SPONSOR: Rep. Romer & Rep. Longhurst & Rep. Minor-Brown & Rep. Dorsey Walker & Sen. Poore
Reps. Baumbach, Bolden, Bush, Carson, Griffith, Heffernan, K. Johnson, Lambert, Morrison, Osienski, Michael Smith, K. Williams, Wilson-Anton; Sens. Gay, Hansen, Hoffner, Huxtable, Pinkney, Townsend, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 60

AN ACT TO AMEND TITLES 18, 29, AND 31 RELATING TO BREAST CANCER SCREENING AND DIAGNOSTIC PROCEDURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3552A. Supplemental and diagnostic breast examinations.

(a) As used in this section:

(1) "Breast magnetic resonance imaging" or "breast MRI" means a diagnostic tool, including standard and abbreviated breast MRI, that uses radio waves and magnets to produce detailed images of structures within the breast. A breast MRI may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(2) "Breast ultrasound" means a noninvasive diagnostic tool that uses high-frequency sound waves and their echoes to produce detailed images of structures within the breast. A breast ultrasound may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(3) "Cost-sharing requirement" means a deductible, coinsurance, or copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(4) "Diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To evaluate an abnormality seen or suspected from a screening examination for breast cancer.

b. To evaluate an abnormality detected by another means of examination.

(5) "Mammogram" means a diagnostic or screening mammography exam using a low-dose X-ray to produce an image of the breast.

(6) "Supplemental breast screening examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To screen for breast cancer when there is no abnormality seen or suspected in the breast.

b. Based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer.

(b) All group and blanket health insurance policies which are delivered or issued for delivery in this State by any health insurer or health service corporation and which provide benefits for outpatient services shall provide coverage for diagnostic breast examinations and supplemental breast screening examinations. The terms of such coverage, including cost-sharing requirements, shall be no less favorable than the cost-sharing requirements applicable to screening mammography for breast cancer.

(c) This section does not apply to any of the following:

(1) A high deductible health plan if providing coverage under subsection (b) of this section would cause the plan to fail to be treated as a high deductible health plan under § 223(c)(2) of the Internal Revenue Code.

(2) A specified accident, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policy.

Section 2. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3370F. Supplemental and diagnostic breast examinations.

(a) As used in this section:

(1) "Breast magnetic resonance imaging" or "breast MRI" means a diagnostic tool, including standard and abbreviated breast MRI, that uses radio waves and magnets to produce detailed images of structures within the breast. A breast MRI may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(2) "Breast ultrasound" means a noninvasive diagnostic tool that uses high-frequency sound waves and their echoes to produce detailed images of structures within the breast. A breast ultrasound may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(3) "Cost-sharing requirement" means a deductible, coinsurance, or copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(4) "Diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To evaluate an abnormality seen or suspected from a screening examination for breast cancer.

b. To evaluate an abnormality detected by another means of examination.

(5) "Mammogram" means a diagnostic or screening mammography exam using a low-dose X-ray to produce an image of the breast.

(6) "Supplemental breast screening examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To screen for breast cancer when there is no abnormality seen or suspected in the breast.

b. Based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer.

(b) All individual health insurance policies, contracts, or certificates that are delivered, issued for delivery, extended, or modified in this State shall provide coverage for diagnostic breast examinations and supplemental breast screening examinations. The terms of such coverage, including cost-sharing requirements, shall be no less favorable than the cost-sharing requirements applicable to screening mammography for breast cancer.

(c) This section does not apply to any of the following:

(1) A high deductible health plan if providing coverage under subsection (b) of this section would cause the plan to fail to be treated as a high deductible health plan under § 223(c)(2) of the Internal Revenue Code.

(2) A catastrophic health plan if providing coverage under subsection (b) of this section would cause the plan to fail to be treated as a catastrophic plan under § 1302(e) of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18022(e).

(3) A specified accident, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policy.

(d) If, at any time, the State is required under federal law to defray the cost of any coverage required under this section, the requirements under this section are inoperative and the State does not assume any obligation for the cost of coverage.

Section 3. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5217. Supplemental and diagnostic breast examinations.

(a) As used in this section:

(1) "Breast magnetic resonance imaging" or "breast MRI" means a diagnostic tool, including standard and abbreviated breast MRI, that uses radio waves and magnets to produce detailed images of structures within the breast. A breast MRI may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(2) "Breast ultrasound" means a noninvasive diagnostic tool that uses high-frequency sound waves and their echoes to produce detailed images of structures within the breast. A breast ultrasound may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(3) "Cost-sharing requirement" means a deductible, coinsurance, or copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(4) "Diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To evaluate an abnormality seen or suspected from a screening examination for breast cancer.

b. To evaluate an abnormality detected by another means of examination.

(5) "Mammogram" means a diagnostic or screening mammography exam using a low-dose X-ray to produce an image of the breast.

(6) "Supplemental breast screening examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To screen for breast cancer when there is no abnormality seen or suspected in the breast.

b. Based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer.

(b) The plan shall provide coverage for diagnostic breast examinations and supplemental breast screening examinations. The terms of such coverage, including cost-sharing requirements, shall be no less favorable than the cost-sharing requirements applicable to screening mammography for breast cancer.

Section 4. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 532. Supplemental and diagnostic breast examinations.

(a) As used in this section:

(1) "Breast magnetic resonance imaging" or "breast MRI" means a diagnostic tool, including standard and abbreviated breast MRI, that uses radio waves and magnets to produce detailed images of structures within the breast. A breast MRI may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(2) "Breast ultrasound" means a noninvasive diagnostic tool that uses high-frequency sound waves and their echoes to produce detailed images of structures within the breast. A breast ultrasound may be used as a screening tool when clinically indicated, including after indeterminant results from a mammogram that requires additional evaluation and for those at high risk for breast cancer.

(3) "Carrier" means any entity that provides health insurance under § 505(3) of this title.

(4) "Cost-sharing requirement" means a deductible, coinsurance, or copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(5) "Diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To evaluate an abnormality seen or suspected from a screening examination for breast cancer.

b. To evaluate an abnormality detected by another means of examination.

(6) "Mammogram" means a diagnostic or screening mammography exam using a low-dose X-ray to produce an image of the breast.

(7) "Supplemental breast screening examination" means a medically necessary and clinically appropriate examination of the breast, including such examination using breast MRI, breast ultrasound, or mammogram, that is used for either of the following:

a. To screen for breast cancer when there is no abnormality seen or suspected in the breast.

b. Based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer.

(b) All carriers shall provide coverage for diagnostic breast examinations and supplemental breast screening examinations. The terms of such coverage, including cost-sharing requirements, shall be no less favorable than the cost-sharing requirements applicable to screening mammography for breast cancer.

Section 5. This Act takes effect 60 days after its enactment and is effective for all contracts and coverage initiated or renewed after January 1, 2024.

SYNOPSIS

To prevent Delawareans from facing exorbitant costs for potentially life-saving screenings and follow-up tests, and to allow providers to use clinical judgement in the use of breast cancer examination tools based on established national standards, this Act requires that all insurance policies issued or renewed in this State include coverage of supplemental and diagnostic breast examinations on terms that are at least as favorable as the coverage of annual screening mammograms. The Act covers all group, blanket, and individual health insurance policies (except specified accident, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies) as well as the State employee healthcare plan and Medicaid.

This substitute bill differs from the original bill in that it makes technical corrections, excludes certain health, and adds to the definition of breast MRI.