Medical Coverage Policy | Mastectomy Treatment, Breast Reconstruction and Mastectomy Hospital Stays Mandates

EFFECTIVE DATE: 01|01|2019
POLICY LAST UPDATED: 12|07|2022

OVERVIEW

This policy documents coverage for mastectomy services for members under the following Federal and State Mandates:

- Women's Health and Cancer Rights Act of 1998 (WHCRA)
- Rhode Island General Law (RIGL) 27-20-29 Mastectomy Treatment
- Rhode Island General Law (RIGL) 27-20-29.1 Insurance coverage for mastectomy hospital stays

MEDICAL CRITERIA

Not applicable

PRIOR AUTHORIZATION

Prior authorization is required for Medicare Advantage Plans and recommended for Commercial Products for some of the covered procedures noted in this policy.

Some of the codes in the surgery section may need medical review to determine if coverage requirements are met. Refer to the Prior Authorization via Web Based Tool for Procedures policy for a listing of procedure codes that are reviewed.

POLICY STATEMENT

The following Federal and State Mandates address coverage guidelines and cost share requirements for mastectomy treatment. "cost share" refers to the member's share of the cost of the service, including copayments, deductibles, and coinsurance.

1. Women's Health and Cancer Rights Act of 1998 (WHCRA)

The following surgery services and mastectomy related treatment are covered under the federal mandate for Women's Health and Cancer Rights Act of 1998 (WHCRA):

- 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

Medicare Advantage Plans
The listed services are covered with the applicable cost share depending on the nature of the service.

Commercial Products
While the WHCRA does not prohibit cost sharing for the mandated services, R.I. Gen. Law § 27-20-29 mandates coverage of these services without cost share, as set forth more specifically below.

2. Rhode Island General Law 27-20-29 Mastectomy Treatment

Medicare Advantage Plans
Rhode Island mandates do not apply to Medicare Advantage Plans.

Commercial Products
This state mandate mirrors the federal WHCRA and requires coverage of the below-listed services. However, with an amendment that applies to plans with effective dates on or after January 1, 2019, the General Assembly required that in-network services related to mastectomy treatment (as defined by the codes listed below) are covered at no cost share for Commercial members.

- 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

Note: This mandate applies to HSA-qualified high deductible health plans as to the cost sharing applicable after the deductible has been satisfied.

The above services are defined by the following CPT codes, and therefore, applicable plans may not impose cost sharing for these services when rendered by network providers.
Note: For some surgery codes, authorization will only be required if the code is also listed in the Medical Policy titled "Prior Authorization via Web-Based Tool for Procedures". See Related Policies section.

Surgery:
CPT code(s): 11920, 11921, 11922, 19301-19307, 19316-19350; 19357-19396
Physical Therapy:
CPT code(s) 97010-97016; 97022; 97110-97140; 97161-97164 (filed with primary diagnosis code(s) C50.011-C50.929; I97.2
Note: CPT code(s) 97140 filed with diagnosis code I97.2
Breast Prosthesis*:
HCPCS code(s): A4280; L8000 - L8039
Compression Garments* and devices:
HCPCS code(s) E0676; S8420 - S8429; A4465 and L0970
(filed with primary diagnosis code(s) I97.2 for post mastectomy lymphedema syndrome)

*For Commercial Products and Medicare Advantage Plans, BCBSRI (Blue Cross & Blue Shield of Rhode Island) follows the Centers for Medicare and Medicaid Services (CMS) guidelines for dispensing and replacement limits of prosthesis and garments.

Note: Tattooing of the nipple/areola as part of breast reconstruction is covered (CPT code(s) 11920, 11921, 11922) when performed by a physician or a licensed tattoo artist. Permanent makeup artists must be licensed as a tattoo artist in the state in which the services are rendered. Members who choose to have services provided by a tattoo artist need to complete the special handling form below, attach a copy of the invoice for the tattoo services, and mail the completed form to the address on the bottom on the form. If additional assistance is required, the member should contact BCBSRI Customer Service.

Special Handling Form

3. Rhode Island General Law 27-20-29.1 Insurance coverage for mastectomy hospital stays

Medicare Advantage Plans
Rhode Island mandates do not apply to Medicare Advantage Plans.

Commercial Products

Under this state mandate, the following in-network services are covered:

- Coverage for a minimum of forty-eight (48) hour time period in a hospital after a mastectomy
- Coverage for a minimum of twenty-four (24) hours after an axillary node dissection

Early discharge is defined as the following:

- In-patient care following a mastectomy that is less than forty-eight (48) hours; and
- In-patient care following an axillary node dissection that is less than twenty-four (24) hours

Coverage shall include a minimum of one home visit conducted by a physician or registered nurse.

In accordance with this state mandate, home care services are available if a member participates in an early discharge program; however, the plan's applicable cost sharing applies for these services.

For those services that are also mandated under R.I. Gen. Laws § 27-20-29, cost share will not be applied.

COVERAGE

Benefits may vary. Please refer to the appropriate Benefit Booklet, Evidence of Coverage or Subscriber Agreement for the applicable Mastectomy inpatient, surgery, medical equipment, medical supplies, and prosthetic devices benefits/coverage.

BACKGROUND

Women's Health and Cancer Rights Act: The Federal Law

The Women's Health and Cancer Rights Act (WHCRA), signed into law on October 21, 1998, contains protections for patients who elect breast reconstruction in connection with a mastectomy. For plan participants and beneficiaries receiving benefits in connection with a mastectomy, plans offering coverage for a mastectomy must also cover reconstructive surgery and other benefits related to a mastectomy.

WHCRA:

- *Applies to group health plans for plan years starting on or after October 21, 1998*
- *Applies to group health plans, health insurance companies or HMOs, if the plan or coverage provides medical and surgical benefits with respect to a mastectomy*
- *Requires coverage for reconstructive surgery in a manner determined in consultation with the attending physician*
- *and the patient*

Under WHCRA, mastectomy benefits must include coverage for:

- *Reconstruction of the breast on which the mastectomy was performed*
- *Surgery and reconstruction of the other breast to produce a symmetrical appearance*
- *Prostheses and physical complications at all stages of mastectomy, including lymphedemas*

Under WHCRA, mastectomy benefits may be subject to annual deductibles and coinsurance consistent with those established for other benefits under the plan or coverage.

The law also contains prohibitions against:

- *Plans and issuers denying patients eligibility or continued eligibility to enroll or renew coverage under the plan to avoid the requirements of WHCRA*
- *Plans and issuers providing incentives to, or penalizing, physicians to induce them to provide care in a manner inconsistent with the WHCRA*

Group health plans, health insurance companies and HMOs covered by the law must notify individuals of the coverage required by WHCRA upon enrollment and annually thereafter.

RIGL 27-20-29 Mastectomy Treatment

(a) All individual or group health-insurance coverage and health-benefit plans delivered, issued for delivery, or renewed in this state on or after January 1, 2005, that provide medical and surgical benefits with respect to mastectomy shall provide, in a case of any person covered in the individual market or covered by a group health plan, coverage for:

(1) Reconstruction of the breast on which the mastectomy has been performed;

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

(3) Prostheses and treatment of physical complications, including lymphademas, at all stages of mastectomy; in a manner determined in consultation with the attending physician, physician assistant as defined in § 5-54-2, or an advance practice registered nurse as defined in § 5-34-3, and the patient. As used in this section, "mastectomy" means the removal of all or part of a breast. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

(b) ***Notice.*** *A group health plan, and a health-insurance issuer providing health-insurance coverage in connection with a group health plan, shall provide notice to each participant and beneficiary under the plan regarding the coverage required by this section in accordance with regulations promulgated by the United States Secretary of Health and Human Services. The notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted as part of any yearly informational packet sent to the participant or beneficiary.*

(c) As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician, physician assistant, advance practice registered nurse, or surgeon.

(d) [Deleted by P.L. 2018, ch. 114, § 3 and P.L. 2018, ch. 204, § 3].

(e) Nothing in this section shall be construed to prevent a group health plan or a health-insurance carrier offering health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) Nothing in this section shall preclude the conducting of managed-care reviews and medical-necessity reviews by an insurer, hospital or medical-service corporation or health-maintenance organization.

(g) ***Prohibitions.*** *A group health plan and a health-insurance carrier offering group or individual health-insurance coverage may not:*

(1) Deny to a patient eligibility, or continued eligibility, to enroll or renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section; nor

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

History of Section.
(P.L. 1996, ch. 66, § 3; P.L. 2002, ch. 292, § 39; P.L. 2004, ch. 41, § 3; P.L. 2004, ch. 45, § 3; P.L. 2018, ch. 114, § 3; P.L. 2018, ch. 204, § 3.)

RIGL 27-20-29.1 Insurance coverage for mastectomy hospital stays: *(a) The Rhode Island General Assembly recognizes that breast cancer is a unique illness with both a physical and emotional impact on patients. Every individual or group hospital or medical services plan contract delivered, issued for delivery, or renewed in this state shall provide coverage for a minimum forty-eight (48) hour time period in a hospital after the surgical procedures known as a mastectomy, and a minimum twenty-four (24) hours after an axilary node dissection. Any decision to shorten this minimum coverage shall be made by the attending physician in consultation with and upon agreement by the patient. If the patient participates in an early discharge, defined as in-patient care following a mastectomy that is less than forty-eight hours and in-patient care following an axilary node dissection that is less than twenty-four (24) hours, coverage shall include a minimum of one home visit conducted by a physician or registered nurse.*

(b) Any subscriber who is aggrieved by a denial of benefits to be provided under this section may appeal the denial in accordance with regulations of the department of health, which have been promulgated pursuant to chapter 23 of title 17.12. No policy or plan covered under this chapter shall terminate the services, reduce capitation payment, or penalize an attending physician or other health care provider who orders care consistent with the provisions of this section.

(c) All plans subject to this section shall provide notice to each enrollee:

(1) In the next mass mailing made by the plan to the employee; or

(2) As part of any informational packet sent to the enrollee.

History of Section.
(P.L. 1997, ch. 24, § 3; P.L. 1997, ch. 25, § 3; P.L. 2002, ch. 292, § 39.)

CODES

Refer to Policy Statement.

Please refer to the Prior Authorization via Web-Based Tool for Procedures policy for codes specific to Breast Implant Removal and Breast Reconstruction review.

RELATED POLICIES

Prior Authorization via Web-Based Tool for Procedures

PUBLISHED

Provider Update, February 2023
Provider Update, January 2022
Provider Update, July 2020
Provider Update, April 2020
Provider Update, November 2019

REFERENCES:

1.Women's Health and Cancer Rights Act: Women's Health and Cancer Rights Act (WHCRA) | U.S. Department of Labor (dol.gov)
2. State of Rhode Island Statute TITLE 27-20-29
3. State of Rhode Island Statute TITLE 27-20-29.1
4. West's General Laws of Rhode Island Annotated Title 27. Insurance Chapter 20. Nonprofit Medical Service Corporations

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