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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)

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 digital breast tomosynthesis, also called three dimensional  
39 mammography, breast magnetic resonance imaging, or breast ultrasound,

1 that is: (i) Used to screen for breast cancer when there is no  
2 abnormality 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  
16 of standard policy provisions applicable to other benefits such as  
17 deductible or copayment provisions.))~~ Coverage required under this  
18 section shall be provided without cost sharing pursuant to section 2  
19 of this act. This section does not limit the authority of an insurer  
20 to negotiate rates and contract with specific providers for the  
21 delivery of mammography services. This section shall not apply to  
22 medicare supplement policies or supplemental contracts covering a  
23 specified disease or 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  
35 of standard policy provisions applicable to other benefits such as  
36 deductible or copayment provisions.))~~ Coverage required under this  
37 section shall be provided without cost sharing pursuant to section 2  
38 of this act. This section does not limit the authority of an insurer

1 to negotiate rates and contract with specific providers for the  
2 delivery of mammography services. This section shall not apply to  
3 medicare supplement policies or supplemental contracts covering a  
4 specified disease or 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  
16 of standard contract provisions applicable to other benefits such as  
17 deductible or copayment provisions.))~~ Coverage required under this  
18 section shall be provided without cost sharing pursuant to section 2  
19 of this act. This section does not limit the authority of a  
20 contractor to negotiate rates and contract with specific providers  
21 for the delivery of mammography services. This section shall not  
22 apply to medicare supplement policies or supplemental contracts  
23 covering a specified disease or 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 applicable to other  
38 benefits such as deductible or copayment provisions.))~~ Coverage

1 required under this section shall be provided without cost sharing  
2 pursuant to section 2 of this act. This section does not limit the  
3 authority of a health maintenance organization to negotiate rates and  
4 contract with specific providers for the delivery of mammography  
5 services. This section shall not apply to medicare supplement  
6 policies or supplemental contracts covering a specified disease or  
7 other limited benefits.

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