

HOUSE BILL REPORT

SSB 5396

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to cost sharing for diagnostic and supplemental breast examinations.

Brief Description: Concerning cost sharing for diagnostic and supplemental breast examinations.

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

Brief History:

Committee Activity:

Health Care & Wellness: 3/10/23, 3/15/23 [DPA];
Appropriations: 3/22/23, 3/30/23 [DPA(APP w/o HCW)].

**Brief Summary of Substitute Bill
(As Amended By Committee)**

- Prohibits health carriers that provide coverage for supplemental and diagnostic breast examinations from imposing cost sharing on the examinations.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 14 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Harris, Macri, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Schmick, Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Member.

Staff: Kim Weidenaar (786-7120).

Background:

Mammograms are screening tests used for early breast cancer detection and for breast evaluation. State law requires that all disability, group disability, health maintenance organization, and health service contractor (collectively known as health carriers) plans provide coverage for screening or diagnostic mammography services upon the recommendation of the patient's physician or advanced registered nurse practitioner. These provisions provide that the coverage requirements may not be construed to prevent deductible or copayment provisions.

Under the Affordable Care Act, health benefit plans must provide, at a minimum, coverage with no cost sharing, for preventive or wellness services that have a rating of A or B in the current recommendations of the United States Preventive Services Task Force (USPSTF). The USPSTF currently recommends, at a B grade, biennial screening mammography for women aged 50 to 74 years.

Summary of Amended Bill:

For nongrandfathered health plans issued or renewed on or after January 1, 2024, that include coverage of supplemental and diagnostic breast examinations, health carriers may not impose cost sharing on these examinations. For health plans that are offered as a qualifying health plan for a health savings account, the health carrier must establish the plan's cost sharing for coverage of these examinations at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from their health savings account under federal laws and regulations. The provisions related to preventing deductible and copayment provisions are removed from the requirements to provide coverage for screening and diagnostic mammography services.

A "diagnostic breast examination" is a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging, or breast ultrasound, that is used to evaluate an abnormality that is seen or suspected from a screening examination or detected by another means. A "supplemental breast examination" is a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, that is used to screen for breast cancer when there is no abnormality seen or suspected and based on personal or family medical history or additional risk factors.

Amended Bill Compared to Substitute Bill:

The amended bill:

- removes digital breast tomosynthesis from the definition of a supplemental breast examination; and
- modifies the provisions that provide that the existing mammography coverage requirements may not be construed to prevent the application of standard agreement provisions, by restoring the underlying language except for the cost sharing provisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Some individuals are diagnosed with breast cancer after finding lumps themselves after being too busy to get a mammogram. After confirming a lump with a mammogram, a lot more testing is needed to figure out what the lump is and where it is located. Many women cannot afford the cost sharing for these services and so they may avoid follow-up tests. If women wait too long for the follow-up tests, then the cancer will be further along and the treatment more expensive. Breast cancer is one of the most common cancers in women and when it is caught late it is deadly. Because of delays in care during the pandemic, cancers are being detected late and at later stages, which means that treatment options are more limited, more invasive, and more expensive.

The changes that were made in this bill and the House version of the bill were made at the request of the Office of the Insurance Commissioner and have not changed the policy or the fiscal note. The policy of the this bill and the House version is the exact same and this bill includes an intent section which makes it clear that the bill does not include a new mandate for services because the services are already included in the benchmark plan. The changes made to the Senate bill included adding digital breast tomosynthesis to the definition of a supplemental breast examination in addition to a diagnostic breast examination, but it should only be included in the definition of diagnostic breast examination.

(Opposed) This is one of a variety of bills that the Legislature has considered this session that has a potential impact on the cost of health care and premiums. While it is important to note a distinction between this bill as a cost sharing bill and a benefit mandate, there is still a premium impact. California vetoed a similar bill because of the cost of \$117 million, which would be less in Washington due to the population. This bill is premature because of the ongoing United States Preventative Services Task Force review. The appropriate place for this is in the essential health benefits bill.

Persons Testifying: (In support) Senator Lynda Wilson, prime sponsor; Kirsten Smith, Susan G. Komen; and Christopher Crancer, RAYUS Radiology.

(Opposed) Jennifer Ziegler, Association of Washington Health Care Plans.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. Signed by 27 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Schmick.

Minority Report: Without recommendation. Signed by 2 members: Representatives Stokesbary, Ranking Minority Member; Sandlin.

Staff: Meghan Morris (786-7119).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

Internal references are corrected.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is appreciation for the sponsor using their own experience with breast cancer to support other Washingtonians facing cancer. This bill is the same as the current version of House Bill 1261, except for the intent section, which demonstrates that these requirements do not constitute a new mandate and was included at the request of the Office of the Insurance Commissioner.

The Affordable Care Act (ACA) requires that screening mammograms for those over 50

years old be covered without a cost to the patient. However, the ACA only protects the patient until there is a sign of a problem and within certain age groups. One in five breast cancer patients is diagnosed before the age of 50. Once a patient finds a lump or there is some sign of something wrong, the examination is no longer a screening exam and instead is a diagnostic service, which generally requires cost sharing. Cost is the biggest reason that people skip necessary follow-up care that they need. Additionally, providers are still catching up on mammograms that were missed during COVID-19. Providers have been seeing increases in the number of cancers, and cancer is being found at later stages than before the pandemic because of these delays.

This bill reduces the cost barrier for diagnosing one of the most common forms of cancer and will help people receive timely treatment, which will save lives and reduce the devastating cost of treating late-stage cancer. Diagnosing cancer earlier means less chemotherapy, cost, radiation, and surgery. The cost to treat metastatic breast cancer is over \$250,000. This bill will have a positive impact on women in Washington.

(Opposed) None.

Persons Testifying: Kirsten Smith, Susan G. Komen; Kate White Tudor, Rayus Radiology; and Dr. Peter Eby, Washington State Radiological Society.

Persons Signed In To Testify But Not Testifying: None.