

25:2-184.3 to 26:2-184.5 et al.

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2013 **CHAPTER:** 196

NJSA: 25:2-184.3 to 26:2-184.5 et al. (Requires insurers to cover breast evaluations and other additional medically necessary testing under certain circumstances and requires certain mammogram reports to contain information on breast density)

BILL NO: S792 (Substituted for A2022)

SPONSOR(S) Weinberg and others

DATE INTRODUCED: January 10, 2012

COMMITTEE: **ASSEMBLY:** Health and Senior Services
Appropriations

SENATE: Commerce
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 19, 2013

SENATE: January 13, 2014

DATE OF APPROVAL: January 17, 2014

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Sixth reprint enacted)

S792

SPONSOR'S STATEMENT: (Begins on page 8 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Health
Appropriations

SENATE: Yes Commerce
Budget

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 6-21-12
9-9-13

LEGISLATIVE FISCAL NOTE: Yes 6-11-12
6-25-12
8-3-12
7-5-13
12-23-13

(continued)

A2022

SPONSOR'S STATEMENT: (Begins on page 8 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes Health Appropriations
	SENATE:	No
FLOOR AMENDMENT STATEMENT:	Yes	
LEGISLATIVE FISCAL NOTE:	Yes	6-27-13 12-23-13
VETO MESSAGE:	No	
GOVERNOR'S PRESS RELEASE ON SIGNING:	No	

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

"Christie's 'pocket veto' kills bill requiring health workers to get flu shots," NJSpotlight, January 22, 2014

LAW/RWH

§§10-12 -
 C.26:2-184.3 to
 26:2-184.5
 §§13-14 -
 C.17B:27D-10 &
 17B:27D-11
 §15 - Note

P.L.2013, CHAPTER 196, *approved January 17, 2014*
 Senate, No. 792 (*Sixth Reprint*)

1 **AN ACT** concerning mammograms, amending P.L.1991, c.279 and
 2 P.L.2004, c.86, and supplementing Title 26 of the Revised
 3 Statutes ⁵and P.L.2003, c.193 (C.17B:27D-1 et seq.)⁵.

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.1991, c.279 (C.17:48-6g) is amended to
 9 read as follows:

10 1. a. No group or individual hospital service corporation
 11 contract providing hospital or medical expense benefits shall be
 12 delivered, issued, executed, or renewed in this State or approved for
 13 issuance or renewal in this State by the Commissioner of Banking
 14 and Insurance, on or after the effective date of this act, unless the
 15 contract provides benefits to any subscriber or other person covered
 16 thereunder for expenses incurred in conducting:

17 (1) (1) one baseline mammogram examination for women who are
 18 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
 19 examination every year for women age 40 and over; and, in the case
 20 of a woman who is under 40 years of age and has a family history
 21 of breast cancer or other breast cancer risk factors, a mammogram
 22 examination at such age and intervals as deemed medically
 23 necessary by the woman's health care provider; and

24 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
 25 magnetic resonance imaging scan, a three-dimensional
 26 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
 27 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
 28 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
 29 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
 30 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 17, 2012.

²Senate SBA committee amendments adopted June 7, 2012.

³Senate floor amendments adopted June 21, 2012.

⁴Assembly AHE committee amendments adopted March 7, 2013.

⁵Assembly AAP committee amendments adopted May 6, 2013.

⁶Assembly floor amendments adopted September 9, 2013.

1 tissue ⁵[based on the Breast Imaging Reporting and Data System
 2 established by the American College of Radiology] , if the
 3 mammogram is abnormal within any degree of breast density
 4 including not dense, moderately dense, heterogeneously dense, or
 5 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
 6 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
 7 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
 8 of breast cancer,⁵ prior personal history of breast cancer, positive
 9 genetic testing, ⁵extremely dense breast tissue based on the Breast
 10 Imaging Reporting and Data System established by the American
 11 College of Radiology,⁵ or other indications as determined by ⁴[a]
 12 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
 13 health care provider. The coverage required under this paragraph
 14 may be subject to utilization review, including periodic review, by
 15 the hospital service corporation of the medical necessity of the
 16 ⁵[comprehensive ultrasound screenings or other screenings]
 17 additional screening and diagnostic testing⁵ ⁶[if the provider has
 18 been determined by the hospital service corporation to have
 19 overutilized the coverage required under this paragraph⁴⁶.

20 b. These benefits shall be provided to the same extent as for
 21 any other sickness under the contract.

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

25 (cf: P.L.2004, c.86, s.1)

26

27 2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to
 28 read as follows:

29 2. a. No group or individual medical service corporation
 30 contract providing hospital or medical expense benefits shall be
 31 delivered, issued, executed, or renewed in this State or approved for
 32 issuance or renewal in this State by the Commissioner of Banking
 33 and Insurance, on or after the effective date of this act, unless the
 34 contract provides benefits to any subscriber or other person covered
 35 thereunder for expenses incurred in conducting:

36 (1) (1) one baseline mammogram examination for women who are
 37 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
 38 examination every year for women age 40 and over; and, in the case
 39 of a woman who is under 40 years of age and has a family history
 40 of breast cancer or other breast cancer risk factors, a mammogram
 41 examination at such age and intervals as deemed medically
 42 necessary by the woman's health care provider; and

43 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
 44 magnetic resonance imaging scan, a three-dimensional
 45 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
 46 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health

1 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
 2 mammogram examination, ⁴ if ⁴[a] the⁴ mammogram demonstrates
 3 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
 4 tissue ⁵[based on the Breast Imaging Reporting and Data System
 5 established by the American College of Radiology] . if the
 6 mammogram is abnormal within any degree of breast density
 7 including not dense, moderately dense, heterogeneously dense, or
 8 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
 9 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
 10 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
 11 of breast cancer,⁵ prior personal history of breast cancer, positive
 12 genetic testing, ⁵extremely dense breast tissue based on the Breast
 13 Imaging Reporting and Data System established by the American
 14 College of Radiology,⁵ or other indications as determined by ⁴[a]
 15 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
 16 health care provider. The coverage required under this paragraph
 17 may be subject to utilization review, including periodic review, by
 18 the medical service corporation of the medical necessity of the
 19 ⁵[comprehensive ultrasound screenings or other screenings]
 20 additional screening and diagnostic testing⁵ ⁶[if the provider has
 21 been determined by the medical service corporation to have
 22 overutilized the coverage required under this paragraph⁴]⁶.

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

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

28 (cf: P.L.2004, c.86, s.2)

29

30 3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to
 31 read as follows:

32 3. a. No group or individual health service corporation
 33 contract providing hospital or medical expense benefits shall be
 34 delivered, issued, executed, or renewed in this State or approved for
 35 issuance or renewal in this State by the Commissioner of Banking
 36 and Insurance, on or after the effective date of this act, unless the
 37 contract provides benefits to any subscriber or other person covered
 38 thereunder for expenses incurred in conducting:

39 (1) one baseline mammogram examination for women who are
 40 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
 41 examination every year for women age 40 and over; and, in the case
 42 of a woman who is under 40 years of age and has a family history
 43 of breast cancer or other breast cancer risk factors, a mammogram
 44 examination at such age and intervals as deemed medically
 45 necessary by the woman's health care provider; and

1 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
2 magnetic resonance imaging scan, a three-dimensional
3 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
4 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
5 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
6 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
7 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
8 tissue ⁵[based on the Breast Imaging Reporting and Data System
9 established by the American College of Radiology] , if the
10 mammogram is abnormal within any degree of breast density
11 including not dense, moderately dense, heterogeneously dense, or
12 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
13 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
14 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
15 of breast cancer,⁵ prior personal history of breast cancer, positive
16 genetic testing, ⁵extremely dense breast tissue based on the Breast
17 Imaging Reporting and Data System established by the American
18 College of Radiology,⁵ or other indications as determined by ⁴[a]
19 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
20 health care provider. The coverage required under this paragraph
21 may be subject to utilization review, including periodic review, by
22 the health service corporation of the medical necessity of the
23 ⁵[comprehensive ultrasound screenings or other screenings]
24 additional screening and diagnostic testing⁵ ⁶[if the provider has
25 been determined by the health service corporation to have
26 overutilized the coverage required under this paragraph⁴]⁶.

27 b. These benefits shall be provided to the same extent as for
28 any other sickness under the contract.

29 c. The provisions of this section shall apply to all contracts in
30 which the health service corporation has reserved the right to
31 change the premium.

32 (cf: P.L.2004, c.86, s.3)

33

34 4. Section 4 of P.L.1991, c.279 (C.17B:26-2.1e) is amended to
35 read as follows:

36 4. a. No individual health insurance policy providing hospital
37 or medical expense benefits shall be delivered, issued, executed, or
38 renewed in this State or approved for issuance or renewal in this
39 State by the Commissioner of Banking and Insurance, on or after
40 the effective date of this act, unless the policy provides benefits to
41 any named insured or other person covered thereunder for expenses
42 incurred in conducting:

43 (1) one baseline mammogram examination for women who are
44 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
45 examination every year for women age 40 and over; and, in the case
46 of a woman who is under 40 years of age and has a family history

1 of breast cancer or other breast cancer risk factors, a mammogram
 2 examination at such age and intervals as deemed medically
 3 necessary by the woman's health care provider; and
 4 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
 5 magnetic resonance imaging scan, a three-dimensional
 6 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
 7 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
 8 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
 9 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
 10 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
 11 tissue ⁵[based on the Breast Imaging Reporting and Data System
 12 established by the American College of Radiology] , if the
 13 mammogram is abnormal within any degree of breast density
 14 including not dense, moderately dense, heterogeneously dense, or
 15 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
 16 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
 17 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
 18 of breast cancer,⁵ prior personal history of breast cancer, positive
 19 genetic testing, ⁵extremely dense breast tissue based on the Breast
 20 Imaging Reporting and Data System established by the American
 21 College of Radiology,⁵ or other indications as determined by ⁴[a]
 22 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
 23 health care provider. The coverage required under this paragraph
 24 may be subject to utilization review, including periodic review, by
 25 the insurer of the medical necessity of the ⁵[comprehensive
 26 ultrasound screenings or other screenings] additional screening and
 27 diagnostic testing⁵ ⁶[if the provider has been determined by the
 28 insurer to have overutilized the coverage required under this
 29 paragraph⁴]⁶.

30 b. These benefits shall be provided to the same extent as for
 31 any other sickness under the policy.

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

34 (cf: P.L.2004, c.86, s.4)

35

36 5. Section 5 of P.L.1991, c.279 (C.17B:27-46.1f) is amended to
 37 read as follows:

38 5. a. No group health insurance policy providing hospital or
 39 medical expense benefits shall be delivered, issued, executed, or
 40 renewed in this State or approved for issuance or renewal in this
 41 State by the Commissioner of Banking and Insurance, on or after
 42 the effective date of this act, unless the policy provides benefits to
 43 any named insured or other person covered thereunder for expenses
 44 incurred in conducting:

1 (1) one baseline mammogram examination for women who are
 2 6[at least 35 but less than]6 40 years of age; a mammogram
 3 examination every year for women age 40 and over; and, in the case
 4 of a woman who is under 40 years of age and has a family history
 5 of breast cancer or other breast cancer risk factors, a mammogram
 6 examination at such age and intervals as deemed medically
 7 necessary by the woman's health care provider; and

8 (2) 5[comprehensive] an5 ultrasound 5[screening] evaluation, a
 9 magnetic resonance imaging scan, a three-dimensional
 10 mammography5 4, or other 5[screening] additional testing5
 11 6[deemed medically necessary by the 5[woman's] patient's5 health
 12 care provider,4]6 of an entire breast or breasts 4, after a baseline
 13 mammogram examination,4 if 4[a] the4 mammogram demonstrates
 14 4[heterogeneous] 5[heterogeneously4 or]5 1extremely1 dense breast
 15 tissue 5[based on the Breast Imaging Reporting and Data System
 16 established by the American College of Radiology] , if the
 17 mammogram is abnormal within any degree of breast density
 18 including not dense, moderately dense, heterogeneously dense, or
 19 extremely dense breast tissue,5 or if 4[a] the4 5[woman is believed
 20 to be at increased] patient has additional5 risk 5factors5 for breast
 21 cancer 5[due to] including but not limited to5 family history 5[or]
 22 of breast cancer,5 prior personal history of breast cancer, positive
 23 genetic testing, 5extremely dense breast tissue based on the Breast
 24 Imaging Reporting and Data System established by the American
 25 College of Radiology,5 or other indications as determined by 4[a]
 26 the4 5[woman's] patient's5 4[physician or advanced practice nurse]
 27 health care provider. The coverage required under this paragraph
 28 may be subject to utilization review, including periodic review, by
 29 the insurer of the medical necessity of the 5[comprehensive
 30 ultrasound screenings or other screenings] additional screening and
 31 diagnostic testing5 6[if the provider has been determined by the
 32 insurer to have overutilized the coverage required under this
 33 paragraph4]6.

34 b. These benefits shall be provided to the same extent as for
 35 any other sickness under the policy.

36 c. The provisions of this section shall apply to all policies in
 37 which the insurer has reserved the right to change the premium.
 38 (cf: P.L.2004, c.86, s.5)

39
 40 6. Section 7 of P.L.2004, c.86 (C.17B:27A-7.10) is amended to
 41 read as follows:

42 7. a. Every individual health benefits plan that is delivered,
 43 issued, executed, or renewed in this State pursuant to P.L.1992,
 44 c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in
 45 this State, on or after the effective date of this act, shall provide

1 benefits to any ⁵[woman] person⁵ covered thereunder for expenses
2 incurred in conducting:

3 (1) one baseline mammogram examination for women who are
4 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
5 examination every year for women age 40 and over; and, in the case
6 of a woman who is under 40 years of age and has a family history
7 of breast cancer or other breast cancer risk factors, a mammogram
8 examination at such age and intervals as deemed medically
9 necessary by the woman's health care provider; and

10 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
11 magnetic resonance imaging scan, a three-dimensional
12 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
13 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
14 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
15 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
16 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
17 tissue ⁵[based on the Breast Imaging Reporting and Data System
18 established by the American College of Radiology] , if the
19 mammogram is abnormal within any degree of breast density
20 including not dense, moderately dense, heterogeneously dense, or
21 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
22 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
23 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
24 of breast cancer,⁵ prior personal history of breast cancer, positive
25 genetic testing, ⁵extremely dense breast tissue based on the Breast
26 Imaging Reporting and Data System established by the American
27 College of Radiology,⁵ or other indications as determined by ⁴[a]
28 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
29 health care provider. The coverage required under this paragraph
30 may be subject to utilization review, including periodic review, by
31 the carrier of the medical necessity of the ⁵[comprehensive
32 ultrasound screenings or other screenings] additional screening and
33 diagnostic testing⁵ ⁶[if the provider has been determined by the
34 carrier to have overutilized the coverage required under this
35 paragraph⁴]⁶.

36 b. The benefits shall be provided to the same extent as for any
37 other medical condition under the health benefits plan.

38 c. The provisions of this section shall apply to all health
39 benefit plans in which the carrier has reserved the right to change
40 the premium.

41 (cf: P.L.2004, c.86, s.7)

42

43 7. Section 8 of P.L.2004, c.86 (C.17B:27A-19.13) is amended
44 to read as follows:

1 8. a. Every small employer health benefits plan that is
2 delivered, issued, executed, or renewed in this State pursuant to
3 P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or
4 renewal in this State, on or after the effective date of this act, shall
5 provide benefits to any ⁵[woman] person⁵ covered thereunder for
6 expenses incurred in conducting:

7 (1) one baseline mammogram examination for women who are
8 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
9 examination every year for women age 40 and over; and, in the case
10 of a woman who is under 40 years of age and has a family history
11 of breast cancer or other breast cancer risk factors, a mammogram
12 examination at such age and intervals as deemed medically
13 necessary by the woman's health care provider; and

14 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
15 magnetic resonance imaging scan, a three-dimensional
16 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
17 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
18 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
19 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
20 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
21 tissue ⁵[based on the Breast Imaging Reporting and Data System
22 established by the American College of Radiology] , if the
23 mammogram is abnormal within any degree of breast density
24 including not dense, moderately dense, heterogeneously dense, or
25 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
26 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
27 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
28 of breast cancer,⁵ prior personal history of breast cancer, positive
29 genetic testing, ⁵extremely dense breast tissue based on the Breast
30 Imaging Reporting and Data System established by the American
31 College of Radiology,⁵ or other indications as determined by ⁴[a]
32 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
33 health care provider. The coverage required under this paragraph
34 may be subject to utilization review, including periodic review, by
35 the carrier of the medical necessity of the ⁵[comprehensive
36 ultrasound screenings or other screenings] additional screening and
37 diagnostic testing⁵ ⁶[if the provider has been determined by the
38 carrier to have overutilized the coverage required under this
39 paragraph⁴]⁶.

40 b. The benefits shall be provided to the same extent as for any
41 other medical condition under the health benefits plan.

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

45 (cf: P.L.2004, c.86, s.8)

1

2 8. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
3 read as follows:

4 6. a. Notwithstanding any provision of law to the contrary, a
5 certificate of authority to establish and operate a health maintenance
6 organization in this State shall not be issued or continued by the
7 Commissioner of ⁴[Health and Senior Services] Banking and
8 Insurance⁴ on or after the effective date of this act unless the health
9 maintenance organization provides health care services to any
10 enrollee for the conduct of:

11 (1) (1) one baseline mammogram examination for women who are
12 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
13 examination every year for women age 40 and over; and, in the case
14 of a woman who is under 40 years of age and has a family history
15 of breast cancer or other breast cancer risk factors, a mammogram
16 examination at such age and intervals as deemed medically
17 necessary by the woman's health care provider; and

18 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
19 magnetic resonance imaging scan, a three-dimensional
20 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
21 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
22 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
23 mammogram examination,⁴ if ⁴[a] the⁴ mammogram demonstrates
24 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
25 tissue ⁵[based on the Breast Imaging Reporting and Data System
26 established by the American College of Radiology] . if the
27 mammogram is abnormal within any degree of breast density
28 including not dense, moderately dense, heterogeneously dense, or
29 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
30 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
31 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
32 of breast cancer,⁵ prior personal history of breast cancer, positive
33 genetic testing, ⁵extremely dense breast tissue based on the Breast
34 Imaging Reporting and Data System established by the American
35 College of Radiology,⁵ or other indications as determined by ⁴[a]
36 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
37 health care provider. The coverage required under this paragraph
38 may be subject to utilization review, including periodic review, by
39 the health maintenance organization of the medical necessity of the
40 ⁵[comprehensive ultrasound screenings or other screenings]
41 additional screening and diagnostic testing⁵ ⁶[if the provider has
42 been determined by the health maintenance organization to have
43 overutilized the coverage required under this paragraph⁴]⁶.

44 b. These health care services shall be provided to the same
45 extent as for any other sickness under the enrollee agreement.

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10

1 c. The provisions of this section shall apply to all enrollee
2 agreements in which the health maintenance organization has

1 reserved the right to change the schedule of charges.

2 (cf: ⁴[P.L.2004, c.86, s.6] P.L.2012, c.17, s.263⁴)

3

4 9. Section 9 of P.L.2004, c.86 (C.52:14-17.29i) is amended to
5 read as follows:

6 9. a. The State Health Benefits Commission shall provide
7 benefits to each person covered under the State Health Benefits
8 Program for expenses incurred in conducting:

9 (1) (1) one baseline mammogram examination for women who are
10 ⁶[at least 35 but less than]⁶ 40 years of age; a mammogram
11 examination every year for women age 40 and over; and, in the case
12 of a woman who is under 40 years of age and has a family history
13 of breast cancer or other breast cancer risk factors, a mammogram
14 examination at such age and intervals as deemed medically
15 necessary by the woman's health care provider; and

16 (2) ⁵[comprehensive] an⁵ ultrasound ⁵[screening] evaluation, a
17 magnetic resonance imaging scan, a three-dimensional
18 mammography⁵ ⁴, or other ⁵[screening] additional testing⁵
19 ⁶[deemed medically necessary by the ⁵[woman's] patient's⁵ health
20 care provider,⁴]⁶ of an entire breast or breasts ⁴, after a baseline
21 mammogram examination, ⁴ if ⁴[a] the⁴ mammogram demonstrates
22 ⁴[heterogeneous] ⁵[heterogeneously⁴ or]⁵ ¹extremely¹ dense breast
23 tissue ⁵[based on the Breast Imaging Reporting and Data System
24 established by the American College of Radiology] , if the
25 mammogram is abnormal within any degree of breast density
26 including not dense, moderately dense, heterogeneously dense, or
27 extremely dense breast tissue,⁵ or if ⁴[a] the⁴ ⁵[woman is believed
28 to be at increased] patient has additional⁵ risk ⁵factors⁵ for breast
29 cancer ⁵[due to] including but not limited to⁵ family history ⁵[or]
30 of breast cancer,⁵ prior personal history of breast cancer, positive
31 genetic testing, ⁵extremely dense breast tissue based on the Breast
32 Imaging Reporting and Data System established by the American
33 College of Radiology,⁵ or other indications as determined by ⁴[a]
34 the⁴ ⁵[woman's] patient's⁵ ⁴[physician or advanced practice nurse]
35 health care provider. The coverage required under this paragraph
36 may be subject to utilization review, including periodic review, by
37 the carrier of the medical necessity of the ⁵[comprehensive
38 ultrasound screenings or other screenings] additional screening and
39 diagnostic testing⁵ ⁶[if the provider has been determined by the
40 carrier to have overutilized the coverage required under this
41 paragraph⁴]⁶.

42 b. The benefits shall be provided to the same extent as for any
43 other medical condition under the contract.

44 (cf: P.L.2004, c.86, s.9)

45

1 10. (New section) ¹[Each mammography report provided to a
2 patient shall include information about breast density, based on the
3 Breast Imaging Reporting and Data System established by the
4 American College of Radiology. When applicable, the report shall
5 include the following notice: "If your mammogram demonstrates
6 that you have dense breast tissue, which could hide small
7 abnormalities, you might benefit from supplementary screening
8 tests, which can include a breast ultrasound screening or a breast
9 MRI examination, or both, depending on your individual risk
10 factors. A report of your mammography results, which contains
11 information about your breast density, has been sent to your
12 physician's office, and you should contact your physician if you
13 have any questions or concerns about this report."] ⁴[Every
14 provider of mammography services] A facility that provides a
15 mammography report pursuant to the federal Mammography
16 Quality Standards Act, 42 U.S.C. s.263b,⁴ shall ⁶[, if a patient's
17 mammogram demonstrates ⁴[heterogeneous or]⁴ extremely dense
18 breast tissue based on the Breast Imaging Reporting and Data
19 System established by the American College of Radiology,]⁶
20 include the following information, at a minimum, in ⁴[any] the⁴
21 mammography report sent ⁴[, pursuant to the federal
22 Mammography Quality Standards Act, 42 U.S.C. s.263b,]⁴ to the
23 patient and the patient's ⁶[physician] health care provider⁶ : "Your
24 mammogram ⁶[shows that your breast tissue is ⁵extremely⁵ dense]
25 may show that you have dense breast tissue⁶ ⁴as determined by the
26 Breast Imaging Reporting and Data System established by the
27 American College of Radiology⁴ . Dense breast tissue is very
28 common and is not abnormal. However, ⁶[⁵extremely]⁵ in some
29 cases,⁶ dense breast tissue can make it harder to find cancer on a
30 mammogram ²[and may also increase your breast cancer risk]²
31 ³and may also ⁴[increase your breast cancer risk]³ be associated
32 with a risk factor for breast cancer⁴ . ⁶[This information about the
33 result of your mammogram is given to you to raise your awareness.
34 Use this information to talk to your ⁴[doctor] health care provider⁴
35 about] Discuss⁶ ⁵[your own] this and other⁵ risks for breast cancer
36 ⁵[that pertain to your personal medical history]⁵ ⁶[with your health
37 care provider]⁶ . ⁵[At that time, ask your ⁴[doctor] health care
38 provider⁴ if more screening tests might be useful, based on your
39 risk.]⁵ A report of your results was sent to your ⁶[physician]
40 health care provider⁶ ." ¹⁶You may also find more information
41 about breast density at the website of the American College of
42 Radiology, www.acr.org."⁶

43
44 ⁵11. (New section) Notwithstanding the provisions of any other
45 law to the contrary, the provisions of section 10 of P.L. _____,

1 c. (C.) (pending before the Legislature as this bill) shall not
 2 impose a standard of care obligation upon a patient's health care
 3 provider. The information required to be provided by section 10 of
 4 P.L. , c. (C.) (pending before the Legislature as this bill) is
 5 intended to increase awareness of breast cancer and help facilitate a
 6 conversation between a patient and a patient's health care provider
 7 regarding the patient's risks for breast cancer.⁵

8
 9 ⁵[11] ¹²⁵. The Commissioner of Health ⁴[and Senior
 10 Services]⁴, pursuant to the "Administrative Procedure Act,"
 11 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and
 12 regulations as are necessary to effectuate the purposes of ⁵[section]
 13 sections⁵ 10 ⁵and 11⁵ of P.L. , c. (C.) (pending before the
 14 Legislature as this bill).

15
 16 ⁵13. (New section) a. Notwithstanding the provisions of any
 17 other law to the contrary, the Mandated Health Benefits Advisory
 18 Commission established pursuant to section 3 of P.L.2003, c.193
 19 (C.17B:27D-3), shall prepare a report regarding the implementation
 20 and administration of P.L. , c. (C.) (pending before the
 21 Legislature as this bill) at least once in each five-year period
 22 following the effective date of P.L. , c. (C.) (pending before
 23 the Legislature as this bill).

24 b. The report shall provide a summary of the social and
 25 financial impact, as well as the medical efficacy, of the
 26 requirements imposed by P.L. , c. (C.) (pending before the
 27 Legislature as this bill), and shall provide a summary of any
 28 recommendations the commission may have to improve the
 29 effectiveness of P.L. , c. (C.) (pending before the
 30 Legislature as this bill).

31 c. The commission shall transmit a copy of a report prepared in
 32 accordance with this section to the Governor, and to the Legislature,
 33 in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1),
 34 within five days of the date the report is prepared.⁵

35
 36 ⁶14. (New section) a. The Department of Health, in conjunction
 37 with the Medical Society of New Jersey, shall convene a work
 38 group to review and report on strategies to improve the dialogue
 39 between patients and health care professionals regarding risk factors
 40 for breast cancer and breast imaging options. The work group shall
 41 review breast imaging standards, the federal Mammography Quality
 42 Standards Act and breast imaging results protocols, and shall
 43 recommend strategies to improve the dialogue between patients and
 44 health care professionals regarding breast density and breast
 45 imaging options.

46 b. The department shall invite to participate in the work group
 47 representatives of patient advocacy groups and health care

1 professionals' organizations. The work group shall organize as
2 soon as practicable following the appointment of its members. The
3 members of the work group shall serve without compensation, but
4 shall be reimbursed for necessary expenses incurred in the
5 performance of their duties and within the limits of funds available
6 to the work group.

7 c. The work group shall be entitled to call to its assistance and
8 avail itself of the services of the employees of any State, county, or
9 municipal department, board, bureau, commission, or agency as the
10 work group may require and as may be available to the work group
11 for its purposes.

12 d. The work group shall report its findings and
13 recommendations to the Governor, and to the Legislature pursuant
14 to section 2 of P.L.1991, c.164 (C.52:14-19.1), along with any
15 legislative bills that it desires to recommend for adoption by the
16 Legislature, on an annual basis. The work group shall submit its
17 first report no later than 12 months after the initial meeting of the
18 work group.⁶

19
20 ⁵[12.] ⁶[14.⁵] 15.⁶ This act shall take effect on the first day of
21 the fourth month next following the date of enactment. Sections 1
22 through 9 of this act shall apply to all contracts and policies that are
23 delivered, issued, executed, or renewed or approved for issuance or
24 renewal in this State on or after the effective date. The
25 ⁴Commissioner of Banking and Insurance and the⁴ Commissioner
26 of Health ⁴[and Senior Services]⁴ may take such anticipatory
27 administrative action in advance thereof as shall be necessary for
28 the implementation of ⁴[section 10 of]⁴ this act.

29
30
31
32
33 _____
34 Requires insurers to cover breast evaluations and other additional
35 medically necessary testing under certain circumstances and
36 requires certain mammogram reports to contain information on
breast density.

SENATE, No. 792

STATE OF NEW JERSEY
215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Requires insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates dense breast tissue and requires mammogram reports to contain information on breast density.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning mammograms, amending P.L.1991, c.279 and
2 P.L.2004, c.86, and supplementing Title 26 of the Revised
3 Statutes.

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.1991, c.279 (C.17:48-6g) is amended to
9 read as follows:

10 1. a. No group or individual hospital service corporation
11 contract providing hospital or medical expense benefits shall be
12 delivered, issued, executed, or renewed in this State or approved for
13 issuance or renewal in this State by the Commissioner of Banking
14 and Insurance, on or after the effective date of this act, unless the
15 contract provides benefits to any subscriber or other person covered
16 thereunder for expenses incurred in conducting:

17 (1) one baseline mammogram examination for women who are
18 at least 35 but less than 40 years of age; a mammogram examination
19 every year for women age 40 and over; and, in the case of a woman
20 who is under 40 years of age and has a family history of breast
21 cancer or other breast cancer risk factors, a mammogram
22 examination at such age and intervals as deemed medically
23 necessary by the woman's health care provider; and

24 (2) comprehensive ultrasound screening of an entire breast or
25 breasts if a mammogram demonstrates heterogeneous or dense
26 breast tissue based on the Breast Imaging Reporting and Data
27 System established by the American College of Radiology or if a
28 woman is believed to be at increased risk for breast cancer due to
29 family history or prior personal history of breast cancer, positive
30 genetic testing, or other indications as determined by a woman's
31 physician or advanced practice nurse.

32 b. These benefits shall be provided to the same extent as for
33 any other sickness under the contract.

34 c. The provisions of this section shall apply to all contracts in
35 which the hospital service corporation has reserved the right to
36 change the premium.

37 (cf: P.L.2004, c.86, s.1)

38
39 2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to
40 read as follows:

41 2. a. No group or individual medical service corporation
42 contract providing hospital or medical expense benefits shall be
43 delivered, issued, executed, or renewed in this State or approved for
44 issuance or renewal in this State by the Commissioner of Banking
45 and Insurance, on or after the effective date of this act, unless the

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

Matter underlined thus is new matter.

1 contract provides benefits to any subscriber or other person covered
2 thereunder for expenses incurred in conducting:

3 (1) one baseline mammogram examination for women who are
4 at least 35 but less than 40 years of age; a mammogram examination
5 every year for women age 40 and over; and, in the case of a woman
6 who is under 40 years of age and has a family history of breast
7 cancer or other breast cancer risk factors, a mammogram
8 examination at such age and intervals as deemed medically
9 necessary by the woman's health care provider; and

10 (2) comprehensive ultrasound screening of an entire breast or
11 breasts if a mammogram demonstrates heterogeneous or dense
12 breast tissue based on the Breast Imaging Reporting and Data
13 System established by the American College of Radiology or if a
14 woman is believed to be at increased risk for breast cancer due to
15 family history or prior personal history of breast cancer, positive
16 genetic testing, or other indications as determined by a woman's
17 physician or advanced practice nurse.

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

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

23 (cf: P.L.2004, c.86, s.2)

24
25 3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to
26 read as follows:

27 3. a. No group or individual health service corporation
28 contract providing hospital or medical expense benefits shall be
29 delivered, issued, executed, or renewed in this State or approved for
30 issuance or renewal in this State by the Commissioner of Banking
31 and Insurance, on or after the effective date of this act, unless the
32 contract provides benefits to any subscriber or other person covered
33 thereunder for expenses incurred in conducting:

34 (1) one baseline mammogram examination for women who are
35 at least 35 but less than 40 years of age; a mammogram examination
36 every year for women age 40 and over; and, in the case of a woman
37 who is under 40 years of age and has a family history of breast
38 cancer or other breast cancer risk factors, a mammogram
39 examination at such age and intervals as deemed medically
40 necessary by the woman's health care provider; and

41 (2) comprehensive ultrasound screening of an entire breast or
42 breasts if a mammogram demonstrates heterogeneous or dense
43 breast tissue based on the Breast Imaging Reporting and Data
44 System established by the American College of Radiology or if a
45 woman is believed to be at increased risk for breast cancer due to
46 family history or prior personal history of breast cancer, positive

1 genetic testing, or other indications as determined by a woman's
2 physician or advanced practice nurse.

3 b. These benefits shall be provided to the same extent as for
4 any other sickness under the contract.

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

8 (cf: P.L.2004, c.86, s.3)

9

10 4. Section 4 of P.L.1991, c.279 (C.17B:26-2.1e) is amended to
11 read as follows:

12 4. a. No individual health insurance policy providing hospital
13 or medical expense benefits shall be delivered, issued, executed, or
14 renewed in this State or approved for issuance or renewal in this
15 State by the Commissioner of Banking and Insurance, on or after
16 the effective date of this act, unless the policy provides benefits to
17 any named insured or other person covered thereunder for expenses
18 incurred in conducting:

19 (1) one baseline mammogram examination for women who are
20 at least 35 but less than 40 years of age; a mammogram examination
21 every year for women age 40 and over; and, in the case of a woman
22 who is under 40 years of age and has a family history of breast
23 cancer or other breast cancer risk factors, a mammogram
24 examination at such age and intervals as deemed medically
25 necessary by the woman's health care provider; and

26 (2) comprehensive ultrasound screening of an entire breast or
27 breasts if a mammogram demonstrates heterogeneous or dense
28 breast tissue based on the Breast Imaging Reporting and Data
29 System established by the American College of Radiology or if a
30 woman is believed to be at increased risk for breast cancer due to
31 family history or prior personal history of breast cancer, positive
32 genetic testing, or other indications as determined by a woman's
33 physician or advanced practice nurse.

34 b. These benefits shall be provided to the same extent as for
35 any other sickness under the policy.

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

38 (cf: P.L.2004, c.86, s.4)

39

40 5. Section 5 of P.L.1991, c.279 (C.17B:27-46.1f) is amended to
41 read as follows:

42 5. a. No group health insurance policy providing hospital or
43 medical expense benefits shall be delivered, issued, executed, or
44 renewed in this State or approved for issuance or renewal in this
45 State by the Commissioner of Banking and Insurance, on or after
46 the effective date of this act, unless the policy provides benefits to

1 any named insured or other person covered thereunder for expenses
2 incurred in conducting:

3 (1) one baseline mammogram examination for women who are
4 at least 35 but less than 40 years of age; a mammogram examination
5 every year for women age 40 and over; and, in the case of a woman
6 who is under 40 years of age and has a family history of breast
7 cancer or other breast cancer risk factors, a mammogram
8 examination at such age and intervals as deemed medically
9 necessary by the woman's health care provider; and

10 (2) comprehensive ultrasound screening of an entire breast or
11 breasts if a mammogram demonstrates heterogeneous or dense
12 breast tissue based on the Breast Imaging Reporting and Data
13 System established by the American College of Radiology or if a
14 woman is believed to be at increased risk for breast cancer due to
15 family history or prior personal history of breast cancer, positive
16 genetic testing, or other indications as determined by a woman's
17 physician or advanced practice nurse.

18 b. These benefits shall be provided to the same extent as for
19 any other sickness under the policy.

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

22 (cf: P.L.2004, c.86, s.5)

23

24 6. Section 7 of P.L.2004, c.86 (C.17B:27A-7.10) is amended to
25 read as follows:

26 7. a. Every individual health benefits plan that is delivered,
27 issued, executed, or renewed in this State pursuant to P.L.1992,
28 c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in
29 this State, on or after the effective date of this act, shall provide
30 benefits to any woman covered thereunder for expenses incurred in
31 conducting:

32 (1) one baseline mammogram examination for women who are
33 at least 35 but less than 40 years of age; a mammogram examination
34 every year for women age 40 and over; and, in the case of a woman
35 who is under 40 years of age and has a family history of breast
36 cancer or other breast cancer risk factors, a mammogram
37 examination at such age and intervals as deemed medically
38 necessary by the woman's health care provider; and

39 (2) comprehensive ultrasound screening of an entire breast or
40 breasts if a mammogram demonstrates heterogeneous or dense
41 breast tissue based on the Breast Imaging Reporting and Data
42 System established by the American College of Radiology or if a
43 woman is believed to be at increased risk for breast cancer due to
44 family history or prior personal history of breast cancer, positive
45 genetic testing, or other indications as determined by a woman's
46 physician or advanced practice nurse.

1 **b.** The benefits shall be provided to the same extent as for any
2 other medical condition under the health benefits plan.

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

6 (cf: P.L.2004, c.86, s.7)

7

8 7. Section 8 of P.L.2004, c.86 (C.17B:27A-19.13) is amended
9 to read as follows:

10 8. **a.** Every small employer health benefits plan that is
11 delivered, issued, executed, or renewed in this State pursuant to
12 P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or
13 renewal in this State, on or after the effective date of this act, shall
14 provide benefits to any woman covered thereunder for expenses
15 incurred in conducting:

16 (1) one baseline mammogram examination for women who are
17 at least 35 but less than 40 years of age; a mammogram examination
18 every year for women age 40 and over; and, in the case of a woman
19 who is under 40 years of age and has a family history of breast
20 cancer or other breast cancer risk factors, a mammogram
21 examination at such age and intervals as deemed medically
22 necessary by the woman's health care provider; and

23 (2) comprehensive ultrasound screening of an entire breast or
24 breasts if a mammogram demonstrates heterogeneous or dense
25 breast tissue based on the Breast Imaging Reporting and Data
26 System established by the American College of Radiology or if a
27 woman is believed to be at increased risk for breast cancer due to
28 family history or prior personal history of breast cancer, positive
29 genetic testing, or other indications as determined by a woman's
30 physician or advanced practice nurse.

31 **b.** The benefits shall be provided to the same extent as for any
32 other medical condition under the health benefits plan.

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

36 (cf: P.L.2004, c.86, s.8)

37

38 8. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
39 read as follows:

40 6. **a.** Notwithstanding any provision of law to the contrary, a
41 certificate of authority to establish and operate a health maintenance
42 organization in this State shall not be issued or continued by the
43 Commissioner of Health and Senior Services on or after the
44 effective date of this act unless the health maintenance organization
45 provides health care services to any enrollee for the conduct of:

46 (1) one baseline mammogram examination for women who are
47 at least 35 but less than 40 years of age; a mammogram examination

1 every year for women age 40 and over; and, in the case of a woman
2 who is under 40 years of age and has a family history of breast
3 cancer or other breast cancer risk factors, a mammogram
4 examination at such age and intervals as deemed medically
5 necessary by the woman's health care provider; and

6 (2) comprehensive ultrasound screening of an entire breast or
7 breasts if a mammogram demonstrates heterogeneous or dense
8 breast tissue based on the Breast Imaging Reporting and Data
9 System established by the American College of Radiology or if a
10 woman is believed to be at increased risk for breast cancer due to
11 family history or prior personal history of breast cancer, positive
12 genetic testing, or other indications as determined by a woman's
13 physician or advanced practice nurse.

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

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

19 (cf: P.L.2004, c.86, s.6)

20

21 9. Section 9 of P.L.2004, c.86 (C.52:14-17.29i) is amended to
22 read as follows:

23 9. a. The State Health Benefits Commission shall provide
24 benefits to each person covered under the State Health Benefits
25 Program for expenses incurred in conducting:

26 (1) one baseline mammogram examination for women who are
27 at least 35 but less than 40 years of age; a mammogram examination
28 every year for women age 40 and over; and, in the case of a woman
29 who is under 40 years of age and has a family history of breast
30 cancer or other breast cancer risk factors, a mammogram
31 examination at such age and intervals as deemed medically
32 necessary by the woman's health care provider; and

33 (2) comprehensive ultrasound screening of an entire breast or
34 breasts if a mammogram demonstrates heterogeneous or dense
35 breast tissue based on the Breast Imaging Reporting and Data
36 System established by the American College of Radiology or if a
37 woman is believed to be at increased risk for breast cancer due to
38 family history or prior personal history of breast cancer, positive
39 genetic testing, or other indications as determined by a woman's
40 physician or advanced practice nurse.

41 b. The benefits shall be provided to the same extent as for any
42 other medical condition under the contract.

43 (cf: P.L.2004, c.86, s.9)

44

45 10. (New section) Each mammography report provided to a
46 patient shall include information about breast density, based on the
47 Breast Imaging Reporting and Data System established by the

1 American College of Radiology. When applicable, the report shall
2 include the following notice: "If your mammogram demonstrates
3 that you have dense breast tissue, which could hide small
4 abnormalities, you might benefit from supplementary screening
5 tests, which can include a breast ultrasound screening or a breast
6 MRI examination, or both, depending on your individual risk
7 factors. A report of your mammography results, which contains
8 information about your breast density, has been sent to your
9 physician's office, and you should contact your physician if you
10 have any questions or concerns about this report."

11

12 11. The Commissioner of Health and Senior Services, pursuant
13 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
14 1 et seq.), shall adopt such rules and regulations as are necessary to
15 effectuate the purposes of section 10 of P.L. , c. (C.)(pending
16 before the Legislature as this bill).

17

18 12. This act shall take effect on the first day of the fourth month
19 next following the date of enactment. Sections 1 through 9 of this
20 act shall apply to all contracts and policies that are delivered,
21 issued, executed, or renewed or approved for issuance or renewal in
22 this State on or after the effective date. The Commissioner of
23 Health and Senior Services may take such anticipatory
24 administrative action in advance thereof as shall be necessary for
25 the implementation of section 10 of this act.

26

27

28

STATEMENT

29

30 This bill requires health insurers to cover comprehensive
31 ultrasound breast screening if a mammogram demonstrates dense
32 breast tissue, and also requires mammogram reports to contain
33 information on breast density.

34 The bill provides specifically as follows:

- 35 • In addition to the existing health benefits coverage requirement
36 for mammograms under State law, health insurers are to provide
37 health benefits coverage for comprehensive ultrasound screening
38 of an entire breast or breasts if a mammogram demonstrates
39 heterogeneous or dense breast tissue based on the Breast Imaging
40 Reporting and Data System established by the American College
41 of Radiology or if a woman is believed to be at increased risk for
42 breast cancer due to family history or prior personal history of
43 breast cancer, positive genetic testing, or other indications as
44 determined by a woman's physician or advanced practice nurse.
- 45 • The provisions of the bill apply to: health, hospital and medical
46 service corporations; commercial individual and group health
47 insurers; health maintenance organizations; health benefits plans

- 1 issued pursuant to the New Jersey Individual Health Coverage
2 and Small Employer Health Benefits Programs; and the State
3 Health Benefits Program (which by law requires coverage under
4 the School Employees' Health Benefits Program as well).
- 5 • The insurance coverage requirement takes effect on the first day
6 of the fourth month following enactment of the bill and applies to
7 all health insurance contracts and policies that are delivered,
8 issued, executed, or renewed or approved for issuance or renewal
9 in this State on or after the effective date.
 - 10 • In addition, the bill requires that each mammography report
11 provided to a patient include information about breast density,
12 based on the Breast Imaging Reporting and Data System
13 established by the American College of Radiology. (Federal law
14 requires a mammography facility to provide a mammography
15 report containing the imaging results to the patient and the
16 patient's provider within 30 days of the exam.)
 - 17 • When applicable, the mammography report is to include the
18 following notice: "If your mammogram demonstrates that you
19 have dense breast tissue, which could hide small abnormalities,
20 you might benefit from supplementary screening tests, which can
21 include a breast ultrasound screening or a breast MRI
22 examination, or both, depending on your individual risk factors.
23 A report of your mammography results, which contains
24 information about your breast density, has been sent to your
25 physician's office, and you should contact your physician if you
26 have any questions or concerns about this report."
- 27 The need for this bill is predicated on the following facts:
- 28 -- Two-thirds of pre-menopausal and one fourth of post-
29 menopausal women have dense breast tissue, and many do not even
30 know it;
 - 31 -- Cancer is five times more likely in women with extremely
32 dense breasts;
 - 33 -- A mammogram will detect only about 48 percent of tumors in
34 women with dense breast tissue, and so the rest will elude early
35 detection;
 - 36 -- Breast density is one of the strongest predictors of the failure
37 of mammography screening to detect cancer;
 - 38 -- Cancer recurrence is four times more likely in women with
39 dense breasts; and
 - 40 -- A May, 2010 national survey conducted by Harris Interactive
41 found that 95 percent of women ages 40 and older did not know
42 their breast density, and nearly 90 percent did not know that breast
43 density increases the risk of developing breast cancer.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 792

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 2012

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 792.

This bill, with committee amendments, requires health insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue, and also requires certain mammogram reports to contain information on breast density.

The bill, as amended, provides specifically as follows:

- In addition to the existing health benefits coverage requirement for mammograms under State law, health insurers are to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data System established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practice nurse.
- The provisions of the bill apply to: health, hospital and medical service corporations; commercial individual and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; and the State Health Benefits Program (which by law requires coverage under the School Employees' Health Benefits Program as well).
- The insurance coverage requirement takes effect on the first day of the fourth month following enactment of the bill and applies to all health insurance contracts and policies that are delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the effective date.

In addition, if a patient's mammogram demonstrates heterogeneous or extremely dense breast tissue, the bill requires the mammogram report to include information about breast density. (Federal law requires a mammography facility to provide a mammography report

containing the imaging results to the patient and the patient's provider within 30 days of the exam.)

The mammography report is to include the following notice: "Your mammogram shows that your breast tissue is dense. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer on a mammogram and may also increase your breast cancer risk. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your doctor about your own risks for breast cancer. At that time, ask your doctor if more screening tests might be useful, based on your risk. A report of your results was sent to your physician."

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

Committee Amendments:

The committee amended the bill to:

- clarify that the requirement for health insurers to cover comprehensive ultrasound breast screening would only apply if a mammogram demonstrates heterogeneous or extremely dense breast tissue; and

- modify the language required to be included in a mammography report pursuant to section 10 of the bill and clarify that the notice is required only if a patient's mammogram demonstrates heterogeneous or extremely dense breast tissue.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 792

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 792 (1R), with committee amendments.

This bill requires health insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue, and also requires certain mammogram reports to contain information on breast density.

In addition to the existing health benefits coverage requirement for mammograms under State law, the bill requires health insurers to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data System established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practice nurse.

The provisions of the bill apply to: health, hospital and medical service corporations; commercial individual and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; and the State Health Benefits Program (which by law requires coverage under the School Employees' Health Benefits Program as well).

In addition, the bill requires the mammogram report to contain information about breast density, as specified in the bill. Federal law requires a mammography facility to provide a mammography report containing the imaging results to the patient and the patient's provider with 30 days of the exam. The bill takes effect on the first day of the fourth month following enactment and applies to all health insurance contracts and policies that are delivered, issued, executed, or renewed approved for issuance or renewal in the State on or after the effective date.

COMMITTEE AMENDMENTS:

The committee amendments clarify the statement to be included on a mammography report to state that dense breast tissue can make it harder to find cancer on a mammogram, but deletes the phrase “and may also increase your breast cancer risk.”

FISCAL IMPACT:

According to the Division of Pensions and Benefits in the Department of the Treasury, the SHBP and the SEHBP already provide coverage for comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue or if a woman is believed to be at increased risk for breast cancer under other circumstances, as specified.

FISCAL NOTE
[First Reprint]
SENATE, No. 792
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JUNE 11, 2012

SUMMARY

- Synopsis:** Requires insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates certain breast tissue and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** No impact on the State General Fund or local government funds.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
State Cost		No fiscal impact	
Local Cost		No fiscal impact	

- The Office of Legislative Services (OLS) **concurs** with the Executive fiscal estimate.
- This bill requires the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse.
- To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

BILL DESCRIPTION

Senate Bill No. 792 (1R) of 2012 requires the SHBP and the SEHBP, in addition to the existing health benefits coverage requirement for mammograms under State law, to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse. In addition, the bill requires the mammogram report to contain information about breast density, as specified in the bill. Federal law requires a mammography facility to provide a mammography report containing the imaging results to the patient and the patient's provider with 30 days of the exam. The bill takes effect on the first day of the fourth month following enactment and applies to all health insurance contracts and policies that are delivered, issued, executed, or renewed approved for issuance or renewal in the State on or after the effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the SHBP and the SEHBP already provide coverage for comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue or if a woman is believed to be at increased risk for breast cancer under other circumstances, as specified.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

Section: State Government
Analyst: Kimberly McCord Clemmensen
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[Second Reprint]
SENATE, No. 792

with Senate Floor Amendments
(Proposed by Senator WEINBERG)

ADOPTED: JUNE 21, 2012

These Senate amendments clarify the information to be included in any mammography report sent by a mammography services provider to a patient and a patient's physician when the patient's mammogram demonstrates heterogeneous or extremely dense breast tissue. In that situation, the report must state that dense breast tissue "may also increase your breast cancer risk," in addition to stating that dense breast tissue can make it harder to find cancer on a mammogram.

FISCAL NOTE
[Second Reprint]
SENATE, No. 792
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JUNE 25, 2012

SUMMARY

- Synopsis:** Requires insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates certain breast tissue and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** No impact on the State General Fund or local government funds.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
State Cost		No fiscal impact	
Local Cost		No fiscal impact	

- The Office of Legislative Services (OLS) **concurs** with the Executive fiscal estimate.
- This bill requires the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse.
- To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

BILL DESCRIPTION

Senate Bill No. 792 (2R) of 2012 requires the SHBP and the SEHBP, in addition to the existing health benefits coverage requirement for mammograms under State law, to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse. In addition, the bill requires the mammogram report to contain information about breast density, as specified in the bill. Federal law requires a mammography facility to provide a mammography report containing the imaging results to the patient and the patient's provider with 30 days of the exam. The bill takes effect on the first day of the fourth month following enactment and applies to all health insurance contracts and policies that are delivered, issued, executed, or renewed approved for issuance or renewal in the State on or after the effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the SHBP and the SEHBP already provide coverage for comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue or if a woman is believed to be at increased risk for breast cancer under other circumstances, as specified.

OFFICE OF LEGISLATIVE SERVICES

The OLS **concurs** with the Executive fiscal estimate. To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

Section: State Government
Analyst: Kimberly McCord Clemmensen
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

FISCAL NOTE
[Third Reprint]
SENATE, No. 792
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: AUGUST 3, 2012

SUMMARY

- Synopsis:** Requires insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates certain breast tissue and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** No impact on the State General Fund or local government funds.
- Agencies Affected:** Division of Pensions and Benefits in the Department of the Treasury, local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
State Cost		No fiscal impact	
Local Cost		No fiscal impact	

- The Office of Legislative Services (OLS) **concurs** with the Executive fiscal estimate.
- This bill requires the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse.
- To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

BILL DESCRIPTION

Senate Bill No. 792 (3R) of 2012 requires the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP), in addition to the existing health benefits coverage requirement for mammograms under State law, to provide health benefits coverage for comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or extremely dense breast tissue based on the Breast Imaging Reporting and Data systems established by the American College of Radiology or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's physician or advanced practical nurse. In addition, the bill requires the mammogram report to contain information about breast density, as specified in the bill. Federal law requires a mammography facility to provide a mammography report containing the imaging results to the patient and the patient's provider with 30 days of the exam. The bill takes effect on the first day of the fourth month following enactment and applies to all health insurance contracts and policies that are delivered, issued, executed, or renewed approved for issuance or renewal in the State on or after the effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the SHBP and the SEHBP already provide coverage for comprehensive ultrasound breast screening if a mammogram demonstrates certain dense breast tissue or if a woman is believed to be at increased risk for breast cancer under other circumstances, as specified.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. To the extent that this type of coverage is already provided, the SHBP and the SEHBP would not incur additional costs as a result of the bill.

Section: State Government
Analyst: Kimberly McCord Clemmensen
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE, No. 792

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2013

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Senate Bill No. 792 [3R].

As amended by the committee, the bill requires health insurers to cover comprehensive ultrasound breast screening or other screening if a mammogram demonstrates heterogeneously or extremely dense breast tissue, and also requires mammogram reports to contain information on breast density.

Specifically, the bill provides that, in addition to the existing health benefits coverage requirement for mammograms under State law, health insurers are to provide health benefits coverage for comprehensive ultrasound screening, or other screening deemed medically necessary by the woman's health care provider, of an entire breast or breasts if a mammogram demonstrates heterogeneously or extremely dense breast tissue based on the Breast Imaging Reporting and Data System established by the American College of Radiology, or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's health care provider. This coverage may be subject to review of the medical necessity of the screenings if the provider has been determined by the insurer to have overutilized the coverage.

The insurance provisions of the bill apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; and the State Health Benefits Program (which by law requires coverage under the School Employees' Health Benefits Program as well).

In addition, the bill requires that providers of mammography services must, if a patient's mammogram demonstrates extremely dense breast tissue, include the following information, at a minimum, in the mammography report sent to the patient and the patient's physician (required by federal law): "Your mammogram shows that

your breast tissue is dense as determined by the Breast Imaging Reporting and Data System established by the American College of Radiology. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with a risk factor for breast cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your health care provider about your own risks for breast cancer. At that time, ask your health care provider if more screening tests might be useful, based on your risk. A report of your results was sent to your physician.”

The bill takes effect on the first day of the fourth month following enactment of the bill. The insurance provisions apply to all health insurance contracts and policies that are delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the effective date.

As reported by the committee, this bill is identical to Assembly Bill No. 2022 ACA (Singleton/Benson/Johnson/Lampitt/Quijano/Vainieri Huttle), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments to the bill require coverage of screening other than comprehensive ultrasound screening that is deemed medically necessary by the woman’s health care provider.

The amendments also clarify that the required coverage only applies after a baseline mammogram examination.

The amendments further provide that the coverage of comprehensive ultrasound screening or other screening may be subject to utilization review, including periodic review, by the insurer of the medical necessity of the comprehensive ultrasound screenings or other screenings if the provider has been determined by the insurer to have overutilized the coverage.

The amendments modify the language required to be included in a mammography report to make clarifications regarding the significance of dense breast tissue and to remove language indicating that dense breast tissue may increase breast cancer risk, replacing it with language indicating that dense breast tissue may be associated with a risk factor for breast cancer.

Finally, the amendments make several grammatical and technical changes, and update references to the Commissioner of Health pursuant to current law.

MINORITY STATEMENT

By Assemblywomen Handlin, Angelini, and Munoz and
Assemblyman Peterson

The sponsors of this bill should be commended for their efforts to educate women about dense breast tissue and to ensure they receive the appropriate health care services. However, for the following reasons we cannot support the legislation before us today:

- The bill shifts the responsibility for informing the patient about breast density from a radiologist, who has expertise in this area, to the patient's primary care provider;
- The bill establishes a medical standard for ultrasound screenings, for which there is no consensus in the medical community as to the medical benefit;
- The language in the bill is unclear as to what the most appropriate supplemental screening modalities should be for women with dense breast tissue, leaving physicians with no guidance when to prescribe these procedures;
- There was an absence of testimony concerning women being denied supplemental screenings if prescribed by a physician due to dense breast tissue;
- The bill interferes with the sacrosanct patient-physician relationship and attempts to supplant a physician's medical advice with legislative dictates; and
- The bill has not yet been referred to the Mandated Health Benefits Advisory Commission, which was statutorily established to provide an objective, independent analysis of the medical, financial, and social impacts of proposed health insurance benefit mandates. The committee would have benefitted from the information provided by the commission.

Again, we strongly support the bill's secondary objective to raise awareness about breast density, but at the present time, there remain many outstanding medical issues that need to be addressed. Therefore, we are withholding our support for this legislation at this time.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Fourth Reprint] **SENATE, No. 792**

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2013

The Assembly Appropriations Committee reports favorably Senate Bill No. 792 (4R), with committee amendments.

As amended, the bill requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances, requires mammography reports sent to patients and patients' physicians to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing deemed medically necessary by a patient's health care provider, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient's health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing, if the health care provider has been determined by the insurer to have overutilized the required coverage.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance

organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill provides the requirements for coverage also apply to the State Health Benefits Program, which by law requires similar health benefits coverage under the School Employees' Health Benefits Program.

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and physicians, if a patient's mammogram demonstrates extremely dense breast tissue based on the Breast Imaging Reporting and Data System. The bill provides that the information on breast density must include the following statement: "Your mammogram shows that your breast tissue is extremely dense as determined by the Breast Imaging Reporting and Data System established by the American College of Radiology. Dense breast tissue is very common and is not abnormal. However, extremely dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with a risk factor for cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your health care provider about this and other risks for breast cancer that pertain to your personal medical history. A report of your results was sent to your physician."

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient's health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient's health care provider regarding the patient's risks for breast cancer.

The bill authorizes the Commissioner of Health to adopt rules and regulations necessary to effectuate the requirements that pertain to breast density information included in mammography reports sent to patients and physicians. The bill provides that any rules and regulations adopted by the commissioner must be adopted in accordance with the "Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.).

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date. The bill authorizes the Commissioner of Banking and Insurance and the Commissioner of Health to take anticipatory administrative actions prior to the effective date of the bill.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 2022 (2R), which also was amended and reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the State to incur certain costs as a result of the additional coverage that may be required by the State Health Benefits Program and the School Employees' Health Benefits Program under the bill. However, the OLS lacks sufficient information regarding the additional breast screening and diagnostic testing currently covered by insurance, the cost of the additional screening, and the number of covered persons that may be eligible to undergo the additional screening to quantify the potential cost to the State.

COMMITTEE AMENDMENTS:

The amendments clarify the additional types of breast screening and diagnostic testing required to be covered by health insurers, and the conditions under which the additional screening and testing must be covered.

The amendments revise the information on breast density required to be included in mammography reports sent to patients and physicians by providers of mammography services, and stipulate that the additional information provided in mammography reports will not impose a standard of care obligation on the patient's health care provider.

The amendments direct the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

The amendments incorporate gender-neutral language to replace references to woman and woman's health care provider.

FISCAL NOTE
[Fifth Reprint]
SENATE, No. 792
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JULY 5, 2013

SUMMARY

- Synopsis:** Requires insurers to cover breast evaluations and other additional medically necessary testing under certain circumstances and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** Expenditure Increase to the State General Fund and local government funds.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
State Cost	Unknown – See comments below.		
Local Cost	Unknown – See comments below.		

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill requires health insurers to cover breast evaluations and other medically necessary testing such as ultrasound evaluation, a magnetic resonance imaging scan (MRI), a three-dimensional (3-D) mammography, or other additional testing under certain circumstances, requires certain mammogram reports to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.
- According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP). Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to those procedures named in the bill.

- However, according to the Office of Management and Budget, this bill also stipulates that coverage for “other additional testing deemed medically necessary by the patient’s health care provider” is required. This new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient’s health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

BILL DESCRIPTION

Senate Bill No. 792 (5R) of 2012 requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances, requires mammography reports sent to patients and patients’ physicians to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing deemed medically necessary by a patient’s health care provider, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient’s health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing, if the health care provider has been determined by the insurer to have overutilized the required coverage.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill’s requirements for coverage also apply to the State Health Benefits Program; by law, similar health benefits coverage is required under the School Employees’ Health Benefits Program;

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and physicians, if a patient’s mammogram demonstrates extremely dense breast tissue based on the Breast Imaging Reporting and Data System.

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient’s health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient’s health care provider regarding the patient’s risks for breast cancer.

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the SHBP and the SEHBP. Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to the procedures named in the bill. The division also mentioned that the consultants to the SHBP/SEHBP reviewed the amendments to this bill and have determined that it does not specifically provide coverage for medical procedures that are not already covered by the plan. The consultants did express some concern that the term "other additional testing" is very broad.

According to the Office of Management and Budget, this bill stipulates that coverage for "other additional testing deemed medically necessary by the patient's health care provider" is required. Hence, this new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient's health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. The OLS notes that other breast cancer screenings, as identified by the American Cancer Society, include, but are not limited to, ductograms, nipple discharge examinations, nipple aspiration, and ductal lavage, and other experimental imaging tests currently being developed such as optical imaging tests using light transmission, molecular breast imaging (MBI) tests using nuclear technology, and positron emission mammography tests (PET) using radioactive tracer isotopes. While ultrasounds, MRIs, and 3D Mammograms are covered under the SHBP/SEHBP as the consultants note, the bill does not specifically provide coverage for medical procedures that are not already covered by the plans. According to the Division of Pensions and Benefits, coverage under the SHBP/SEHBP is dependent on "standard medical necessity" to be considered acceptable for insurance reimbursement. As such, the OLS cannot determine the potential additional costs associated with requiring coverage for other testing deemed medically necessary by the woman's health care provider if after a baseline mammogram examination a patient is believed to be at increased risk for breast cancer. This is because it is not known how many and which additional other tests

will be deemed medically necessary and prescribed by the patients' healthcare providers and if, at this time, those tests are covered under the SHBP/SEHBP.

Section: State Government

*Analyst: Kimberly McCord Clemmensen
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[Fifth Reprint]
SENATE, No. 792

with Assembly Floor Amendments
(Proposed by Assemblyman SINGLETON)

ADOPTED: SEPTEMBER 9, 2013

These amendments permit a health insurer to subject a provider of the coverage required under this bill to utilization review. The amendments also eliminate the requirement that a health insurance carrier determine that a provider has overutilized the coverage before subjecting the provider to a utilization review.

The amendments further specify that health insurers must cover a baseline mammogram examination for a woman at age 40, rather than between the ages of 35 and 40.

The amendments also require that a letter explaining the relationship between dense breast tissue and breast cancer in clear terms accompany a mammography report to any patient that receives a mammogram, rather than only to patients whose mammograms demonstrate extremely dense breast tissue. (This letter would be in addition to, or part of, the “lay letter” that must accompany a mammogram report, as required by federal law.) The amendments revise the content of the letter to reflect that it would be sent to patients who do not have dense breast tissue, and to refer patients to the website of the American College of Radiology for more information on breast density.

Finally, the amendments require the Department of Health, in conjunction with the Medical Society of New Jersey, to establish a stakeholder work group to review and report on strategies to improve the dialogue between patients and health care professionals regarding breast density and breast imaging options. The work group is to include representatives of patient advocacy groups and health care professionals’ organizations, as invited by the department. The work group is to report its findings and recommendations to the Governor and the Legislature on an annual basis, the first report being submitted not more than 12 months after its initial meeting.

FISCAL NOTE
[Sixth Reprint]
SENATE, No. 792
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: DECEMBER 23, 2013

SUMMARY

- Synopsis:** Requires insurers to cover breast evaluations and other additional medically necessary testing under certain circumstances and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** Expenditure increase to the State General Fund and local government funds.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
State Cost		Unknown – See comments below	
Local Cost		Unknown – See comments below	

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill requires health insurers to cover breast evaluations and other testing such as ultrasound evaluation, a magnetic resonance imaging scan (MRI), a three-dimensional (3-D) mammography, or other additional testing under certain circumstances; requires certain mammogram reports to contain certain information on breast density; and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.
- According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP). Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to those procedures named in the bill.

- However, according to the Office of Management and Budget, this bill also stipulates that coverage for “other additional testing is required under certain circumstances. This new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient’s health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

BILL DESCRIPTION

Senate Bill No. 792 (6R) of 2012 requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances; requires mammography reports sent to patients and patients’ health care providers to contain certain information on breast density and to include an accompanying letter explaining the relationship between dense breast tissue and breast cancer in clear terms; requires and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill; and establishes a work group to be convened by the Department of Health to review, report, and recommend strategies to improve the dialogue between patients and their health care providers regarding breast density and imaging options.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient’s health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill’s requirements for coverage also apply to the State Health Benefits Program; by law, similar health benefits coverage is required under the School Employees’ Health Benefits Program;

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and their health care providers.

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient’s health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient’s health care provider regarding the patient’s risks for breast cancer.

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

DEPARTMENT OF HEALTH AND MEDICAL SOCIETY OF NEW JERSEY WORK GROUP The bill requires the Department of Health, with the Medical Society of New Jersey, to convene a work group to review, report on, and recommend strategies to improve the dialogue between patients and health care professionals regarding risk factors for breast density and breast imaging options. The work group is required to report its findings and recommendations to the Governor and to the Legislature. The first report must be submitted no later than 12 months after the work group's initial meeting.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the SHBP and the SEHBP. Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to the procedures named in the bill. The division also mentioned that the consultants to the SHBP/SEHBP reviewed the amendments to this bill and have determined that it does not specifically provide coverage for medical procedures that are not already covered by the plan. The consultants did express some concern that the term "other additional testing" is very broad.

According to the Office of Management and Budget, this bill stipulates that coverage for "other additional testing" is required. Hence, this language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient's health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. The OLS notes that other breast cancer screenings, as identified by the American Cancer Society, include, but are not limited to, ductograms, nipple discharge examinations, nipple aspiration, and ductal lavage, and other experimental imaging tests currently being developed such as optical imaging tests using light transmission, molecular breast imaging (MBI) tests using nuclear technology, and positron emission mammography tests (PET) using radioactive tracer isotopes. While ultrasounds, MRIs, and 3D Mammograms are covered under the SHBP/SEHBP as the consultants note, the bill does not specifically provide coverage for medical procedures that are not already covered by the plans. According to the Division of Pensions and Benefits, coverage under the SHBP/SEHBP is

dependent on “standard medical necessity” to be considered acceptable for insurance reimbursement. As such, the OLS cannot determine the potential additional costs associated with requiring coverage for other testing if after a baseline mammogram examination a patient is believed to be at increased risk for breast cancer. This is because it is not known how many and which additional other tests will be deemed medically necessary and prescribed by the patients’ healthcare providers and if, at this time, those tests are covered under the SHBP/SEHBP.

Section: State Government

*Analyst: Kimberly McCord
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 2022

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblywoman Jimenez, Assemblyman Eustace, Assemblywoman Wagner, Assemblymen Amodeo, C.A.Brown, Assemblywoman Caride, Assemblymen Cryan, Caputo, DeAngelo, Chivukula, P.Barnes, III, Assemblywomen Jasey, Schepisi, Sumter, Riley, Assemblyman Giblin, Assemblywomen Angelini, Mosquera, Stender and Tucker

SYNOPSIS

Requires insurers to cover comprehensive ultrasound breast screening if a mammogram demonstrates dense breast tissue and requires mammogram reports to contain information on breast density.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 3/8/2013)

A2022 SINGLETON, BENSON

2

1 AN ACT concerning mammograms, amending P.L.1991, c.279 and
2 P.L.2004, c.86, and supplementing Title 26 of the Revised
3 Statutes.

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.1991, c.279 (C.17:48-6g) is amended to
9 read as follows:

10 1. a. No group or individual hospital service corporation
11 contract providing hospital or medical expense benefits shall be
12 delivered, issued, executed, or renewed in this State or approved for
13 issuance or renewal in this State by the Commissioner of Banking
14 and Insurance, on or after the effective date of this act, unless the
15 contract provides benefits to any subscriber or other person covered
16 thereunder for expenses incurred in conducting:

17 (1) one baseline mammogram examination for women who are
18 at least 35 but less than 40 years of age; a mammogram examination
19 every year for women age 40 and over; and, in the case of a woman
20 who is under 40 years of age and has a family history of breast
21 cancer or other breast cancer risk factors, a mammogram
22 examination at such age and intervals as deemed medically
23 necessary by the woman's health care provider; and

24 (2) comprehensive ultrasound screening of an entire breast or
25 breasts if a mammogram demonstrates heterogeneous or dense
26 breast tissue based on the Breast Imaging Reporting and Data
27 System established by the American College of Radiology or if a
28 woman is believed to be at increased risk for breast cancer due to
29 family history or prior personal history of breast cancer, positive
30 genetic testing, or other indications as determined by a woman's
31 physician or advanced practice nurse.

32 b. These benefits shall be provided to the same extent as for
33 any other sickness under the contract.

34 c. The provisions of this section shall apply to all contracts in
35 which the hospital service corporation has reserved the right to
36 change the premium.

37 (cf: P.L.2004, c.86, s.1)

38
39 2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to
40 read as follows:

41 2. a. No group or individual medical service corporation
42 contract providing hospital or medical expense benefits shall be
43 delivered, issued, executed, or renewed in this State or approved for
44 issuance or renewal in this State by the Commissioner of Banking

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

Matter underlined thus is new matter.

1 and Insurance, on or after the effective date of this act, unless the
2 contract provides benefits to any subscriber or other person covered
3 thereunder for expenses incurred in conducting:

4 (1) one baseline mammogram examination for women who are
5 at least 35 but less than 40 years of age; a mammogram examination
6 every year for women age 40 and over; and, in the case of a woman
7 who is under 40 years of age and has a family history of breast
8 cancer or other breast cancer risk factors, a mammogram
9 examination at such age and intervals as deemed medically
10 necessary by the woman's health care provider; and

11 (2) comprehensive ultrasound screening of an entire breast or
12 breasts if a mammogram demonstrates heterogeneous or dense
13 breast tissue based on the Breast Imaging Reporting and Data
14 System established by the American College of Radiology or if a
15 woman is believed to be at increased risk for breast cancer due to
16 family history or prior personal history of breast cancer, positive
17 genetic testing, or other indications as determined by a woman's
18 physician or advanced practice nurse.

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

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

24 (cf: P.L.2004, c.86, s.2)

25

26 3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to
27 read as follows:

28 3. a. No group or individual health service corporation
29 contract providing hospital or medical expense benefits shall be
30 delivered, issued, executed, or renewed in this State or approved for
31 issuance or renewal in this State by the Commissioner of Banking
32 and Insurance, on or after the effective date of this act, unless the
33 contract provides benefits to any subscriber or other person covered
34 thereunder for expenses incurred in conducting:

35 (1) one baseline mammogram examination for women who are
36 at least 35 but less than 40 years of age; a mammogram examination
37 every year for women age 40 and over; and, in the case of a woman
38 who is under 40 years of age and has a family history of breast
39 cancer or other breast cancer risk factors, a mammogram
40 examination at such age and intervals as deemed medically
41 necessary by the woman's health care provider; and

42 (2) comprehensive ultrasound screening of an entire breast or
43 breasts if a mammogram demonstrates heterogeneous or dense
44 breast tissue based on the Breast Imaging Reporting and Data
45 System established by the American College of Radiology or if a
46 woman is believed to be at increased risk for breast cancer due to
47 family history or prior personal history of breast cancer, positive

1 genetic testing, or other indications as determined by a woman's
2 physician or advanced practice nurse.

3 b. These benefits shall be provided to the same extent as for
4 any other sickness under the contract.

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

8 (cf: P.L.2004, c.86, s.3)

9

10 4. Section 4 of P.L.1991, c.279 (C.17B:26-2.1e) is amended to
11 read as follows:

12 4. a. No individual health insurance policy providing hospital
13 or medical expense benefits shall be delivered, issued, executed, or
14 renewed in this State or approved for issuance or renewal in this
15 State by the Commissioner of Banking and Insurance, on or after
16 the effective date of this act, unless the policy provides benefits to
17 any named insured or other person covered thereunder for expenses
18 incurred in conducting:

19 (1) one baseline mammogram examination for women who are
20 at least 35 but less than 40 years of age; a mammogram examination
21 every year for women age 40 and over; and, in the case of a woman
22 who is under 40 years of age and has a family history of breast
23 cancer or other breast cancer risk factors, a mammogram
24 examination at such age and intervals as deemed medically
25 necessary by the woman's health care provider; and

26 (2) comprehensive ultrasound screening of an entire breast or
27 breasts if a mammogram demonstrates heterogeneous or dense
28 breast tissue based on the Breast Imaging Reporting and Data
29 System established by the American College of Radiology or if a
30 woman is believed to be at increased risk for breast cancer due to
31 family history or prior personal history of breast cancer, positive
32 genetic testing, or other indications as determined by a woman's
33 physician or advanced practice nurse.

34 b. These benefits shall be provided to the same extent as for
35 any other sickness under the policy.

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

38 (cf: P.L.2004, c.86, s.4)

39

40 5. Section 5 of P.L.1991, c.279 (C.17B:27-46.1f) is amended to
41 read as follows:

42 5. a. No group health insurance policy providing hospital or
43 medical expense benefits shall be delivered, issued, executed, or
44 renewed in this State or approved for issuance or renewal in this
45 State by the Commissioner of Banking and Insurance, on or after
46 the effective date of this act, unless the policy provides benefits to

1 any named insured or other person covered thereunder for expenses
2 incurred in conducting:

3 (1) one baseline mammogram examination for women who are
4 at least 35 but less than 40 years of age; a mammogram examination
5 every year for women age 40 and over; and, in the case of a woman
6 who is under 40 years of age and has a family history of breast
7 cancer or other breast cancer risk factors, a mammogram
8 examination at such age and intervals as deemed medically
9 necessary by the woman's health care provider; and

10 (2) comprehensive ultrasound screening of an entire breast or
11 breasts if a mammogram demonstrates heterogeneous or dense
12 breast tissue based on the Breast Imaging Reporting and Data
13 System established by the American College of Radiology or if a
14 woman is believed to be at increased risk for breast cancer due to
15 family history or prior personal history of breast cancer, positive
16 genetic testing, or other indications as determined by a woman's
17 physician or advanced practice nurse.

18 b. These benefits shall be provided to the same extent as for
19 any other sickness under the policy.

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

22 (cf: P.L.2004, c.86, s.5)

23

24 6. Section 7 of P.L.2004, c.86 (C.17B:27A-7.10) is amended to
25 read as follows:

26 7. a. Every individual health benefits plan that is delivered,
27 issued, executed, or renewed in this State pursuant to P.L.1992,
28 c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in
29 this State, on or after the effective date of this act, shall provide
30 benefits to any woman covered thereunder for expenses incurred in
31 conducting:

32 (1) one baseline mammogram examination for women who are
33 at least 35 but less than 40 years of age; a mammogram examination
34 every year for women age 40 and over; and, in the case of a woman
35 who is under 40 years of age and has a family history of breast
36 cancer or other breast cancer risk factors, a mammogram
37 examination at such age and intervals as deemed medically
38 necessary by the woman's health care provider; and

39 (2) comprehensive ultrasound screening of an entire breast or
40 breasts if a mammogram demonstrates heterogeneous or dense
41 breast tissue based on the Breast Imaging Reporting and Data
42 System established by the American College of Radiology or if a
43 woman is believed to be at increased risk for breast cancer due to
44 family history or prior personal history of breast cancer, positive
45 genetic testing, or other indications as determined by a woman's
46 physician or advanced practice nurse.

1 **b.** The benefits shall be provided to the same extent as for any
2 other medical condition under the health benefits plan.

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

6 (cf: P.L.2004, c.86, s.7)

7

8 7. Section 8 of P.L.2004, c.86 (C.17B:27A-19.13) is amended
9 to read as follows:

10 8. **a.** Every small employer health benefits plan that is
11 delivered, issued, executed, or renewed in this State pursuant to
12 P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or
13 renewal in this State, on or after the effective date of this act, shall
14 provide benefits to any woman covered thereunder for expenses
15 incurred in conducting:

16 (1) one baseline mammogram examination for women who are
17 at least 35 but less than 40 years of age; a mammogram examination
18 every year for women age 40 and over; and, in the case of a woman
19 who is under 40 years of age and has a family history of breast
20 cancer or other breast cancer risk factors, a mammogram
21 examination at such age and intervals as deemed medically
22 necessary by the woman's health care provider; and

23 (2) comprehensive ultrasound screening of an entire breast or
24 breasts if a mammogram demonstrates heterogeneous or dense
25 breast tissue based on the Breast Imaging Reporting and Data
26 System established by the American College of Radiology or if a
27 woman is believed to be at increased risk for breast cancer due to
28 family history or prior personal history of breast cancer, positive
29 genetic testing, or other indications as determined by a woman's
30 physician or advanced practice nurse.

31 **b.** The benefits shall be provided to the same extent as for any
32 other medical condition under the health benefits plan.

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

36 (cf: P.L.2004, c.86, s.8)

37

38 8. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
39 read as follows:

40 6. **a.** Notwithstanding any provision of law to the contrary, a
41 certificate of authority to establish and operate a health maintenance
42 organization in this State shall not be issued or continued by the
43 Commissioner of Health and Senior Services on or after the
44 effective date of this act unless the health maintenance organization
45 provides health care services to any enrollee for the conduct of:

46 (1) one baseline mammogram examination for women who are
47 at least 35 but less than 40 years of age; a mammogram examination

1 every year for women age 40 and over; and, in the case of a woman
2 who is under 40 years of age and has a family history of breast
3 cancer or other breast cancer risk factors, a mammogram
4 examination at such age and intervals as deemed medically
5 necessary by the woman's health care provider; and

6 (2) comprehensive ultrasound screening of an entire breast or
7 breasts if a mammogram demonstrates heterogeneous or dense
8 breast tissue based on the Breast Imaging Reporting and Data
9 System established by the American College of Radiology or if a
10 woman is believed to be at increased risk for breast cancer due to
11 family history or prior personal history of breast cancer, positive
12 genetic testing, or other indications as determined by a woman's
13 physician or advanced practice nurse.

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

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

19 (cf: P.L.2004, c.86, s.6)

20

21 9. Section 9 of P.L.2004, c.86 (C.52:14-17.29i) is amended to
22 read as follows:

23 9. a. The State Health Benefits Commission shall provide
24 benefits to each person covered under the State Health Benefits
25 Program for expenses incurred in conducting:

26 (1) one baseline mammogram examination for women who are
27 at least 35 but less than 40 years of age; a mammogram examination
28 every year for women age 40 and over; and, in the case of a woman
29 who is under 40 years of age and has a family history of breast
30 cancer or other breast cancer risk factors, a mammogram
31 examination at such age and intervals as deemed medically
32 necessary by the woman's health care provider; and

33 (2) comprehensive ultrasound screening of an entire breast or
34 breasts if a mammogram demonstrates heterogeneous or dense
35 breast tissue based on the Breast Imaging Reporting and Data
36 System established by the American College of Radiology or if a
37 woman is believed to be at increased risk for breast cancer due to
38 family history or prior personal history of breast cancer, positive
39 genetic testing, or other indications as determined by a woman's
40 physician or advanced practice nurse.

41 b. The benefits shall be provided to the same extent as for any
42 other medical condition under the contract.

43 (cf: P.L.2004, c.86, s.9)

44

45 10. (New section) Each mammography report provided to a
46 patient shall include information about breast density, based on the
47 Breast Imaging Reporting and Data System established by the

1 American College of Radiology. When applicable, the report shall
2 include the following notice: "If your mammogram demonstrates
3 that you have dense breast tissue, which could hide small
4 abnormalities, you might benefit from supplementary screening
5 tests, which can include a breast ultrasound screening or a breast
6 MRI examination, or both, depending on your individual risk
7 factors. A report of your mammography results, which contains
8 information about your breast density, has been sent to your
9 physician's office, and you should contact your physician if you
10 have any questions or concerns about this report."

11

12 11. The Commissioner of Health and Senior Services, pursuant
13 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
14 1 et seq.), shall adopt such rules and regulations as are necessary to
15 effectuate the purposes of section 10 of P.L. , c. (C.)
16 (pending before the Legislature as this bill).

17

18 12. This act shall take effect on the first day of the fourth month
19 next following the date of enactment. Sections 1 through 9 of this
20 act shall apply to all contracts and policies that are delivered,
21 issued, executed, or renewed or approved for issuance or renewal in
22 this State on or after the effective date. The Commissioner of
23 Health and Senior Services may take such anticipatory
24 administrative action in advance thereof as shall be necessary for
25 the implementation of section 10 of this act.

26

27

28

STATEMENT

29

30 This bill requires health insurers to cover comprehensive
31 ultrasound breast screening if a mammogram demonstrates dense
32 breast tissue, and also requires mammogram reports to contain
33 information on breast density.

34 The bill provides specifically as follows:

- 35 • In addition to the existing health benefits coverage requirement
36 for mammograms under State law, health insurers are to provide
37 health benefits coverage for comprehensive ultrasound screening
38 of an entire breast or breasts if a mammogram demonstrates
39 heterogeneous or dense breast tissue based on the Breast Imaging
40 Reporting and Data System established by the American College
41 of Radiology or if a woman is believed to be at increased risk for
42 breast cancer due to family history or prior personal history of
43 breast cancer, positive genetic testing, or other indications as
44 determined by a woman's physician or advanced practice nurse.
- 45 • The provisions of the bill apply to: health, hospital and medical
46 service corporations; commercial individual and group health
47 insurers; health maintenance organizations; health benefits plans

- 1 issued pursuant to the New Jersey Individual Health Coverage
2 and Small Employer Health Benefits Programs; and the State
3 Health Benefits Program (which by law requires coverage under
4 the School Employees' Health Benefits Program as well).
- 5 • The insurance coverage requirement takes effect on the first day
6 of the fourth month following enactment of the bill and applies to
7 all health insurance contracts and policies that are delivered,
8 issued, executed, or renewed or approved for issuance or renewal
9 in this State on or after the effective date.
 - 10 • In addition, the bill requires that each mammography report
11 provided to a patient include information about breast density,
12 based on the Breast Imaging Reporting and Data System
13 established by the American College of Radiology. (Federal law
14 requires a mammography facility to provide a mammography
15 report containing the imaging results to the patient and the
16 patient's provider within 30 days of the exam.)
 - 17 • When applicable, the mammography report is to include the
18 following notice: "If your mammogram demonstrates that you
19 have dense breast tissue, which could hide small abnormalities,
20 you might benefit from supplementary screening tests, which can
21 include a breast ultrasound screening or a breast MRI
22 examination, or both, depending on your individual risk factors.
23 A report of your mammography results, which contains
24 information about your breast density, has been sent to your
25 physician's office, and you should contact your physician if you
26 have any questions or concerns about this report."
- 27 The need for this bill is predicated on the following facts:
- 28 -- Two-thirds of pre-menopausal and one fourth of post-
29 menopausal women have dense breast tissue, and many do not even
30 know it;
 - 31 -- Cancer is five times more likely in women with extremely
32 dense breasts;
 - 33 -- A mammogram will detect only about 48 percent of tumors in
34 women with dense breast tissue, and so the rest will elude early
35 detection;
 - 36 -- Breast density is one of the strongest predictors of the failure
37 of mammography screening to detect cancer;
 - 38 -- Cancer recurrence is four times more likely in women with
39 dense breasts; and
 - 40 -- A May, 2010 national survey conducted by Harris Interactive
41 found that 95 percent of women ages 40 and older did not know
42 their breast density, and nearly 90 percent did not know that breast
43 density increases the risk of developing breast cancer.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2022

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2013

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 2022.

As amended by the committee, the bill requires health insurers to cover comprehensive ultrasound breast screening or other screening if a mammogram demonstrates heterogeneously or extremely dense breast tissue, and also requires mammogram reports to contain information on breast density.

Specifically, the bill provides that, in addition to the existing health benefits coverage requirement for mammograms under State law, health insurers are to provide health benefits coverage for comprehensive ultrasound screening, or other screening deemed medically necessary by the woman's health care provider, of an entire breast or breasts if a mammogram demonstrates heterogeneously or extremely dense breast tissue based on the Breast Imaging Reporting and Data System established by the American College of Radiology, or if a woman is believed to be at increased risk for breast cancer due to family history or prior personal history of breast cancer, positive genetic testing, or other indications as determined by a woman's health care provider. This coverage may be subject to review of the medical necessity of the screenings if the provider has been determined by the insurer to have overutilized the coverage.

The insurance provisions of the bill apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; and the State Health Benefits Program (which by law requires coverage under the School Employees' Health Benefits Program as well).

In addition, the bill requires that providers of mammography services must, if a patient's mammogram demonstrates extremely dense breast tissue, include the following information, at a minimum, in the mammography report sent to the patient and the patient's physician (required by federal law): "Your mammogram shows that your breast tissue is dense as determined by the Breast Imaging Reporting and Data System established by the American College of

Radiology. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with a risk factor for breast cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your health care provider about your own risks for breast cancer. At that time, ask your health care provider if more screening tests might be useful, based on your risk. A report of your results was sent to your physician.”

The bill takes effect on the first day of the fourth month following enactment of the bill. The insurance provisions apply to all health insurance contracts and policies that are delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the effective date.

As reported by the committee, this bill is identical to Senate Bill No. 792 (3R) ACA (Weinberg/Gill), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments to the bill require coverage of screening other than comprehensive ultrasound screening that is deemed medically necessary by the woman’s health care provider.

The amendments also clarify that the required coverage only applies after a baseline mammogram examination, and provide that the required coverage would apply if the mammogram demonstrates heterogeneously or extremely dense breast tissue.

The amendments further provide that the coverage of comprehensive ultrasound screening or other screening may be subject to utilization review, including periodic review, by the insurer of the medical necessity of the comprehensive ultrasound screenings or other screening if the provider has been determined by the insurer to have overutilized the coverage.

The amendments modify the language required to be included in a mammography report pursuant to section 10 of the bill and clarify that the notice is required only if a patient’s mammogram demonstrates extremely dense breast tissue.

Finally, the amendments make several grammatical and technical changes.

MINORITY STATEMENT

By Assemblywomen Handlin, Angelini, and Munoz and
Assemblyman Peterson

The sponsors of this bill should be commended for their efforts to educate women about dense breast tissue and to ensure they receive

the appropriate health care services. However, for the following reasons we cannot support the legislation before us today:

- The bill shifts the responsibility for informing the patient about breast density from a radiologist, who has expertise in this area, to the patient's primary care provider;
- The bill establishes a medical standard for ultrasound screenings, for which there is no consensus in the medical community as to the medical benefit;
- The language in the bill is unclear as to what the most appropriate supplemental screening modalities should be for women with dense breast tissue, leaving physicians with no guidance when to prescribe these procedures;
- There was an absence of testimony concerning women being denied supplemental screenings if prescribed by a physician due to dense breast tissue;
- The bill interferes with the sacrosanct patient-physician relationship and attempts to supplant a physician's medical advice with legislative dictates; and
- The bill has not yet been referred to the Mandated Health Benefits Advisory Commission, which was statutorily established to provide an objective, independent analysis of the medical, financial, and social impacts of proposed health insurance benefit mandates. The committee would have benefitted from the information provided by the commission.

Again, we strongly support the bill's secondary objective to raise awareness about breast density, but at the present time, there remain many outstanding medical issues that need to be addressed. Therefore, we are withholding our support for this legislation at this time.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2022

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2013

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2022 (1R), with committee amendments.

As amended, the bill requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances, requires mammography reports sent to patients and patients' physicians to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing deemed medically necessary by a patient's health care provider, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient's health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing, if the health care provider has been determined by the insurer to have overutilized the required coverage.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance

organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill provides the requirements for coverage also apply to the State Health Benefits Program, which by law requires similar health benefits coverage under the School Employees' Health Benefits Program.

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and physicians, if a patient's mammogram demonstrates extremely dense breast tissue based on the Breast Imaging Reporting and Data System. The bill provides that the information on breast density must include the following statement: "Your mammogram shows that your breast tissue is extremely dense as determined by the Breast Imaging Reporting and Data System established by the American College of Radiology. Dense breast tissue is very common and is not abnormal. However, extremely dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with a risk factor for cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your health care provider about this and other risks for breast cancer that pertain to your personal medical history. A report of your results was sent to your physician."

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient's health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient's health care provider regarding the patient's risks for breast cancer.

The bill authorizes the Commissioner of Health to adopt rules and regulations necessary to effectuate the requirements that pertain to breast density information included in mammography reports sent to patients and physicians. The bill provides that any rules and regulations adopted by the commissioner must be adopted in accordance with the "Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.).

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date. The bill authorizes the Commissioner of Banking and Insurance and the Commissioner of Health to take anticipatory administrative actions prior to the effective date of the bill.

As amended and reported by the committee, this bill is identical to Senate Bill No. 792 (5R), which also was amended and reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the State to incur certain costs as a result of the additional coverage that may be required by the State Health Benefits Program and the School Employees' Health Benefits Program under the bill. However, the OLS lacks sufficient information regarding the additional breast screening and diagnostic testing currently covered by insurance, the cost of the additional screening, and the number of covered persons that may be eligible to undergo the additional screening to quantify the potential cost to the State.

COMMITTEE AMENDMENTS:

The amendments clarify the additional types of breast screening and diagnostic testing required to be covered by health insurers, and the conditions under which the additional screening and testing must be covered.

The amendments revise the information on breast density required to be included in mammography reports sent to patients and physicians by providers of mammography services, and stipulate that the additional information provided in mammography reports will not impose a standard of care obligation on the patient's health care provider.

The amendments direct the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

The amendments incorporate gender-neutral language to replace references to woman and woman's health care provider.

FISCAL NOTE
 [Second Reprint]
ASSEMBLY, No. 2022
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JUNE 27, 2013

SUMMARY

- Synopsis:** Requires insurers to cover breast evaluations and other additional medically necessary testing under certain circumstances and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** Expenditure Increase to the State General Fund and local government funds.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
State Cost	Unknown – See comments below.		
Local Cost	Unknown – See comments below.		

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill requires health insurers to cover breast evaluations and other medically necessary testing such as ultrasound evaluation, a magnetic resonance imaging scan (MRI), a three-dimensional (3-D) mammography, or other additional testing under certain circumstances, requires certain mammogram reports to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.
- According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP). Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to those procedures named in the bill.

- However, according to the Office of Management and Budget, this bill also stipulates that coverage for “other additional testing deemed medically necessary by the patient’s health care provider” is required. This new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient’s health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

BILL DESCRIPTION

Assembly Bill No. 2022 (2R) of 2012 requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances, requires mammography reports sent to patients and patients’ physicians to contain certain information on breast density, and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing deemed medically necessary by a patient’s health care provider, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient’s health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing, if the health care provider has been determined by the insurer to have overutilized the required coverage.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill’s requirements for coverage also apply to the State Health Benefits Program; by law, similar health benefits coverage is required under the School Employees’ Health Benefits Program;

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and physicians, if a patient’s mammogram demonstrates extremely dense breast tissue based on the Breast Imaging Reporting and Data System.

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient’s health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient’s health care provider regarding the patient’s risks for breast cancer.

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the SHBP and the SEHBP. Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to the procedures named in the bill. The division also mentioned that the consultants to the SHBP/SEHBP reviewed the amendments to this bill and have determined that it does not specifically provide coverage for medical procedures that are not already covered by the plan. The consultants did express some concern that the term "other additional testing" is very broad.

According to the Office of Management and Budget, this bill stipulates that coverage for "other additional testing deemed medically necessary by the patient's health care provider" is required. Hence, this new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient's health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. The OLS notes that other breast cancer screenings, as identified by the American Cancer Society, include, but are not limited to, ductograms, nipple discharge examinations, nipple aspiration, and ductal lavage, and other experimental imaging tests currently being developed such as optical imaging tests using light transmission, molecular breast imaging (MBI) tests using nuclear technology, and positron emission mammography tests (PET) using radioactive tracer isotopes. While ultrasounds, MRIs, and 3D Mammograms are covered under the SHBP/SEHBP as the consultants note, the bill does not specifically provide coverage for medical procedures that are not already covered by the plans. According to the Division of Pensions and Benefits, coverage under the SHBP/SEHBP is dependent on "standard medical necessity" to be considered acceptable for insurance reimbursement. As such, the OLS cannot determine the potential additional costs associated with requiring coverage for other testing deemed medically necessary by the woman's health care provider if after a baseline mammogram examination a patient is believed to be at increased risk for breast cancer. This is because it is not known how many and which additional other tests

will be deemed medically necessary and prescribed by the patients' healthcare providers and if, at this time, those tests are covered under the SHBP/SEHBP.

Section: State Government

*Analyst: Kimberly McCord Clemmensen
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2022

with Assembly Floor Amendments
(Proposed by Assemblyman SINGLETON)

ADOPTED: SEPTEMBER 9, 2013

These amendments permit a health insurer to subject a provider of the coverage required under this bill to utilization review. The amendments also eliminate the requirement that a health insurance carrier determine that a provider has overutilized the coverage before subjecting the provider to a utilization review.

The amendments further specify that health insurers must cover a baseline mammogram examination for a woman at age 40, rather than between the ages of 35 and 40.

The amendments also require that a letter explaining the relationship between dense breast tissue and breast cancer in clear terms accompany a mammography report to any patient that receives a mammogram, rather than only to patients whose mammograms demonstrate extremely dense breast tissue. (This letter would be in addition to, or part of, the “lay letter” that must accompany a mammogram report, as required by federal law.) The amendments revise the content of the letter to reflect that it would be sent to patients who do not have dense breast tissue, and to refer patients to the website of the American College of Radiology for more information on breast density.

Finally, the amendments require the Department of Health, in conjunction with the Medical Society of New Jersey, to establish a stakeholder work group to review and report on strategies to improve the dialogue between patients and health care professionals regarding breast density and breast imaging options. The work group is to include representatives of patient advocacy groups and health care professionals’ organizations, as invited by the department. The work group is to report its findings and recommendations to the Governor and the Legislature on an annual basis, the first report being submitted not more than 12 months after its initial meeting.

FISCAL NOTE
 [Third Reprint]
ASSEMBLY, No. 2022
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: DECEMBER 23, 2013

SUMMARY

- Synopsis:** Requires insurers to cover breast evaluations and other additional medically necessary testing under certain circumstances and requires certain mammogram reports to contain information on breast density.
- Type of Impact:** Expenditure increase to the State General Fund and local government funds.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
State Cost	Unknown – See comments below		
Local Cost	Unknown – See comments below		

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill requires health insurers to cover breast evaluations and other testing such as ultrasound evaluation, a magnetic resonance imaging scan (MRI), a three-dimensional (3-D) mammography, or other additional testing under certain circumstances; requires certain mammogram reports to contain certain information on breast density; and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill.
- According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP). Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to those procedures named in the bill.

- However, according to the Office of Management and Budget, this bill also stipulates that coverage for “other additional testing is required under certain circumstances. This new language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient’s health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

BILL DESCRIPTION

Assembly Bill No. 2022 (3R) of 2013 requires health insurers to cover certain additional breast screenings and diagnostic testing under certain circumstances; requires mammography reports sent to patients and patients’ health care providers to contain certain information on breast density and to include an accompanying letter explaining the relationship between dense breast tissue and breast cancer in clear terms; requires and directs the Mandated Health Benefits Advisory Commission to report on the implementation and administration of the bill; and establishes a work group to be convened by the Department of Health to review, report, and recommend strategies to improve the dialogue between patients and their health care providers regarding breast density and imaging options.

REQUIRED HEALTH INSURANCE COVERAGE. The bill requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging scan, a three-dimensional mammography, or other additional testing, of an entire breast or breasts, after a baseline mammogram examination, if the mammogram demonstrates extremely dense breast tissue, if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or if the patient has additional risk factors for breast cancer. The bill provides that the additional risk factors include, but are not limited to, family history of breast cancer, prior personal history of breast cancer, positive genetic testing, extremely dense breast tissue based on the Breast Imaging Reporting and Data System, or other indications as determined by the patient’s health care provider.

The bill provides that the health benefits coverage required by the bill may be subject to review. Under the bill, the additional coverage required to be provided by health insurers may be subject to utilization review, including periodic review, by the health insurer of the medical necessity of the additional breast screening and diagnostic testing.

The bill provides that the health benefits coverage requirements apply to: health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The bill’s requirements for coverage also apply to the State Health Benefits Program; by law, similar health benefits coverage is required under the School Employees’ Health Benefits Program;

INFORMATION INCLUDED IN MAMMOGRAPHY REPORTS. The bill requires providers of mammography services to include information on breast density in mammography reports sent to patients and their health care providers.

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient’s health care provider. The bill stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient’s health care provider regarding the patient’s risks for breast cancer.

PERIODIC REPORTS BY MHBAC. The bill directs the Mandated Health Benefits Advisory Commission to prepare a report regarding the administration and implementation of the bill at least once in each five-year period following the bill's effective date. The bill provides that the report must include a summary of the social and financial impact, as well as the medical efficacy, of the requirements imposed by the bill, and requires the commission to transmit a copy of the report to the Governor and the Legislature within five days of the date the report is made.

DEPARTMENT OF HEALTH AND MEDICAL SOCIETY OF NEW JERSEY WORK GROUP The bill requires the Department of Health, with the Medical Society of New Jersey, to convene a work group to review, report on, and recommend strategies to improve the dialogue between patients and health care professionals regarding risk factors for breast density and breast imaging options. The work group is required to report its findings and recommendations to the Governor and to the Legislature. The first report must be submitted no later than 12 months after the work group's initial meeting.

EFFECTIVE DATE. The bill takes effect on the first day of the fourth month next following the date of enactment, and applies to all contracts and policies delivered, issued, executed, or renewed or approved for issuance or renewal in this State on or after the bill's effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits in the Department of the Treasury, the procedures mandated by this bill, ultrasound evaluations, MRIs, and 3-D Mammographies, are currently covered under the SHBP and the SEHBP. Limiting this estimate to the SHBP/SEHBP, the enactment of this bill will have no cost impact to the plans with regard to the procedures named in the bill. The division also mentioned that the consultants to the SHBP/SEHBP reviewed the amendments to this bill and have determined that it does not specifically provide coverage for medical procedures that are not already covered by the plan. The consultants did express some concern that the term "other additional testing" is very broad.

According to the Office of Management and Budget, this bill stipulates that coverage for "other additional testing" is required. Hence, this language is potentially consequential, as it could mandate the SHBP/SEHBP to provide additional services not already covered by the benefits plans, which would potentially result in higher costs. The value of these additional services is not quantifiable because it is not known which additional tests will be requested by the patient's health care provider, or whether the supplementary services will be covered by the SHBP/SEHBP.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive fiscal estimate. The OLS notes that other breast cancer screenings, as identified by the American Cancer Society, include, but are not limited to, ductograms, nipple discharge examinations, nipple aspiration, and ductal lavage, and other experimental imaging tests currently being developed such as optical imaging tests using light transmission, molecular breast imaging (MBI) tests using nuclear technology, and positron emission mammography tests (PET) using radioactive tracer isotopes. While ultrasounds, MRIs, and 3D Mammograms are covered under the SHBP/SEHBP as the consultants note, the bill does not specifically provide coverage for medical procedures that are not already covered by the

plans. According to the Division of Pensions and Benefits, coverage under the SHBP/SEHBP is dependent on “standard medical necessity” to be considered acceptable for insurance reimbursement. As such, the OLS cannot determine the potential additional costs associated with requiring coverage for other testing if after a baseline mammogram examination a patient is believed to be at increased risk for breast cancer. This is because it is not known how many and which additional other tests will be deemed medically necessary and prescribed by the patients’ healthcare providers and if, at this time, those tests are covered under the SHBP/SEHBP.

Section: State Government

*Analyst: Kimberly McCord
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).