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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2730

(By Delegates R. M. Thompson, Staton, Mezzatesta,
Leach, Perdue, Compton and Douglas)



Passed March 9, 2002

In Effect Ninety Days from Passage

FILED

2002 APR -3 P 6:59

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COMMITTEE SUBSTITUTE

FOR

H. B. 2730

(BY DELEGATES R. M. THOMPSON, STATON, MEZZATESTA,
LEACH, PERDUE, COMPTON AND DOUGLAS)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-c; to amend article fifteen, chapter thirty-three of said code by adding thereto a new section, designated section four-g; to amend article sixteen of said chapter by adding thereto a new section, designated section three-p; to amend article twenty-four of said chapter by adding thereto a new section, designated section seven-g; and to amend article twenty-five-a of said chapter by adding thereto a new section, designated section eight-f, all relating to public employees insurance plans, individual health benefit plans, group accident and sickness insurance health benefit plans, hospital, medical and dental corporation health benefit plans and health maintenance organizations; requiring all policy plans with

benefits covering mastectomy to include certain other costs; and providing certain exceptions.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seven-c; that article fifteen, chapter thirty-three of said code, be amended by adding thereto a new section, designated section four-g; that article sixteen of said chapter be amended by adding thereto a new section, designated section three-p; that article twenty-four of said chapter be amended by adding thereto a new section, designated section seven-g; and that article twenty-five-a of said chapter be amended by adding thereto a new section, designated section eight-f, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7c. Required coverage for reconstruction surgery following mastectomies.

1 (a) The plan shall provide, in a case of a participant or
2 beneficiary who is receiving benefits in connection with a
3 mastectomy and who elects breast reconstruction in connection
4 with such mastectomy, coverage for:

5 (1) All stages of reconstruction of the breast on which the
6 mastectomy has been performed;

7 (2) Surgery and reconstruction of the other breast to
8 produce a symmetrical appearance; and

9 (3) Prostheses and physical complications of mastectomy,
10 including lymphedemas in a manner determined in consultation
11 with the attending physician and the patient. Coverage shall be
12 provided for a minimum stay in the hospital of not less than
13 forty-eight hours for a patient following a radical or modified
14 mastectomy and not less than twenty-four hours of inpatient
15 care following a total mastectomy or partial mastectomy with
16 lymph node dissection for the treatment of breast cancer.
17 Nothing in this section shall be construed as requiring inpatient
18 coverage where inpatient coverage is not medically necessary
19 or where the attending physician in consultation with the patient
20 determines that a shorter period of hospital stay is appropriate.
21 Such coverage may be subject to annual deductibles and
22 coinsurance provisions as may be deemed appropriate and as
23 are consistent with those established for other benefits under the
24 plan. Written notice of the availability of such coverage shall be
25 delivered to the participant upon enrollment and annually
26 thereafter in the summary plan description or similar document.

27 (b) The plan may not:

28 (1) Deny to a patient eligibility, or continued eligibility, to
29 enroll or to renew coverage under the terms of the plan, solely
30 for the purpose of avoiding the requirements of this section; and

31 (2) Penalize or otherwise reduce or limit the reimbursement
32 of an attending provider, or provide incentives (monetary or
33 otherwise) to an attending provider, to induce such provider to
34 provide care to an individual participant or beneficiary in a
35 manner inconsistent with this section.

36 (c) Nothing in this section shall be construed to prevent a
37 health benefit plan policy or a health insurer offering health
38 insurance coverage from negotiating the level and type of
39 reimbursement with a provider for care provided in accordance
40 with this section.

41 (d) The provisions of this section shall be included under
42 any policy, contract or plan delivered after the first day of July,
43 two thousand two.

CHAPTER 33. INSURANCE

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4g. Required coverage for reconstruction surgery following mastectomies.

1 (a) Any policy of insurance described in this article which
2 provides medical and surgical benefits with respect to a
3 mastectomy shall provide, in a case of a policyholder who is
4 receiving benefits in connection with a mastectomy and who
5 elects breast reconstruction in connection with such mastec-
6 tomy, coverage for:

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

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

11 (3) Prostheses and physical complications of mastectomy,
12 including lymphedemas in a manner determined in consultation
13 with the attending physician and the patient. Coverage shall be
14 provided for a minimum stay in the hospital of not less than
15 forty-eight hours for a patient following a radical or modified
16 mastectomy and not less than twenty-four hours of inpatient
17 care following a total mastectomy or partial mastectomy with
18 lymph node dissection for the treatment of breast cancer.
19 Nothing in this section shall be construed as requiring inpatient
20 coverage where inpatient coverage is not medically necessary
21 or where the attending physician in consultation with the patient
22 determines that a shorter period of hospital stay is appropriate.
23 Such coverage may be subject to annual deductibles and

24 coinsurance provisions as may be deemed appropriate and as
25 are consistent with those established for other benefits under the
26 health benefit plan policy or coverage. Written notice of the
27 availability of such coverage shall be delivered to the partici-
28 pant upon enrollment and annually thereafter.

29 (b) A health benefit plan policy, and a health insurer
30 providing health insurance coverage in connection with a health
31 benefit plan policy, shall provide notice to each participant and
32 beneficiary under such plan regarding the coverage required by
33 this section. Such notice shall be in writing and prominently
34 positioned in any literature or correspondence made available
35 or distributed by the issuer of the health benefit plan policy.

36 (c) A health benefit plan policy and a health insurer
37 offering health insurance coverage in connection with a health
38 benefit plan policy, may not:

39 (1) Deny to a patient eligibility, or continued eligibility, to
40 enroll or to renew coverage under the terms of the plan, solely
41 for the purpose of avoiding the requirements of this section; and

42 (2) Penalize or otherwise reduce or limit the reimbursement
43 of an attending provider, or provide incentives (monetary or
44 otherwise) to an attending provider, to induce such provider to
45 provide care to an individual participant or beneficiary in a
46 manner inconsistent with this section.

47 (d) Nothing in this section shall be construed to prevent a
48 health benefit plan policy or a health insurer offering health
49 insurance coverage from negotiating the level and type of
50 reimbursement with a provider for care provided in accordance
51 with this section.

52 (e) The provisions of this section shall be included under
53 any policy, contract or plan delivered after the first day of July,
54 two thousand two.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3p. Required coverage for reconstruction surgery following mastectomies.

1 (a) Any policy of insurance described in this article which
2 provides medical and surgical benefits with respect to a
3 mastectomy shall provide, in a case of a participant or benefi-
4 ciary who is receiving benefits in connection with a mastec-
5 tomy and who elects breast reconstruction in connection with
6 such mastectomy, coverage for:

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

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

11 (3) Protheses and physical complications of mastectomy,
12 including lymphedemas in a manner determined in consultation
13 with the attending physician and the patient. Coverage shall be
14 provided for a minimum stay in the hospital of not less than
15 forty-eight hours for a patient following a radical or modified
16 mastectomy and not less than twenty-four hours of inpatient
17 care following a total mastectomy or partial mastectomy with
18 lymph node dissection for the treatment of breast cancer.
19 Nothing in this section shall be construed as requiring inpatient
20 coverage where inpatient coverage is not medically necessary
21 or where the attending physician in consultation with the patient
22 determines that a shorter period of hospital stay is appropriate.
23 Such coverage may be subject to annual deductibles and
24 coinsurance provisions as may be deemed appropriate and as
25 are consistent with those established for other benefits under the
26 health benefit plan policy or coverage. Written notice of the
27 availability of such coverage shall be delivered to the partici-
28 pant upon enrollment and annually thereafter.

29 (b) A health benefit plan policy, and a health insurer
30 providing health insurance coverage in connection with a health
31 benefit plan policy, shall provide notice to each participant and
32 beneficiary under such plan regarding the coverage required by
33 this section. Such notice shall be in writing and prominently
34 positioned in any literature or correspondence made available
35 or distributed by the issuer of the health benefit plan policy.

36 (c) A health benefit plan policy and a health insurer
37 offering health insurance coverage in connection with a health
38 benefit plan policy, may not:

39 (1) Deny to a patient eligibility, or continued eligibility, to
40 enroll or to renew coverage under the terms of the plan, solely
41 for the purpose of avoiding the requirements of this section; and

42 (2) Penalize or otherwise reduce or limit the reimbursement
43 of an attending provider, or provide incentives (monetary or
44 otherwise) to an attending provider, to induce such provider to
45 provide care to an individual participant or beneficiary in a
46 manner inconsistent with this section.

47 (d) Nothing in this section shall be construed to prevent a
48 health benefit plan policy or a health insurer offering health
49 insurance coverage from negotiating the level and type of
50 reimbursement with a provider for care provided in accordance
51 with this section.

52 (e) The provisions of this section shall be included under
53 any policy, contract or plan delivered after the first day of July,
54 two thousand two.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7g. Required coverage for reconstruction surgery following mastectomies.

1 (a) Any policy of insurance described in this article which
2 provides medical and surgical benefits with respect to a
3 mastectomy shall provide, in a case of a participant or benefi-
4 ciary who is receiving benefits in connection with a mastec-
5 tomy and who elects breast reconstruction in connection with
6 such mastectomy, coverage for:

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

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

11 (3) Protheses and physical complications of mastectomy,
12 including lymphedemas in a manner determined in consultation
13 with the attending physician and the patient. Coverage shall be
14 provided for a minimum stay in the hospital of not less than
15 forty-eight hours for a patient following a radical or modified
16 mastectomy and not less than twenty-four hours of inpatient
17 care following a total mastectomy or partial mastectomy with
18 lymph node dissection for the treatment of breast cancer.
19 Nothing in this section shall be construed as requiring inpatient
20 coverage where inpatient coverage is not medically necessary
21 or where the attending physician in consultation with the patient
22 determines that a shorter period of hospital stay is appropriate.
23 Such coverage may be subject to annual deductibles and
24 coinsurance provisions as may be deemed appropriate and as
25 are consistent with those established for other benefits under the
26 health benefit plan policy or coverage. Written notice of the
27 availability of such coverage shall be delivered to the partici-
28 pant upon enrollment and annually thereafter.

29 (b) A health benefit plan policy, and a health insurer
30 providing health insurance coverage in connection with a health

31 benefit plan policy, shall provide notice to each participant and
32 beneficiary under such plan regarding the coverage required by
33 this section. Such notice shall be in writing and prominently
34 positioned in any literature or correspondence made available
35 or distributed by the issuer of the health benefit plan policy.

36 (c) A health benefit plan policy and a health insurer
37 offering health insurance coverage in connection with a health
38 benefit plan policy, may not:

39 (1) Deny to a patient eligibility, or continued eligibility, to
40 enroll or to renew coverage under the terms of the plan, solely
41 for the purpose of avoiding the requirements of this section; and

42 (2) Penalize or otherwise reduce or limit the reimbursement
43 of an attending provider, or provide incentives (monetary or
44 otherwise) to an attending provider, to induce such provider to
45 provide care to an individual participant or beneficiary in a
46 manner inconsistent with this section.

47 (d) Nothing in this section shall be construed to prevent a
48 health benefit plan policy or a health insurer offering health
49 insurance coverage from negotiating the level and type of
50 reimbursement with a provider for care provided in accordance
51 with this section.

52 (e) The provisions of this section shall be included under
53 any policy, contract or plan delivered after the first day of July,
54 two thousand two.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8f. Required coverage for reconstruction surgery following mastectomies.

1 (a) Any policy of insurance described in this article which
2 provides medical and surgical benefits with respect to a

3 mastectomy shall provide, in a case of a participant or benefi-
4 ciary who is receiving benefits in connection with a mastec-
5 tomy and who elects breast reconstruction in connection with
6 such mastectomy, coverage for:

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

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

11 (3) Prostheses and physical complications of mastectomy,
12 including lymphedemas in a manner determined in consultation
13 with the attending physician and the patient. Coverage shall be
14 provided for a minimum stay in the hospital of not less than
15 forty-eight hours for a patient following a radical or modified
16 mastectomy and not less than twenty-four hours of inpatient
17 care following a total mastectomy or partial mastectomy with
18 lymph node dissection for the treatment of breast cancer.
19 Nothing in this section shall be construed as requiring inpatient
20 coverage where inpatient coverage is not medically necessary
21 or where the attending physician in consultation with the patient
22 determines that a shorter period of hospital stay is appropriate.
23 Such coverage may be subject to annual deductibles and
24 coinsurance provisions as may be deemed appropriate and as
25 are consistent with those established for other benefits under the
26 health benefit plan policy or coverage. Written notice of the
27 availability of such coverage shall be delivered to the partici-
28 pant upon enrollment and annually thereafter.

29 (b) A health benefit plan policy, and a health insurer
30 providing health insurance coverage in connection with a health
31 benefit plan policy, shall provide notice to each participant and
32 beneficiary under such plan regarding the coverage required by
33 this section. Such notice shall be in writing and prominently

34 positioned in any literature or correspondence made available
35 or distributed by the issuer of the health benefit plan policy.

36 (c) A health benefit plan policy and a health insurer
37 offering health insurance coverage in connection with a health
38 benefit plan policy, may not:

39 (1) Deny to a patient eligibility, or continued eligibility, to
40 enroll or to renew coverage under the terms of the plan, solely
41 for the purpose of avoiding the requirements of this section; and

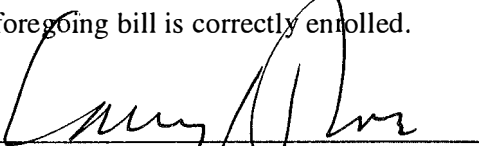
42 (2) Penalize or otherwise reduce or limit the reimbursement
43 of an attending provider, or provide incentives (monetary or
44 otherwise) to an attending provider, to induce such provider to
45 provide care to an individual participant or beneficiary in a
46 manner inconsistent with this section.

47 (d) Nothing in this section shall be construed to prevent a
48 health benefit plan policy or a health insurer offering health
49 insurance coverage from negotiating the level and type of
50 reimbursement with a provider for care provided in accordance
51 with this section.

52 (e) The provisions of this section shall be included under
53 any policy, contract or plan delivered after the first day of July,
54 two thousand two.

Enr. Com. Sub. for H. B. 2730] 12

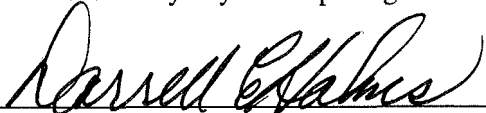
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

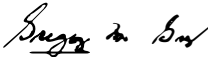

Chairman Senate Committee

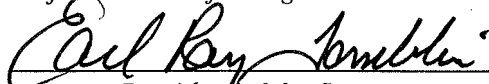

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

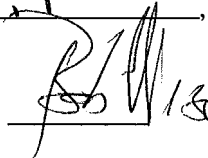

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 3rd
day of April, 2002.


Governor

PRESENTED TO THE
GOVERNOR

DATE 3/22/02

TIME 2:45 pm