4 benefits and is delivered, issued, executed or renewed in this State
5 pursuant to N.J.S.17B:27-26 et seq., or approved for issuance or
6 renewal in this State by the Commissioner of Banking and Insurance
7 on or after the effective date of this act shall provide benefits for a
8 minimum of 72 hours of inpatient care following surgery for a
9 mastectomy. The policy shall not require a health care provider to
10 obtain authorization from the insurer for prescribing 72 hours of
11 inpatient care as provided for in this section.

12 The benefits shall be provided to the same extent as for any other
13 sickness under the policy.

14 The provisions of this section shall apply to all policies in which the
15 insurer has reserved the right to change the premium.

16 b. The Commissioner of Banking and Insurance shall adopt
17 regulations pursuant to the "Administrative Procedure Act." P.L.1968,
18 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

19

20 6. a. Every individual health benefits plan that provides hospital
21 or medical expense benefits and is delivered, issued, executed or
22 renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
23 seq.) or approved for issuance or renewal in this State on or after the
24 effective date of this act shall provide benefits for a minimum of 72
25 hours inpatient care following surgery for a mastectomy. The health
26 benefits plan shall not require a health care provider to obtain
27 authorization from the carrier for prescribing 72 hours of inpatient
28 care as provided for in this section.

29 The benefits shall be provided to the same extent as for any other
30 sickness under the health benefits plan.

31 The provisions of this section shall apply to all health benefit plans
32 in which the carrier has reserved the right to change the premium.

33 b. The New Jersey Individual Health Coverage Program Board
34 shall adopt regulations pursuant to the "Administrative Procedure
35 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
36 provisions of this section.

37

38 7. a. Every small employer health benefits plan that provides
39 hospital or medical expense benefits and is delivered, issued, executed
40 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17
41 et seq.) or approved for issuance or renewal in this State on or after
42 the effective date of this act shall provide benefits for a minimum of 72
43 hours inpatient care following surgery for a mastectomy. The health
44 benefits plan shall not require a health care provider to obtain
45 authorization from the carrier for prescribing 72 hours of inpatient
46 care as provided for in this section.

1 The benefits shall be provided to the same extent as for any other
2 sickness under the health benefits plan.

3 The provisions of this section shall apply to all health benefit plans
4 in which the carrier has reserved the right to change the premium.

5 b. The New Jersey Small Employer Health Benefits Program Board
6 shall adopt regulations pursuant to the "Administrative Procedure
7 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
8 provisions of this section.

9
10 8. a. Every enrollee agreement that provides hospital or medical
11 expense benefits and is delivered, issued, executed or renewed in this
12 State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for
13 issuance or renewal in this State by the Commissioner of Health and
14 Senior Services on or after the effective date of this act shall provide
15 health care services for a minimum of 72 hours of inpatient care
16 following surgery for a mastectomy. The enrollee agreement shall not
17 require a health care provider to obtain authorization from the health
18 maintenance organization for prescribing 72 hours of inpatient care as
19 provided for in this section.

20 The health care services shall be provided to the same extent as for
21 any other sickness under the enrollee agreement.

22 The provisions of this section shall apply to enrollee agreements in
23 which the health maintenance organization has reserved the right to
24 change the schedule of charges.

25 b. The Commissioner of Health and Senior Services shall adopt
26 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
27 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

28
29 9. An employer in this State who provides coverage to his
30 employees or their dependents for treatment of breast cancer shall
31 annually and upon request of an employee at other times during the
32 year, notify his employees whether the employees' coverage for
33 treatment of breast cancer is subject to the requirements of P.L. , c.
34 (pending before the Legislature as this bill) concerning the minimum
35 time a patient shall be permitted to remain at an inpatient care facility
36 following surgery for a mastectomy.

37
38 10. The attending physician of a patient who will undergo a
39 mastectomy who has health care insurance coverage for the treatment
40 of breast cancer, shall, prior to the surgery, determine if the coverage
41 is subject to the requirements of P.L. , c. (pending before the
42 Legislature as this bill) concerning the minimum time a patient shall be
43 permitted to remain at an inpatient care facility following surgery for
44 a mastectomy. If the physician determines that the patient's coverage
45 is not subject to the requirements of P.L. , c. , (pending before the
46 Legislature as this bill), the physician shall promptly notify the patient

1 of that fact and, if known, the duration of inpatient care to which the
2 patient is entitled under the patient's insurance coverage.

3
4 11. This act shall take effect immediately.

5
6
7 STATEMENT

8
9 This bill requires hospital, medical and health service corporations,
10 individual and small and large group commercial insurers, and health
11 maintenance organizations to provide a minimum of 72 hours inpatient
12 care following surgery for a mastectomy. The bill also provides that
13 the insurer or health maintenance organization shall not require a
14 health care provider to obtain authorization from the insurer or health
15 maintenance organization for prescribing the 72 hours of inpatient care
16 as provided for in this bill.

17 The requirements of this bill affect health, hospital and medical
18 service corporation contracts, individual, small employer and group
19 health insurance policies and health maintenance organization coverage
20 issued in this State. The requirements, however, do not extend to
21 coverage issued by an out-of-State carrier or to self-insured health
22 benefits plans that are not subject to State regulation. This gap in
23 coverage, which can only be corrected by federal legislation, may
24 result in cancer patients who believe that they are covered under this
25 bill being denied 72 hours of inpatient care following a mastectomy by
26 their insurance carrier.

27 Therefore, to ensure that the patient is promptly notified about any
28 such limitations in that person's health insurance coverage, this bill
29 also provides that an employer in this State who provides coverage to
30 his employees or their dependents for treatment of breast cancer shall
31 annually and upon request of an employee at other times during the
32 year, notify his employees whether the employees' coverage for
33 treatment of breast cancer is subject to the requirements of this bill.
34 Also, the attending physician of a patient who will undergo a
35 mastectomy who has health care insurance coverage for the treatment
36 of breast cancer, shall, prior to the surgery, determine if the coverage
37 is subject to the requirements of this bill. If the physician determines
38 that the patient's coverage is not subject to the requirements of this
39 bill, the physician shall promptly notify the patient of that fact and, if
40 known, the duration of inpatient care to which the patient is entitled
41 under the insurance coverage.

1

2

3 Requires health insurers to provide minimum of 72 hours inpatient
4 care following a mastectomy and requires providers and employers to
5 notify insured if their health insurance coverage is not subject to 72-
6 hour mastectomy law.

ASSEMBLY, No. 2524

STATE OF NEW JERSEY

INTRODUCED DECEMBER 5, 1996

By Assemblywoman TURNER

1 AN ACT concerning certain health insurance benefits for a mastectomy
2 and supplementing P.L.1938, c.366 (C.17:48-1 et seq.),
3 P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1
4 et seq.), Chapters 26 and 27 of Title 17B of the New Jersey
5 Statutes, P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162
6 (C.17B:27A-17 et seq.) and P.L.1973, c.337 (C.26:2J-1 et seq.).
7

8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. a. Every individual or group hospital service corporation
12 contract that provides hospital or medical expense benefits and is
13 delivered, issued, executed or renewed in this State pursuant to
14 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
15 renewal in this State by the Commissioner of Banking and Insurance
16 on or after the effective date of this act shall provide coverage for a
17 minimum of 48 hours of inpatient care following a mastectomy
18 performed in a health care facility licensed pursuant to P.L.1971, c.136
19 (C.26:2H-1 et seq.). The provisions of this section shall apply to all
20 contracts in which the hospital service corporation has reserved the
21 right to change the premium.

22 b. The Commissioner of Banking and Insurance shall adopt
23 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

25 c. Every hospital service corporation shall provide notice to
26 contract holders regarding the coverage required by this section in
27 accordance with this subsection and regulations promulgated by the
28 Commissioner of Health and Senior Services pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-et seq.).
30 The notice shall be in writing and prominently positioned in any
31 literature or correspondence and shall be transmitted at the earliest of:
32 (1) the next mailing to the contract holder; (2) the yearly informational
33 packet sent to the contract holder; or (3) January 1, 1998.
34

35 2. a. Every individual or group medical service corporation
36 contract that provides hospital or medical expense benefits and is
37 delivered, issued, executed or renewed in this State pursuant to

1 P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or
2 renewal in this State by the Commissioner of Banking and Insurance
3 on or after the effective date of this act shall provide coverage for a
4 minimum of 48 hours of inpatient care following a mastectomy
5 performed in a health care facility licensed pursuant to P.L.1971,
6 c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply
7 to all contracts in which the medical service corporation has reserved
8 the right to change the premium.

9 b. The Commissioner of Banking and Insurance shall adopt
10 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
11 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

12 c. Every medical service corporation shall provide notice to
13 contract holders regarding the coverage required by this section in
14 accordance with this subsection and regulations promulgated by the
15 Commissioner of Health and Senior Services pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
17 The notice shall be in writing and prominently positioned in any
18 literature or correspondence and shall be transmitted at the earliest of:
19 (1) the next mailing to the contract holder; (2) the yearly informational
20 packet sent to the contract holder; or (3) January 1, 1998.

21
22 3. a. Every individual or group health service corporation contract
23 that provides hospital or medical expense benefits and is delivered,
24 issued, executed or renewed in this State pursuant to P.L.1985, c.236
25 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State
26 by the Commissioner of Banking and Insurance on or after the
27 effective date of this act shall provide coverage for a minimum of 48
28 hours of inpatient care following a mastectomy performed in a health
29 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).
30 The provisions of this section shall apply to all contracts in which the
31 health service corporation has reserved the right to change the
32 premium.

33 b. The Commissioner of Banking and Insurance shall adopt
34 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
35 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

36 c. Every health service corporation shall provide notice to contract
37 holders regarding the coverage required by this section in accordance
38 with this subsection and regulations promulgated by the Commissioner
39 of Health and Senior Services pursuant to the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice
41 shall be in writing and prominently positioned in any literature or
42 correspondence and shall be transmitted at the earliest of: (1) the next
43 mailing to the contract holder; (2) the yearly informational packet sent
44 to the contract holder; or (3) January 1, 1998.

45
46 4. a. Every individual policy that provides hospital or medical

1 expense benefits and is delivered, issued, executed or renewed in this
2 State pursuant to N.J.S.17B:26-1 et seq., or approved for issuance or
3 renewal in this State by the Commissioner of Banking and Insurance
4 on or after the effective date of this act shall provide coverage for a
5 minimum of 48 hours of inpatient care following a mastectomy
6 performed in a health care facility licensed pursuant to P.L.1971, c.136
7 (C.26:2H-1 et seq.). The provisions of this section shall apply to all
8 policies in which the insurer has reserved the right to change the
9 premium.

10 b. The Commissioner of Banking and Insurance shall adopt
11 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

13 c. Every insurer shall provide notice to policyholders regarding the
14 coverage required by this section in accordance with this subsection
15 and regulations promulgated by the Commissioner of Health and
16 Senior Services pursuant to the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing
18 and prominently positioned in any literature or correspondence and
19 shall be transmitted at the earliest of: (1) the next mailing to the
20 policyholder; (2) the yearly informational packet sent to the
21 policyholder; or (3) January 1, 1998.

22

23 5. a. Every individual health benefits plan that provides hospital
24 or medical expense benefits and is delivered, issued, executed or
25 renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
26 seq.) or approved for issuance or renewal in this State on or after the
27 effective date of this act shall provide benefits for a minimum of 48
28 hours inpatient care following a mastectomy performed in a health
29 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).
30 The provisions of this section shall apply to all health benefits plans in
31 which the carrier has reserved the right to change the premium.

32 b. The New Jersey Individual Health Coverage Program Board
33 shall adopt regulations pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
35 provisions of this section.

36 c. Every carrier shall provide notice to plan holders regarding the
37 coverage required by this section in accordance with this subsection
38 and regulations promulgated by the Commissioner of Health and
39 Senior Services pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing
41 and prominently positioned in any literature or correspondence and
42 shall be transmitted at the earliest of: (1) the next mailing to the plan
43 holder; (2) the yearly informational packet sent to the plan holder; or
44 (3) January 1, 1998.

45

46 6. a. Every small employer health benefits plan that provides

1 hospital or medical expense benefits and is delivered, issued, executed
2 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17
3 et seq.) or approved for issuance or renewal in this State on or after
4 the effective date of this act shall provide benefits for a minimum of 48
5 hours inpatient care following a mastectomy performed in a health care
6 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The
7 provisions of this section shall apply to all health benefits plans in
8 which the carrier has reserved the right to change the premium.

9 b. The New Jersey Small Employer Health Benefits Program Board
10 shall adopt regulations pursuant to the "Administrative Procedure
11 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
12 provisions of this section.

13 c. Every carrier shall provide notice to plan holders regarding the
14 coverage required by this section in accordance with this subsection
15 and regulations promulgated by the Commissioner of Health and
16 Senior Services pursuant to the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing
18 and prominently positioned in any literature or correspondence and
19 shall be transmitted at the earliest of: (1) the next mailing to the plan
20 holder; (2) the yearly informational packet sent to the plan holder; or
21 (3) January 1, 1998.

22
23 7. a. Every group policy that provides hospital or medical expense
24 benefits and is delivered, issued, executed or renewed in this State
25 pursuant to N.J.S.17B:27-26 et seq., or approved for issuance or
26 renewal in this State by the Commissioner of Banking and Insurance
27 on or after the effective date of this act shall provide benefits for a
28 minimum of 48 hours of inpatient care following a mastectomy
29 performed in a health care facility licensed pursuant to P.L.1971, c.136
30 (C.26:2H-1 et seq.). The provisions of this section shall apply to all
31 policies in which the insurer has reserved the right to change the
32 premium.

33 b. The Commissioner of Banking and Insurance shall adopt
34 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
35 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

36 c. Every insurer shall provide notice to policyholders regarding the
37 coverage required by this section in accordance with this subsection
38 and regulations promulgated by the Commissioner of Health and
39 Senior Services pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing
41 and prominently positioned in any literature or correspondence and
42 shall be transmitted at the earliest of: (1) the next mailing to the
43 policyholder; (2) the yearly informational packet sent to the
44 policyholder; or (3) January 1, 1998.

45
46 8. a. Every enrollee agreement that provides hospital or medical

1 expense benefits and is delivered, issued, executed or renewed in this
2 State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for
3 issuance or renewal in this State by the Commissioner of Health and
4 Senior Services on or after the effective date of this act shall provide
5 health care services for a minimum of 48 hours inpatient care
6 following a mastectomy performed in a health care facility licensed
7 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of
8 this section shall apply to enrollee agreements in which the health
9 maintenance organization has reserved the right to change the schedule
10 of charges.

11 b. The Commissioner of Health and Senior Services shall adopt
12 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
13 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

14 c. Every health maintenance organization shall provide notice to
15 enrollees regarding the coverage required by this section in accordance
16 with this subsection. The notice shall be in writing and prominently
17 positioned in any literature or correspondence and shall be transmitted
18 at the earliest of: (1) the next mailing to the enrollee; (2) the yearly
19 informational packet sent to the enrollee; or (3) January 1, 1998.

20

21 9. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill requires health insurers, including hospital service
27 corporations, medical service corporations, health service
28 corporations, individual and group commercial insurers and health
29 maintenance organizations, to provide a minimum of 48 hours
30 inpatient care following for a mastectomy performed in a State
31 licensed health care facility.

32

33

34

35

36 _____
37 Requires health insurers to provide inpatient care following a
mastectomy.

ASSEMBLY, No. 2551

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1996

By Assemblywomen HECK and VANDERVALK

1 AN ACT providing for minimum hospital stays following certain breast
2 cancer surgeries, and amending and supplementing parts of the
3 statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1983, c.50 (C.17:48-6b) is amended to read
9 as follows:

10 1. a. Every subscription certificate and group and individual
11 contract providing hospital service benefits delivered, issued, executed
12 or renewed in this State, or approved for issuance or renewal in this
13 State by the Commissioner of Banking and Insurance on or after the
14 effective date of this act, shall provide benefits for the treatment of
15 breast cancer and reconstructive breast surgery, including but not
16 limited to the cost of prostheses and, under any contract providing
17 outpatient x-ray or radiation therapy, benefits for outpatient
18 chemotherapy following surgical procedures in connection with the
19 treatment of breast cancer shall be included as a part of the outpatient
20 x-ray or radiation therapy benefit. The subscription certificate or
21 contract shall also provide coverage for not less than 48 hours of
22 inpatient care following a mastectomy and not less than 24 hours of
23 inpatient care following a lymph node dissection for the treatment of
24 breast cancer, however, the subscription certificate or contract shall
25 not be required to provide for a minimum of 48 hours and 24 hours,
26 respectively, of inpatient care if the attending physician and the
27 subscriber determine that a shorter period of inpatient care is
28 appropriate.

29 b. Every hospital service corporation shall provide notice to
30 subscribers regarding the coverage required by subsection a. of this
31 section in accordance with that subsection and regulations
32 promulgated by the Commissioner of Banking and Insurance pursuant
33 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
34 et seq.). The notice shall be in writing and prominently positioned in

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 any literature or correspondence and shall be transmitted at the earliest
2 of: (1) the next mailing to the subscriber; (2) the yearly informational
3 packet sent to the subscriber; or (3) March 1, 1997.

4 c. The provisions of this section shall apply to all contracts in
5 which the hospital service corporation has reserved the right to change
6 the premium. Such benefits shall be provided to the same extent as for
7 any other sickness under the contract.

8 (cf: P.L.1983, c.50, s.1)

9

10 2. Section 1 of P.L.1983, c.51 (C.17:48A-7b) is amended to read
11 as follows:

12 1. a. Every subscription certificate and group and individual
13 contract providing medical service benefits delivered, issued, executed
14 or renewed in this State, or approved for issuance or renewal in this
15 State by the Commissioner of Banking and Insurance on or after the
16 effective date of this act, shall provide benefits for the treatment of
17 breast cancer and reconstructive breast surgery, including but not
18 limited to the costs of prostheses and, under any contract providing
19 out-of-hospital x-ray or radiation therapy, benefits for out-of-hospital
20 chemotherapy following surgical procedures in connection with the
21 treatment of breast cancer shall be included as a part of the
22 out-of-hospital x-ray or radiation therapy benefit. The subscription
23 certificate or contract shall also provide coverage for not less than 48
24 hours of inpatient care following a mastectomy and not less than 24
25 hours of inpatient care following a lymph node dissection for the
26 treatment of breast cancer, however, the subscription certificate or
27 contract shall not be required to provide for a minimum of 48 hours
28 and 24 hours, respectively, of inpatient care if the attending physician
29 and the subscriber determine that a shorter period of inpatient care is
30 appropriate.

31 b. Every medical service corporation shall provide notice to
32 subscribers regarding the coverage required by subsection a. of this
33 section in accordance with that subsection and regulations
34 promulgated by the Commissioner of Banking and Insurance pursuant
35 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
36 et seq.). The notice shall be in writing and prominently positioned in
37 any literature or correspondence and shall be transmitted at the earliest
38 of: (1) the next mailing to the subscriber; (2) the yearly informational
39 packet sent to the subscriber; or (3) March 1, 1997.

40 c. The provisions of this section shall apply to all contracts in
41 which the medical service corporation has reserved the right to change
42 the premium. Such benefits shall be provided to the same extent as for
43 any other sickness under the contract.

44 (cf: P.L.1983, c.51, s.1)

45

46 3. Section 35 of P.L.1985, c.236 (C.17:48E-35) is amended to

1 read as follows:

2 35. a. Every subscription certificate and group and individual
3 contract providing health service coverage, delivered, issued, executed
4 or renewed in this State, or approved for issuance or renewal in this
5 State by the commissioner on or after the effective date of this act,
6 shall provide benefits for the treatment of breast cancer and
7 reconstructive breast surgery, including, but not limited to: the cost of
8 prostheses and, under any contract providing outpatient x-ray or
9 radiation therapy, benefits for outpatient chemotherapy following
10 surgical procedures in connection with the treatment of breast cancer,
11 which shall be included as a part of the outpatient x-ray or radiation
12 therapy benefit. The subscription certificate or contract shall also
13 provide coverage for not less than 48 hours of inpatient care following
14 a mastectomy and not less than 24 hours of inpatient care following a
15 lymph node dissection for the treatment of breast cancer, however, the
16 subscription certificate or contract shall not be required to provide for
17 a minimum of 48 hours and 24 hours, respectively, of inpatient care if
18 the attending physician and the subscriber determine that a shorter
19 period of inpatient care is appropriate.

20 b. Every health service corporation shall provide notice to
21 subscribers regarding the coverage required by subsection a. of this
22 section in accordance with that subsection and regulations
23 promulgated by the Commissioner of Banking and Insurance pursuant
24 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
25 et seq.). The notice shall be in writing and prominently positioned in
26 any literature or correspondence and shall be transmitted at the earliest
27 of: (1) the next mailing to the subscriber; (2) the yearly informational
28 packet sent to the subscriber; or (3) March 1, 1997.

29 c. The provisions of this section shall apply to all contracts in
30 which the health service corporation has reserved the right to change
31 the premium. These benefits shall be provided to the same extent as
32 for any other sickness under the contract.

33 (cf: P.L. 985, c.236, s.35)

34

35 4. Section 1 of P.L. 1983, c.53 (C.17B:26-2.1a) is amended to
36 read as follows:

37 1. a. Every health insurance policy providing hospital or medical
38 expense benefits delivered, issued, executed or renewed in this State,
39 or approved for issuance or renewal in this State by the Commissioner
40 of Banking and Insurance on or after the effective date of this act,
41 shall provide benefits for the treatment of breast cancer and
42 reconstructive breast surgery, including but not limited to the costs of
43 prostheses and, under any policy providing outpatient x-ray or
44 radiation therapy, the costs of outpatient chemotherapy following
45 surgical procedures in connection with the treatment of breast cancer
46 shall be included as a part of the outpatient x-ray or radiation therapy

1 coverage. The policy shall also provide coverage for not less than 48
2 hours of inpatient care following a mastectomy and not less than 24
3 hours of inpatient care following a lymph node dissection for the
4 treatment of breast cancer, however, the policy shall not be required
5 to provide for a minimum of 48 hours and 24 hours, respectively, of
6 inpatient care if the attending physician and the policyholder determine
7 that a shorter period of inpatient care is appropriate.

8 b. Every insurer shall provide notice to policyholders regarding the
9 coverage required by subsection a. of this section in accordance with
10 that subsection and regulations promulgated by the Commissioner of
11 Banking and Insurance pursuant to the "Administrative Procedure
12 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in
13 writing and prominently positioned in any literature or correspondence
14 and shall be transmitted at the earliest of: (1) the next mailing to the
15 policyholder; (2) the yearly informational packet sent to the
16 policyholder; or (3) March 1, 1997.

17 c. The provisions of this section shall apply to all policies in
18 which the insurer has reserved the right to change the premium. Such
19 benefits shall be provided to the same extent as for any other sickness
20 under the policy.

21 (cf: P.L.1983, c.53, s.1)

22
23 5. Section 1 of P.L.1983, c.52 (C.17B:27-46.1a) is amended to
24 read as follows:

25 1. a. Every group health insurance policy providing hospital or
26 medical expense benefits delivered, issued, executed or renewed in this
27 State, or approved for issuance or renewal in this State by the
28 Commissioner of Banking and Insurance on or after the effective date
29 of this act, shall provide benefits for the treatment of breast cancer and
30 reconstructive breast surgery, including but not limited to the costs of
31 prostheses and, under any policy providing outpatient x-ray or
32 radiation therapy, the costs of outpatient chemotherapy following
33 surgical procedures in connection with the treatment of breast cancer
34 shall be included as a part of the outpatient x-ray or radiation therapy
35 coverage. The policy shall also provide coverage for not less than 48
36 hours of inpatient care following a mastectomy and not less than 24
37 hours of inpatient care following a lymph node dissection for the
38 treatment of breast cancer, however, the policy shall not be required
39 to provide for a minimum of 48 hours and 24 hours, respectively, of
40 inpatient care if the attending physician and the policyholder determine
41 that a shorter period of inpatient care is appropriate.

42 b. Every insurer shall provide notice to policyholders regarding the
43 coverage required by subsection a. of this section in accordance with
44 that subsection and regulations promulgated by the Commissioner of
45 Banking and Insurance pursuant to the "Administrative Procedure
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in

1 writing and prominently positioned in any literature or correspondence
2 and shall be transmitted at the earliest of: (1) the next mailing to the
3 policyholder; (2) the yearly informational packet sent to the
4 policyholder; or (3) March 1, 1997.

5 c. The provisions of this section shall apply to all policies in which
6 the insurer has reserved the right to change the premium. Such
7 benefits shall be provided to the same extent as for any other sickness
8 under the policy.

9 (cf: P.L.1983, c.52, s.1)

10

11 6. (New section) a. Every individual health benefits plan that
12 provides hospital or medical expense benefits and is delivered, issued,
13 executed or renewed or approved for issuance or renewal, in this State
14 pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) on or after the
15 effective date of P.L. ., c. (now before the Legislature as this bill)
16 shall provide benefits for not less than 48 hours of inpatient care
17 following a mastectomy and not less than 24 hours of inpatient care
18 following a lymph node dissection for the treatment of breast cancer,
19 however, the health benefits plan shall not be required to provide for
20 a minimum of 48 hours and 24 hours, respectively, of inpatient care if
21 the attending physician and the policyholder determine that a shorter
22 period of inpatient care is appropriate.

23 b. Every carrier shall provide notice to policyholders regarding the
24 coverage required by subsection a. of this section in accordance with
25 that subsection and regulations promulgated by the New Jersey
26 Individual Health Coverage Program Board pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.). The notice shall be in writing and prominently positioned in any
29 literature or correspondence and shall be transmitted at the earliest of:
30 (1) the next mailing to the plan holder; (2) the yearly informational
31 packet sent to the plan holder; or (3) March 1, 1997.

32 c. The provisions of this section shall apply to all health benefits
33 plans in which the insurer has reserved the right to change the
34 premium. Benefits required by this section shall be provided to the
35 same extent as for any other medical condition under a health benefits
36 plan.

37

38 7. (New section) a. Every small employer health benefits plan
39 that provides hospital or medical expense benefits and is delivered,
40 issued, executed or renewed, or approved for issuance or renewal, in
41 this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) on or
42 after the effective date of P.L. ., c. (now before the Legislature as
43 this bill) shall provide benefits for not less than 48 hours of inpatient
44 care following a mastectomy and not less than 24 hours of inpatient
45 care following a lymph node dissection for the treatment of breast
46 cancer, however, the health benefits plan shall not be required to

1 provide for a minimum of 48 hours and 24 hours, respectively, of
2 inpatient care if the attending physician and the policyholder determine
3 that a shorter period of inpatient care is appropriate.

4 b. Every carrier shall provide notice to plan holders regarding the
5 coverage required by subsection a. of this section in accordance with
6 that subsection and regulations promulgated by the New Jersey Small
7 Employer Health Benefits Program Board pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.). The notice shall be in writing and prominently positioned in any
10 literature or correspondence and shall be transmitted at the earliest of:
11 (1) the next mailing to the plan holder; (2) the yearly informational
12 packet sent to the plan holder; or (3) March 1, 1997.

13 c. The provisions of this section shall apply to all health benefits
14 plans in which the carrier has reserved the right to change the
15 premium. Benefits required by this section shall be provided to the
16 same extent as for any other medical condition under a health benefits
17 plan.

18
19 8. (New section) a. A certificate of authority to establish and
20 operate a health maintenance organization in this State pursuant to
21 P.L.1973, c.337 (C.26:2J-1 et seq.) shall not be issued or continued by
22 the Commissioner of Health and Senior Services on or after the
23 effective date of P.L. , c. (now before the Legislature as this bill)
24 unless the enrollee agreement provides health care services for not less
25 than 48 hours of inpatient care following a mastectomy and not less
26 than 24 hours of inpatient care following a lymph node dissection for
27 the treatment of breast cancer, however, the enrollee agreement shall
28 not be required to provide for a minimum of 48 hours and 24 hours,
29 respectively, of inpatient care if the attending physician and the
30 enrollee determine that a shorter period of inpatient care is
31 appropriate.

32 b. Every health maintenance organization shall provide notice to
33 enrollees regarding the coverage required by subsection a. of this
34 section in accordance with that subsection and regulations
35 promulgated by the Commissioner of Health and Senior Services
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.). The notice shall be in writing and prominently
38 positioned in any literature or correspondence and shall be transmitted
39 at the earliest of: (1) the next mailing to the enrollee; (2) the yearly
40 informational packet sent to the enrollee; or (3) March 1, 1997.

41 c. The provisions of this section shall apply to all enrollee
42 agreements for health care services by health maintenance
43 organizations under which the right to change the schedule of charges
44 for enrollee coverage is reserved. The health care services required by
45 this section shall be provided to the same extent as for any other
46 medical condition under the enrollee agreement.

1 9. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill requires health insurers, including hospital service
7 corporations, medical service corporations, health service
8 corporations, commercial insurers, health benefits plans issued through
9 the New Jersey Individual Health Coverage Program and Small
10 Employer Health Benefits Program Boards, and health maintenance
11 organizations to provide for a minimum of 48 hours of inpatient care
12 following a mastectomy and not less than 24 hours of inpatient care
13 following a lymph node dissection for the treatment of breast cancer.
14 The bill also provides that the decision to remain an inpatient is at the
15 discretion of an insured and a licensed physician.

16 Under the bill, all insurers are required to notify their insureds in
17 writing of these minimum coverage provisions at the earliest of: (1)
18 the next mailing to the insured; (2) the yearly informational packet sent
19 to the insured; or (3) March 1, 1997.

20

21

22

23

24 _____
Requires minimum hospital stays for certain breast cancer surgeries

ASSEMBLY, No. 2575

STATE OF NEW JERSEY

INTRODUCED DECEMBER 12, 1996

By Assemblymen O'TOOLE and WEINGARTEN

1 AN ACT concerning coverage for inpatient care following a
2 mastectomy and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Every individual or group hospital service corporation
8 contract that provides hospital or medical expense benefits and is
9 delivered, issued, executed or renewed in this State pursuant to
10 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
11 renewal in this State by the Commissioner of Banking and Insurance
12 on or after the effective date of this act shall provide coverage for a
13 minimum of 48 hours of inpatient care following surgery for a
14 mastectomy. The contract shall not require a health care provider to
15 obtain authorization from the hospital service corporation for
16 prescribing 48 hours of inpatient care as provided for in this section.

17 The benefits shall be provided to the same extent as for any other
18 sickness under the contract.

19 The provisions of this section shall apply to all contracts in which
20 the hospital service corporation has reserved the right to change the
21 premium.

22 b. The Commissioner of Banking and Insurance shall adopt
23 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

25

26 2. a. Every individual or group medical service corporation
27 contract that provides hospital or medical expense benefits and is
28 delivered, issued, executed or renewed in this State pursuant to
29 P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or
30 renewal in this State by the Commissioner of Banking and Insurance
31 on or after the effective date of this act shall provide coverage for a
32 minimum of 48 hours of inpatient care following surgery for a
33 mastectomy. The contract shall not require a health care provider to
34 obtain authorization from the medical service corporation for
35 prescribing 48 hours of inpatient care as provided for in this section.

36 The benefits shall be provided to the same extent as for any other
37 sickness under the contract.

1 The provisions of this section shall apply to all contracts in which
2 the medical service corporation has reserved the right to change the
3 premium.

4 b. The Commissioner of Banking and Insurance shall adopt
5 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
6 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

7
8 3. a. Every individual or group health service corporation contract
9 that provides hospital or medical expense benefits and is delivered,
10 issued, executed or renewed in this State pursuant to P.L.1985, c.236
11 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State
12 by the Commissioner of Banking and Insurance on or after the
13 effective date of this act shall provide coverage for a minimum of 48
14 hours of inpatient care following surgery for a mastectomy. The
15 contract shall not require a health care provider to obtain authorization
16 from the health service corporation for prescribing 48 hours of
17 inpatient care as provided for in this section.

18 The benefits shall be provided to the same extent as for any other
19 sickness under the contract.

20 The provisions of this section shall apply to all contracts in which
21 the health service corporation has reserved the right to change the
22 premium.

23 b. The Commissioner of Banking and Insurance shall adopt
24 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

26
27 4. a. Every individual policy that provides hospital or medical
28 expense benefits and is delivered, issued, executed or renewed in this
29 State pursuant to N.J.S.17B:26-1 et seq. or approved for issuance or
30 renewal in this State by the Commissioner of Banking and Insurance
31 on or after the effective date of this act shall provide coverage for a
32 minimum of 48 hours of inpatient care following surgery for a
33 mastectomy. The policy shall not require a health care provider to
34 obtain authorization from the insurer for prescribing 48 hours of
35 inpatient care as provided for in this section.

36 The benefits shall be provided to the same extent as for any other
37 sickness under the policy.

38 The provisions of this section shall apply to all policies in which the
39 insurer has reserved the right to change the premium.

40 b. The Commissioner of Banking and Insurance shall adopt
41 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

43
44 5. a. Every group policy that provides hospital or medical expense
45 benefits and is delivered, issued, executed or renewed in this State
46 pursuant to N.J.S.17B:27-26 et seq. or approved for issuance or

1 renewal in this State by the Commissioner of Banking and Insurance
2 on or after the effective date of this act shall provide benefits for a
3 minimum of 48 hours of inpatient care following surgery for a
4 mastectomy. The policy shall not require a health care provider to
5 obtain authorization from the insurer for prescribing 48 hours of
6 inpatient care as provided for in this section.

7 The benefits shall be provided to the same extent as for any other
8 sickness under the policy.

9 The provisions of this section shall apply to all policies in which the
10 insurer has reserved the right to change the premium.

11 b. The Commissioner of Banking and Insurance shall adopt
12 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
13 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

14
15 6. a. Every individual health benefits plan that provides hospital
16 or medical expense benefits and is delivered, issued, executed or
17 renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
18 seq.) or approved for issuance or renewal in this State on or after the
19 effective date of this act shall provide benefits for a minimum of 48
20 hours of inpatient care following surgery for a mastectomy. The
21 health benefits plan shall not require a health care provider to obtain
22 authorization from the carrier for prescribing 48 hours of inpatient
23 care as provided for in this section.

24 The benefits shall be provided to the same extent as for any other
25 sickness under the health benefits plan.

26 The provisions of this section shall apply to all health benefit plans
27 in which the carrier has reserved the right to change the premium.

28 b. The New Jersey Individual Health Coverage Program Board
29 shall adopt regulations pursuant to the "Administrative Procedure
30 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
31 provisions of this section.

32
33 7. a. Every small employer health benefits plan that provides
34 hospital or medical expense benefits and is delivered, issued, executed
35 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17
36 et seq.) or approved for issuance or renewal in this State on or after
37 the effective date of this act shall provide benefits for a minimum of 48
38 hours of inpatient care following surgery for a mastectomy. The health
39 benefits plan shall not require a health care provider to obtain
40 authorization from the carrier for prescribing 48 hours of inpatient
41 care as provided for in this section.

42 The benefits shall be provided to the same extent as for any other
43 sickness under the health benefits plan.

44 The provisions of this section shall apply to all health benefit plans
45 in which the carrier has reserved the right to change the premium.

46 b. The New Jersey Small Employer Health Benefits Program Board

1 shall adopt regulations pursuant to the "Administrative Procedure
2 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the
3 provisions of this section.

4
5 8. a. Every enrollee agreement that provides health care services
6 and is delivered, issued, executed or renewed in this State pursuant to
7 P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or
8 renewal in this State by the Commissioner of Health and Senior
9 Services on or after the effective date of this act shall provide health
10 care services for a minimum of 48 hours of inpatient care following
11 surgery for a mastectomy. The enrollee agreement shall not require a
12 health care provider to obtain authorization from the health
13 maintenance organization for prescribing 48 hours of inpatient care as
14 provided for in this section.

15 The health care services shall be provided to the same extent as for
16 any other sickness under the enrollee agreement.

17 The provisions of this section shall apply to enrollee agreements in
18 which the health maintenance organization has reserved the right to
19 change the schedule of charges.

20 b. The Commissioner of Health and Senior Services shall adopt
21 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
22 c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

23
24 9. An employer in this State who provides health care coverage to
25 his employees or their dependents for treatment of breast cancer shall
26 annually and upon request of an employee at other times during the
27 year, notify his employees whether the employees' coverage for
28 treatment of breast cancer is subject to the requirements of P.L. ,
29 c. (C.) (pending before the Legislature as this bill) concerning the
30 minimum time a patient shall be permitted to remain at an inpatient
31 care facility following surgery for a mastectomy.

32
33 10. The attending physician of a patient who will undergo a
34 mastectomy who has health care insurance coverage for the treatment
35 of breast cancer, shall, prior to the surgery, determine if the coverage
36 is subject to the requirements of P.L. , c. (C.) (pending before
37 the Legislature as this bill) concerning the minimum time a patient
38 shall be permitted to remain at an inpatient care facility following
39 surgery for a mastectomy. If the physician determines that the
40 patient's coverage is not subject to the requirements of P.L. , c. ,
41 (C.) (pending before the Legislature as this bill), the physician shall
42 promptly notify the patient of that fact and, if known, the duration of
43 inpatient care to which the patient is entitled under the patient's
44 insurance coverage.

45
46 11. This act shall take effect on the 90th day following enactment.

STATEMENT

1

2

3 This bill requires hospital, medical and health service corporations,
4 individual and small and large group commercial insurers, and health
5 maintenance organizations to provide a minimum of 48 hours of
6 inpatient care following surgery for a mastectomy. The bill also
7 provides that an insurer or health maintenance organization shall not
8 require a health care provider to obtain authorization from the insurer
9 or health maintenance organization for prescribing the 48 hours of
10 inpatient care as provided for in this bill.

11

12 The requirements of the bill do not extend to coverage issued by an
13 out-of-State carrier or to self-insured health benefits plans that are not
14 subject to State regulation. This gap in coverage, which can only be
15 corrected by federal legislation, may result in cancer patients who
16 believe that they are covered under this bill being denied the coverage
17 by their insurance carrier or employer. Therefore, to ensure that the
18 patient is promptly notified about any such limitations in that health
19 care coverage, this bill also provides that an employer in this State
20 who provides coverage to his employees or their dependents for
21 treatment of breast cancer shall annually, and upon request of an
22 employee at other times during the year, notify his employees whether
23 the employees' coverage for treatment of breast cancer is subject to the
24 requirements of this bill. Also, the attending physician of a patient
25 who will undergo a mastectomy who has health care coverage for the
26 treatment of breast cancer, shall, prior to the surgery, determine if the
27 coverage is subject to the requirements of this bill. If the physician
28 determines that the patient's coverage is not subject to the
29 requirements of this bill, the physician shall promptly notify the patient
30 of that fact and, if known, the duration of inpatient care to which the
31 patient is entitled.

31

32

33

34

35 Requires health insurers to provide minimum of 48 hours inpatient
36 care following a mastectomy and requires providers and employers to
37 notify insured if their health care coverage is not subject to 48-hour
38 mastectomy law.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 1704

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 1996

The Senate Health Committee reports favorably and with committee amendments Senate Bill No. 1704.

As amended by committee, this bill requires hospital, medical and health service corporations, individual and small and large group commercial insurers, and health maintenance organizations to provide a minimum of 72 hours inpatient care following a modified radical mastectomy and a minimum of 48 hours inpatient care following a simple mastectomy with a lymph node dissection. The bill also provides that the insurer or health maintenance organization shall not require a health care provider to obtain authorization from the insurer or health maintenance organization for prescribing the 72 or 48 hours, as appropriate, of inpatient care as provided for in this bill.

The bill also clarifies that the mandate in the bill is for a carrier to provide coverage for a minimum amount of inpatient care, but if a patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate, the patient may be discharged sooner. Also, the bill clarifies that the provisions of the bill do not relieve a patient or the patient's physician from any notification requirements to the insurer or health maintenance organization that may be contained in the insurance contract or policy or health maintenance organization enrollee agreement.

The bill requires an employer in this State who provides coverage to his employees or their dependents for treatment of breast cancer to annually and upon request of an employee at other times during the year, notify his employees whether the employees' coverage for treatment of breast cancer is subject to the requirements of this bill.

The bill also requires the attending physician of a patient who will undergo a mastectomy, prior to the surgery, to determine if the coverage is subject to the requirements of this bill. If the physician determines that the patient's coverage is not subject to the requirements of this bill, the physician shall promptly notify the patient of that fact and, if known, the duration of inpatient care to which the patient is entitled under the patient's insurance coverage.

The committee amended the bill to add minimum coverage

requirements for a simple mastectomy with a lymph node dissection; to clarify that a patient may be discharged sooner than the mandated minimum coverage when medically appropriate; to clarify that the provisions of the bill do not relieve a patient or physician from any insurer notification requirements; and to add the employer and physician notification requirements. Amendments also specify the types of mastectomies covered under the provisions of the bill.

**ASSEMBLY SUBSTITUTE FOR
SENATE BILL NO. 1704 AND ASSEMBLY BILL NOS. 10, 2551, 2524 AND
2575 ASSEMBLY COMMITTEE SUBSTITUTE**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Substitute for Senate Bill No. 1704 and Assembly Bill Nos. 10, 2551, 2524 and 2575 Assembly Committee Substitute with my recommendations for reconsideration.

A. Summary of the Bill

This bill requires hospital, medical and health service corporations, individual and small and large group commercial insurers, and health maintenance organizations (HMOs) to provide a minimum of 72 hours inpatient care following a modified radical mastectomy and a minimum of 48 hours inpatient care following a simple mastectomy. The bill also provides that the insurer or HMO shall not require a health care provider to obtain pre-authorization from the insurer or HMO for prescribing the 72 or 48 hours, as appropriate, of inpatient care as provided for in this bill.

The bill also clarifies that the mandate in the bill is for a carrier to provide coverage for a minimum amount of inpatient care, but if a patient, in consultation with the patient's physician, determines that a shorter length of stay is medically appropriate, the patient may be discharged sooner. The bill states that the provisions of the bill do not relieve a patient or the patient's physician from any notification requirements to the insurer or HMO that may be contained in the insurance contract or policy or HMO enrollee agreement.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

The bill requires all employers in this State who provide coverage to employees or their dependents for treatment of breast cancer to, annually and upon request of an employee at other times during the year, notify employees whether the employees' coverage for treatment of breast cancer is subject to the requirements of this bill.

The bill also requires the attending physician of a patient who will undergo a mastectomy, prior to surgery, to determine if the coverage is subject to the requirements of this bill. If the physician determines that the patient's coverage is not subject to the requirements, the physician shall promptly notify the patient of that fact and, if known, the duration of inpatient care to which the patient is entitled under the patient's insurance coverage.

B. Recommended Action

I support the bill's objective to prevent women who have undergone mastectomy surgery from being released from hospitals despite their doctor's opinion that a longer stay is necessary. In its present form, however, the bill requires that notification of the applicability of this bill be given to a patient who will undergo a mastectomy by both an employer who provides health insurance coverage to the patient and the patient's attending physician. Requiring attending physicians to make this determination and notification is redundant and impractical. I, therefore, recommend that this provision be deleted.

Therefore, I herewith return Assembly Substitute for Senate Bill No. 1704 and Assembly Bill Nos. 10, 2551, 2524 and 2573 Assembly Committee Substitute and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

Page 6, Section 10, Lines 28-39:

Delete in its entirety

Page 6, Section 11, Line 41:

Delete "11" insert "10"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor