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HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 204

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE FOR
RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

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

1 Section 1. Amend Title 18 Delaware Code by adding a new section thereto as follows:

2 “§3559. Required Coverage for Reconstructive Surgery following Mastectomies.

3 (a) All group and blanket health insurance policies, contracts, or certificates that are delivered or issued
4 for delivery in this State by any health insurer, health service corporation, or managed care organization which
5 provide medical and surgical benefits with respect to a mastectomy shall provide, in a case of an insured,
6 participant, policyholder, subscriber, and beneficiary who is receiving benefits in connection with such
7 mastectomy, in a manner determined in consultation with the attending physician and the patient, coverage for

8 (1) all stages of reconstruction of the breast on which the mastectomy has been performed;

9 (2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

10 (3) prostheses and physical complications of mastectomy, including lymphedemas;

11 Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate
12 and as are consistent with those established for other benefits under the plan of coverage. Written notice of the
13 availability of such coverage shall be delivered to the insured, participant, policyholder, subscriber, and beneficiary upon
14 enrollment and annually thereafter.

(b) All group and blanket health benefit plans shall provide notice to each insured, participant, policyholder, subscriber, and beneficiary under such plan regarding the coverage required by this section in accordance herewith. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted (1) in the next mailing made by the plan to the insured, participant, policyholder, subscriber, and beneficiary; or (2) as part of any yearly informational packet sent to the insured, participant, policyholder, subscriber, and beneficiary; or (3) not later than June 30, 2001, whichever is earliest.

(c) A group or blanket health benefit plan may not deny to a patient eligibility, continued eligibility to enroll or to renew coverage under the terms of the plan solely for the purpose of avoiding the requirements of this section; and may not penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, or induce such provider to provide care to an individual insured, participant, policyholder, subscriber, and beneficiary in a manner inconsistent with this section.

(d) Nothing in this section shall be construed to prevent a group health benefit plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.”

Section 2. Amend Title 18 Delaware Code by adding a new section thereto as follows:

“§3344. Required Coverage for Reconstructive Surgery following Mastectomies.

(a) All individual health insurance policies, contracts, or certificates that are delivered or issued for delivery in this State by any health insurer, health service corporation, or managed care organization which provide medical and surgical benefits with respect to a mastectomy shall provide, in a case of an insured, participant, policyholder, subscriber, and beneficiary who is receiving benefits in connection with such mastectomy, in a manner determined in consultation with the attending physician and the patient, coverage for

(4) all stages of reconstruction of the breast on which the mastectomy has been performed;

(5) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

(6) prostheses and physical complications of mastectomy, including lymphedemas;

Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan of coverage. Written notice of the availability of such coverage shall be delivered to the insured, participant, policyholder, subscriber, and beneficiary upon enrollment and annually thereafter.

(b) All individual health benefit plans shall provide notice to each insured, participant, policyholder, subscriber, and beneficiary under such plan regarding the coverage required by this section in accordance herewith. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted (1) in the next mailing made by the plan to the insured, participant, policyholder, subscriber, and beneficiary; or (2) as part of any yearly informational packet sent to the insured, participant, policyholder, subscriber, and beneficiary; or (3) not later than June 30, 2001, whichever is earliest.

(c) An individual health benefit plan may not deny to a patient eligibility, continued eligibility to enroll or to renew coverage under the terms of the plan solely for the purpose of avoiding the requirements of this section; and may not penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, or induce such provider to provide care to an individual insured, participant, policyholder, subscriber, and beneficiary in a manner inconsistent with this section.

(d) Nothing in this section shall be construed to prevent a health benefit plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.”

Section 3. If any provision of this Act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not effect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable.

Section 4. This Act shall be effective for all group, blanket, and individual health benefit plans issued or renewed after July 15, 2001.

SYNOPSIS

This Act requires that certain breast reconstructive procedures be covered by group and individual health insurance plans in conjunction with mastectomy procedures. The adoption of these standards will bring the State of Delaware into compliance with identical federal standards governing breast reconstruction. This Act will enable the Department of Insurance to retain jurisdiction over such plans as opposed to losing such jurisdiction in favor of an agency of the federal government.