

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 415

An Act to amend and reenact § 38.2-3418.4 of the Code of Virginia, relating to coverage for reconstructive breast surgery.

[H 662]

Approved April 2, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3418.4 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3418.4. Coverage for reconstructive breast surgery.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for reconstructive breast surgery under such policy, contract or plan delivered, issued for delivery or renewed in this Commonwealth ~~on or after July 1, 1998.~~

B. The reimbursement for reconstructive breast surgery shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles and coinsurance factors that are no less favorable than for physical illness generally. *Coverage shall be provided in a manner determined in consultation with the attending physician and the patient.*

C. For purposes of this section, "mastectomy" means the surgical removal of all or part of the breast as a result of breast cancer and "reconstructive breast surgery" means surgery performed ~~on or after July 1, 1998,~~ (i) coincident with *or following* a mastectomy ~~performed for breast cancer~~ or (ii) following a mastectomy ~~performed on or after July 1, 1998, for breast cancer~~ to reestablish symmetry between the two breasts, *for reconstructive breast surgery performed on or after October 21, 1998, and while the patient is or was a covered person under the policy, contract or plan. Reconstructive breast surgery shall also include coverage for prostheses, determined as necessary in consultation with the attending physician and patient, and physical complications of mastectomy, including medically necessary treatment of lymphedemas.*

D. Written notice of the availability of this coverage shall be provided to the enrollee upon enrollment in the policy and annually thereafter. Such notice shall be prominently positioned in any literature or correspondence provided to the enrollee.

E. Eligibility for coverage shall not be denied solely for the purpose of avoiding the requirements of this section, nor shall an attending provider be penalized or have the reimbursement reduced or incentives, monetary or otherwise, provided to induce such provider to provide care in a manner inconsistent with this section.

~~D~~ F. The provisions of this section shall not apply to short-term travel, accident only, limited or specified disease policies (except policies issued for cancer), policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans or to short-term nonrenewable policies of not more than six months' duration.

2. That the provisions of this act shall not affect adversely the rights of any covered person that existed pursuant to the provisions of § 38.2-3418.4 of the Code of Virginia as such section was in effect prior to the effective date of this act.