

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5396

Chapter 366, Laws of 2023

68th Legislature
2023 Regular Session

BREAST EXAMINATIONS—HEALTH PLAN COST SHARING

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 18, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 7, 2023
Yeas 90 Nays 6

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 9, 2023 11:08 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5396** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 10, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5396

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

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)

READ FIRST TIME 01/24/23.

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

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

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

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

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

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

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

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
12 RCW to read as follows:

13 (1) Except as provided in subsection (2) of this section, for
14 nongrandfathered health plans issued or renewed on or after January
15 1, 2024, that include coverage of supplemental breast examinations
16 and diagnostic breast examinations, health carriers may not impose
17 cost sharing for such examinations.

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

26 (3) For purposes of this section:

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

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

35 (ii) Detected by another means of examination.

36 (b) "Supplemental breast examination" means a medically necessary
37 and appropriate examination of the breast, including an examination
38 using breast magnetic resonance imaging or breast ultrasound, that

1 is: (i) Used to screen for breast cancer when there is no abnormality
2 seen or suspected; and
3 (ii) Based on personal or family medical history, or additional
4 factors that may increase the individual's risk of breast cancer.

5 **Sec. 3.** RCW 48.20.393 and 1994 sp.s. c 9 s 728 are each amended
6 to read as follows:

7 Each disability insurance policy issued or renewed after January
8 1, 1990, that provides coverage for hospital or medical expenses
9 shall provide coverage for screening or diagnostic mammography
10 services, provided that such services are delivered upon the
11 recommendation of the patient's physician or advanced registered
12 nurse practitioner as authorized by the nursing care quality
13 assurance commission pursuant to chapter 18.79 RCW or physician
14 assistant pursuant to chapter 18.71A RCW.

15 This section shall not be construed to prevent the application of
16 standard policy provisions, other than the cost-sharing prohibition
17 provided in section 2 of this act, that are applicable to other
18 benefits (~~((such as deductible or copayment provisions))~~). This section
19 does not limit the authority of an insurer to negotiate rates and
20 contract with specific providers for the delivery of mammography
21 services. This section shall not apply to medicare supplement
22 policies or supplemental contracts covering a specified disease or
23 other limited benefits.

24 **Sec. 4.** RCW 48.21.225 and 1994 sp.s. c 9 s 731 are each amended
25 to read as follows:

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

34 This section shall not be construed to prevent the application of
35 standard policy provisions, other than the cost-sharing prohibition
36 provided in section 2 of this act, that are applicable to other
37 benefits (~~((such as deductible or copayment provisions))~~). This section
38 does not limit the authority of an insurer to negotiate rates and

1 contract with specific providers for the delivery of mammography
2 services. This section shall not apply to medicare supplement
3 policies or supplemental contracts covering a specified disease or
4 other limited benefits.

5 **Sec. 5.** RCW 48.44.325 and 1994 sp.s. c 9 s 734 are each amended
6 to read as follows:

7 Each health care service contract issued or renewed after January
8 1, 1990, that provides benefits for hospital or medical care shall
9 provide benefits for screening or diagnostic mammography services,
10 provided that such services are delivered upon the recommendation of
11 the patient's physician or advanced registered nurse practitioner as
12 authorized by the nursing care quality assurance commission pursuant
13 to chapter 18.79 RCW or physician assistant pursuant to chapter
14 18.71A RCW.

15 This section shall not be construed to prevent the application of
16 standard contract provisions, other than the cost-sharing prohibition
17 provided in section 2 of this act, that are applicable to other
18 benefits (~~((such as deductible or copayment provisions))~~). This section
19 does not limit the authority of a contractor to negotiate rates and
20 contract with specific providers for the delivery of mammography
21 services. This section shall not apply to medicare supplement
22 policies or supplemental contracts covering a specified disease or
23 other limited benefits.

24 **Sec. 6.** RCW 48.46.275 and 1994 sp.s. c 9 s 735 are each amended
25 to read as follows:

26 Each health maintenance agreement issued or renewed after January
27 1, 1990, that provides benefits for hospital or medical care shall
28 provide benefits for screening or diagnostic mammography services,
29 provided that such services are delivered upon the recommendation of
30 the patient's physician or advanced registered nurse practitioner as
31 authorized by the nursing care quality assurance commission pursuant
32 to chapter 18.79 RCW or physician assistant pursuant to chapter
33 18.71A RCW.

34 All services must be provided by the health maintenance
35 organization or rendered upon referral by the health maintenance
36 organization. This section shall not be construed to prevent the
37 application of standard agreement provisions, other than the cost-
38 sharing prohibition provided in section 2 of this act, that are

1 applicable to other benefits ((~~such as deductible or copayment~~
2 ~~provisions~~)). This section does not limit the authority of a health
3 maintenance organization to negotiate rates and contract with
4 specific providers for the delivery of mammography services. This
5 section shall not apply to medicare supplement policies or
6 supplemental contracts covering a specified disease or other limited
7 benefits.

Passed by the Senate April 18, 2023.

Passed by the House April 7, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

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