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**SUBSTITUTE SENATE BILL 5396**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators L. Wilson, Boehnke, Frame, Hunt, Kauffman, Kuderer, Rivers, Rolfes, Shewmake, Valdez, and Warnick)

AN ACT Relating to cost sharing for diagnostic and supplemental breast examinations; amending RCW 48.20.393, 48.21.225, 48.44.325, and 48.46.275; adding a new section to chapter 48.43 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) In 1989 the legislature enacted Substitute House Bill No. 1074 requiring disability insurers, group disability insurers, health care service contractors, health maintenance organizations, and plans offered to public employees that provide benefits for hospital or medical care to provide benefits for screening and diagnostic mammography services.

(2) In 2010 the United States congress enacted the patient protection and affordable care act, which required coverage of certain preventative care services including screening mammograms with no cost sharing.

(3) In 2013 the Washington state office of the insurance commissioner adopted rules establishing the essential health benefits benchmark plan, which listed diagnostic and screening mammogram services as state benefit requirements under preventative and wellness services.

(4) In 2018 the legislature enacted Senate Bill No. 5912 which directed the office of the insurance commissioner to clarify that the existing mandates for mammography included coverage for tomosynthesis, also known as three-dimensional mammography, under the same terms and conditions allowed for mammography.

(5) The legislature intends to establish that the requirements for coverage of mammography services predated the affordable care act and are already included in the state's essential health benefits benchmark plan. Furthermore, the legislature intends to prohibit cost sharing for certain types of breast examinations.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for nongrandfathered health plans issued or renewed on or after January 1, 2024, that include coverage of supplemental breast examinations and diagnostic breast examinations, health carriers may not impose cost sharing for such examinations.

(2) For a health plan that provides coverage of supplemental breast examinations and diagnostic breast examinations and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost sharing for the coverage of the services described in this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from their health savings account under internal revenue service laws and regulations.

(3) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, digital breast tomosynthesis, also called three dimensional mammography, breast magnetic resonance imaging, or breast ultrasound, that is used to evaluate an abnormality:

(i) Seen or suspected from a screening examination for breast cancer; or

(ii) Detected by another means of examination.

(b) "Supplemental breast examination" means a medically necessary and appropriate examination of the breast, including an examination using digital breast tomosynthesis, also called three dimensional mammography, breast magnetic resonance imaging, or breast ultrasound, that is: (i) Used to screen for breast cancer when there is no abnormality seen or suspected; and

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

**Sec.**  RCW 48.20.393 and 1994 sp.s. c 9 s 728 are each amended to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

((~~This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or copayment provisions.~~)) Coverage required under this section shall be provided without cost sharing pursuant to section 2 of this act. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec.**  RCW 48.21.225 and 1994 sp.s. c 9 s 731 are each amended to read as follows:

Each group disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

((~~This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or copayment provisions.~~)) Coverage required under this section shall be provided without cost sharing pursuant to section 2 of this act. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec.**  RCW 48.44.325 and 1994 sp.s. c 9 s 734 are each amended to read as follows:

Each health care service contract issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

((~~This section shall not be construed to prevent the application of standard contract provisions applicable to other benefits such as deductible or copayment provisions.~~)) Coverage required under this section shall be provided without cost sharing pursuant to section 2 of this act. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec.**  RCW 48.46.275 and 1994 sp.s. c 9 s 735 are each amended to read as follows:

Each health maintenance agreement issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

All services must be provided by the health maintenance organization or rendered upon referral by the health maintenance organization. ((~~This section shall not be construed to prevent the application of standard agreement provisions applicable to other benefits such as deductible or copayment provisions.~~)) Coverage required under this section shall be provided without cost sharing pursuant to section 2 of this act. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

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