

WOMEN'S HEALTH AND CANCER RIGHTS ACT

BACKGROUND

On October 21, 1998, the Women's Health and Cancer Rights Act (WHCRA) was signed into law. Administered by the Departments of Labor and Health and Human Services, the WHCRA requires all group health plans, insurance providers and health maintenance organizations (HMOs) that offer mastectomy coverage to also provide coverage for certain services related to breast reconstruction following the procedure.

NOTICE & COVERAGE

The law requires plan providers to notify workers of their rights under this act at the time of enrollment and each year thereafter.

In addition to detailing the mastectomy-related benefits available under the plan, the notice must state that for the covered member who is receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for:

- all stages of reconstruction of the breast on which the mastectomy was performed;
- surgery and reconstruction of the other breast to produce a symmetrical appearance;
- prostheses; and
- treatment of physical complications at all stages of the mastectomy, including lymphedemas (swelling that sometimes happens after treatment for breast cancer).

For your convenience, we have provided sample language to fulfill both the annual notice and enrollment notice requirements of the act:

Sample Language for WHCRA Annual Notice

"Your health plan, as required by the Women's Health and Cancer Rights Act of 1998, provides benefits for mastectomy-related services including all stages of reconstruction of the breast on which the mastectomy was performed; surgery and reconstruction of the other breast to produce a symmetrical appearance; prostheses; and treatment of physical complications at all stages of the mastectomy including lymphedema (swelling that sometimes happens after treatment for breast cancer).

Call your Plan Administrator [insert name and telephone number] for more information."

Sample Language for WHCRA Enrollment Notice

"If you have had or are going to have a mastectomy, you may be entitled to certain benefits under the Women's Health and Cancer Rights Act of 1998 (WHCRA). For individuals receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and patient, for:

- All stages of reconstruction of the breast on which the mastectomy was performed;
- Surgery and reconstruction of the other breast to produce a symmetrical appearance;
- Prostheses; and
- Treatment of physical complications of the mastectomy, including lymphedemas.

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These benefits will be provided subject to the same deductibles and coinsurance applicable to other medical and surgical benefits provided under this plan. Therefore, the following deductibles and coinsurance apply: [insert deductibles and coinsurance applicable to these benefits].

If you would like more information on WHCRA benefits, call your Plan Administrator [insert name and telephone number].”

LIMITATIONS

Of particular note, nothing in the statute appears to limit rights to WHCRA benefits to cancer patients. Also, the law does not set forth limitations on the number of prostheses or limitations from the date of the mastectomy. Certain plans referred to as “church plans” or “governmental plans” may not be subject to this law. The law also does not apply to Medicare and Medicaid.

Several states have their own laws requiring reconstructive surgery benefits following mastectomy. Since not all health plans are subject to state law, the federal law sets a minimum standard for securing these services for all women in all states.

For more information on WHCRA, visit www.dol.gov/ebsa or contact your Mesirow Financial representative.

*Sources: U.S. Department of Labor: Employee Benefits Security Administration
American Cancer Society*

This article is intended as an overview and should not be viewed as legal advice. Please consult with your attorney if you have any questions regarding the legislation.