

By Senator Lynn

7-671-04

1 A bill to be entitled
 2 An act relating to breast cancer treatment;
 3 amending ss. 627.64171, 627.66121, 641.31,
 4 F.S.; amending provisions prescribing the
 5 length of hospital stay relating to a
 6 mastectomy which specified health insurers and
 7 health maintenance organizations must cover;
 8 providing requirements for the length of
 9 hospital stay relating to a lymph-node
 10 dissection which specified health insurers and
 11 health maintenance organizations must cover;
 12 limiting the application of the law; providing
 13 exceptions; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Section 627.64171, Florida Statutes, is
 18 amended to read:

19 627.64171 Coverage for length of stay and outpatient
 20 postsurgical care.--

21 (1) Any health insurance policy that is issued,
 22 amended, delivered, or renewed in this state and that which
 23 provides medical and surgical benefits ~~coverage for breast~~
 24 ~~cancer treatment~~ may not limit inpatient hospital coverage:

25 (a) For a lymph-node dissection for treatment of
 26 breast cancer, to a period that is less than 24 hours of
 27 hospital care immediately following the lymph-node dissection;
 28 or

29 (b) For a mastectomy, mastectomies to a any period
 30 that is less than that determined by the treating physician,
 31 after consultation with the insured patient, to be medically

1 necessary in accordance with prevailing medical standards, or
2 48 hours following such a mastectomy, whichever period is
3 longer ~~and after consultation with the insured patient.~~

4 (2) Any health insurance policy that provides coverage
5 for mastectomies under paragraph (1)(b)~~subsection (1)~~ must
6 also provide coverage for outpatient postsurgical followup
7 care in keeping with prevailing medical standards by a
8 licensed health care professional qualified to provide
9 postsurgical mastectomy care. The treating physician, after
10 consultation with the insured patient, may choose that the
11 outpatient care be provided at the most medically appropriate
12 setting, which may include the hospital, treating physician's
13 office, outpatient center, or home of the insured patient.

14 (3) An insurer subject to subsection (1) may not:

15 (a) Deny to an insured eligibility, or continued
16 eligibility, to enroll or to renew coverage under the terms of
17 the policy for the purpose of avoiding the requirements of
18 this section;

19 (b) Provide monetary payments or rebates to an insured
20 patient to accept less than the minimum protections available
21 under this section;

22 (c) Penalize or otherwise reduce or limit the
23 reimbursement of an attending provider solely because the
24 attending provider provided care to an insured patient under
25 this section;

26 (d) Provide incentives, monetary or otherwise, to an
27 attending provider solely to induce the provider to provide
28 care to an insured patient in a manner inconsistent with this
29 section; or

30 (e) Subject to the other provisions of this section,
31 restrict benefits for any portion of a period within a

1 hospital length of stay or outpatient care as required by this
2 section in a manner that is less than favorable than the
3 benefits provided for any preceding portion of such stay.

4 (4)(a) This section does not require an insured
5 patient to have a lymph-node dissection or ~~the~~ mastectomy in
6 the hospital or stay in the hospital for a fixed period of
7 time following a lymph-node dissection or ~~the~~ mastectomy.

8 (b) This section does not prevent a policy from
9 imposing deductibles, coinsurance, or other cost-sharing in
10 relation to benefits under this section, except that such
11 cost-sharing may not exceed cost-sharing with other benefits.

12 (5) Except as provided in subsection (3), this section
13 does not affect any agreement between an insurer and a
14 hospital or other health care provider with respect to
15 reimbursement for health care services provided, rate
16 negotiations with providers, or capitation of providers, and
17 does not prohibit appropriate utilization review or case
18 management by the insurer.

19 (6) This section does not apply to disability income,
20 specified diseases other than cancer, or hospital indemnity
21 policies.

22 (7) As used in this section, the term "mastectomy"
23 means the removal of all or part of the breast for medically
24 necessary reasons as determined by a licensed physician.

25 Section 2. Section 627.66121, Florida Statutes, is
26 amended to read:

27 627.66121 Coverage for length of stay and outpatient
28 postsurgical care.--

29 (1) Any group, blanket, or franchise accident or
30 health insurance policy that is issued, amended, delivered, or
31 renewed in this state and that ~~which~~ provides medical and

1 surgical benefits coverage for breast cancer treatment may not
2 limit inpatient hospital coverage:

3 (a) For a lymph-node dissection for treatment of
4 breast cancer, to a period that is less than 24 hours of
5 hospital care immediately following the lymph-node dissection;
6 or

7 (b) For a mastectomy, mastectomies to a any period
8 that is less than that determined by the treating physician,
9 after consultation with the insured patient, to be medically
10 necessary in accordance with prevailing medical standards, or
11 48 hours following such a mastectomy, whichever period is
12 longer and after consultation with the insured patient.

13 (2) Any group, blanket, or franchise accident or
14 health insurance policy that provides coverage for
15 mastectomies under paragraph (1)(b)~~subsection (1)~~ must also
16 provide coverage for outpatient postsurgical followup care in
17 keeping with prevailing medical standards by a licensed health
18 care professional qualified to provide postsurgical mastectomy
19 care. The treating physician, after consultation with the
20 insured patient, may choose that the outpatient care be
21 provided at the most medically appropriate setting, which may
22 include the hospital, treating physician's office, outpatient
23 center, or home of the insured patient.

24 (3) An insurer subject to subsection (1) may not:

25 (a) Deny to an insured eligibility, or continued
26 eligibility, to enroll or to renew coverage under the terms of
27 the policy for the purpose of avoiding the requirements of
28 this section;

29 (b) Provide monetary payments or rebates to an insured
30 patient to accept less than the minimum protections available
31 under this section;

1 (c) Penalize or otherwise reduce or limit the
2 reimbursement of an attending provider solely because the
3 attending provider provided care to an insured patient under
4 this section;

5 (d) Provide incentives, monetary or otherwise, to an
6 attending provider solely to induce the provider to provide
7 care to an insured patient in a manner inconsistent with this
8 section; or

9 (e) Subject to the other provisions of this section,
10 restrict benefits for any portion of a period within a
11 hospital length of stay or outpatient care as required by this
12 section in a manner that is less than favorable than the
13 benefits provided for any preceding portion of such stay.

14 (4)(a) This section does not require an insured
15 patient to have a lymph-node dissection or ~~the~~ mastectomy in
16 the hospital or stay in the hospital for a fixed period of
17 time following a lymph-node dissection or ~~the~~ mastectomy.

18 (b) This section does not prevent a policy from
19 imposing deductibles, coinsurance, or other cost-sharing in
20 relation to benefits under this section, except that such
21 cost-sharing may not exceed cost-sharing with other benefits.

22 (5) Except as provided in subsection (3), this section
23 does not affect any agreement between an insurer and a
24 hospital or other health care provider with respect to
25 reimbursement for health care services provided, rate
26 negotiations with providers, or capitation of providers and
27 does not prohibit appropriate utilization review or case
28 management by the insurer.

29 (6) This section does not apply to disability income,
30 specified diseases other than cancer, or hospital indemnity
31 policies.

1 (7) As used in this section, the term "mastectomy"
2 means the removal of all or part of the breast for medically
3 necessary reasons as determined by a licensed physician.

4 Section 3. Subsection (31) of section 641.31, Florida
5 Statutes, is amended to read:

6 641.31 Health maintenance contracts.--

7 (31)(a) Health maintenance contracts that provide
8 medical and surgical benefits ~~coverage, benefits, or services~~
9 ~~for breast cancer treatment~~ may not limit inpatient hospital
10 coverage:

11 1. For a lymph-node dissection for treatment of breast
12 cancer, to a period that is less than 24 hours of hospital
13 care immediately following the lymph-node dissection; or

14 2. For a mastectomy,~~mastectomies~~ to a ~~any~~ period that
15 is less than that determined by the treating physician under
16 contract with the health maintenance organization, after
17 consultation with the covered patient, to be medically
18 necessary in accordance with prevailing medical standards, or
19 48 hours following such a mastectomy, whichever period is
20 longer ~~and after consultation with the covered patient.~~

21
22 A Such contract that provides coverage for mastectomies must
23 also provide coverage for outpatient postsurgical followup
24 care in keeping with prevailing medical standards by a
25 licensed health care professional under contract with the
26 health maintenance organization qualified to provide
27 postsurgical mastectomy care. The treating physician under
28 contract with the health maintenance organization, after
29 consultation with the covered patient, may choose that the
30 outpatient care be provided at the most medically appropriate
31

1 setting, which may include the hospital, treating physician's
2 office, outpatient center, or home of the covered patient.

3 (b) A health maintenance organization subject to this
4 subsection may not:

5 1. Deny to a covered person eligibility, or continued
6 eligibility, to enroll or to renew coverage under the terms of
7 the contract for the purpose of avoiding the requirements of
8 this subsection;

9 2. Provide monetary payments or rebates to a covered
10 patient to accept less than the minimum protections available
11 under this subsection;

12 3. Penalize or otherwise reduce or limit the
13 reimbursement of an attending provider solely because the
14 attending provider provided care to a covered patient under
15 this subsection;

16 4. Provide incentives, monetary or otherwise, to an
17 attending provider solely to induce the provider to provide
18 care to a covered patient in a manner inconsistent with this
19 subsection; or

20 5. Subject to the other provisions of this subsection,
21 restrict benefits for any portion of a period within a
22 hospital length of stay or outpatient care as required by this
23 subsection in a manner that is less than favorable than the
24 benefits provided for any preceding portion of such stay.

25 (c)1. This subsection does not require a covered
26 patient to have a lymph-node dissection or ~~the~~ mastectomy in
27 the hospital or stay in the hospital for a fixed period of
28 time following a lymph-node dissection or ~~the~~ mastectomy.

29 2. This subsection does not prevent a contract from
30 imposing deductibles, coinsurance, or other cost sharing in
31 relation to benefits pursuant to this subsection, except that

1 such cost sharing shall not exceed cost sharing with other
2 benefits.

3 (d) Except as provided in paragraph (b), this
4 subsection does not affect any agreement between a health
5 maintenance organization and a hospital or other health care
6 provider with respect to reimbursement for health care
7 services provided, rate negotiations with providers, or
8 capitation of providers, and does not prohibit appropriate
9 utilization review or case management by the health
10 maintenance organization.

11 (e) As used in this subsection, the term "mastectomy"
12 means the removal of all or part of the breast for medically
13 necessary reasons as determined by a licensed physician.

14 Section 4. This act shall take effect July 1, 2004.

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17 SENATE SUMMARY

18 Amends provisions prescribing the length of hospital stay
19 relating to a mastectomy which specified health insurers
20 and health maintenance organizations must cover. Provides
21 requirements for the length of hospital stay relating to
22 a lymph-node dissection which specified health insurers
23 and health maintenance organizations must cover. Limits
24 the application of the law.
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