



February 21, 2020

ENGROSSED SENATE BILL No. 239

DIGEST OF SB 239 (Updated February 19, 2020 1:16 pm - DI 55)

Citations Affected: IC 5-10; IC 27-8; IC 27-13.

Synopsis: Coverage for breast prostheses. Provides that a state employee health plan providing coverage for a mastectomy must also provide coverage for: (1) reconstructive surgery incident to the mastectomy, including all stages of reconstruction of the breast on which the mastectomy was performed and surgery and reconstruction of the other breast to produce symmetry; and (2) custom fabricated breast prostheses, including one additional breast prosthesis per breast affected by the mastectomy. Provides that a policy of accident and sickness insurance or health maintenance organization contract providing coverage for a mastectomy must also provide coverage for custom fabricated breast prostheses, including one additional breast prosthesis per breast affected by the mastectomy.

Effective: July 1, 2020.

Brown L, Rogers, Zay

(HOUSE SPONSORS — MAYFIELD, FLEMING, VERMILION)

January 9, 2020, read first time and referred to Committee on Insurance and Financial Institutions.

January 30, 2020, reported favorably — Do Pass.

February 3, 2020, read second time, ordered engrossed. Engrossed.

February 4, 2020, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Insurance.

February 20, 2020, amended, reported — Do Pass.

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February 21, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 239

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-16.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 16.5. (a) As used in this section, "covered individual"**
4 **means an individual who is entitled to coverage under a state**
5 **employee health plan.**
6 **(b) As used in this section, "mastectomy" means the removal of**
7 **all or part of a breast for reasons that are determined by a licensed**
8 **physician to be medically necessary.**
9 **(c) A state employee health plan that provides coverage for a**
10 **mastectomy must provide coverage as required under 29 U.S.C.**
11 **1185b, including coverage for:**
12 **(1) prosthetic devices; and**
13 **(2) reconstructive surgery incident to a mastectomy including:**
14 **(A) all stages of reconstruction of the breast on which the**
15 **mastectomy has been performed; and**
16 **(B) surgery and reconstruction of the other breast to**
17 **produce symmetry;**

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- 1 in the manner determined by the attending physician and the
2 covered individual to be appropriate.
- 3 **(d) In addition to the coverage required by 29 U.S.C. 1185b, a**
4 **state employee health plan that provides coverage for a**
5 **mastectomy must provide coverage for:**
- 6 **(1) custom fabricated breast prostheses; and**
7 **(2) one (1) additional breast prosthesis per breast affected by**
8 **the mastectomy.**
- 9 **(e) Coverage required under this section is subject to:**
- 10 **(1) the deductible and coinsurance provisions applicable to a**
11 **mastectomy; and**
12 **(2) all other terms and conditions applicable to other benefits.**
- 13 **(f) A state employee health plan must provide to a covered**
14 **individual, when the individual's coverage under the state**
15 **employee health plan begins and annually thereafter, written**
16 **notice of the coverage required under this section. Notice that is**
17 **sent by the state employee health plan that meets the requirements**
18 **set forth in 29 U.S.C. 1185b constitutes compliance with this**
19 **subsection.**
- 20 **(g) The coverage required under this section applies to a state**
21 **employee health plan that provides coverage for a mastectomy,**
22 **regardless of whether an individual who:**
- 23 **(1) underwent a mastectomy; and**
24 **(2) is covered under the state employee health plan;**
25 **was covered under the state employee health plan at the time of the**
26 **mastectomy.**
- 27 **(h) Except as provided in subsection (d), this section does not**
28 **require a state employee health plan to provide coverage related to**
29 **postmastectomy care that exceeds the coverage required for**
30 **postmastectomy care under federal law.**
- 31 SECTION 2. IC 27-8-5-26 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 26. (a) As used in this
33 section, "mastectomy" means the removal of all or part of the breast for
34 reasons that are determined by a licensed physician to be medically
35 necessary.
- 36 (b) A policy of accident and sickness insurance that provides
37 coverage for a mastectomy may not be issued, amended, delivered, or
38 renewed in Indiana unless the policy provides coverage as required
39 under 29 U.S.C. 1185b, including coverage for:
- 40 (1) prosthetic devices; and
41 (2) reconstructive surgery incident to a mastectomy including:
42 (A) all stages of reconstruction of the breast on which the



- 1 mastectomy has been performed; and
 2 (B) surgery and reconstruction of the other breast to produce
 3 symmetry;
 4 in the manner determined by the attending physician and the
 5 patient to be appropriate.
- 6 **(c) In addition to the coverage required by 29 U.S.C. 1185b, a**
 7 **policy of accident and sickness insurance that provides coverage**
 8 **for a mastectomy must provide coverage for:**
- 9 **(1) custom fabricated breast prostheses; and**
 10 **(2) one (1) additional breast prosthesis per breast affected by**
 11 **the mastectomy.**
- 12 ~~(e)~~ **(d)** Coverage required under this section is subject to:
 13 (1) the deductible and coinsurance provisions applicable to a
 14 mastectomy; and
 15 (2) all other terms and conditions applicable to other benefits.
- 16 ~~(d)~~ **(e)** An insurer that issues a policy of accident and sickness
 17 insurance shall provide to an insured, at the time the policy is issued
 18 and annually thereafter, written notice of the coverage required under
 19 this section. Notice that is sent by the insurer that meets the
 20 requirements set forth in 29 U.S.C. 1185b constitutes compliance with
 21 this subsection.
- 22 ~~(e)~~ **(f)** The coverage required under this section applies to a policy
 23 of accident and sickness insurance that provides coverage for a
 24 mastectomy, regardless of whether an individual who:
 25 (1) underwent a mastectomy; and
 26 (2) is covered under the policy;
 27 was covered under the policy at the time of the mastectomy.
- 28 ~~(f)~~ **(g) Except as provided in subsection (c),** this section does not
 29 require an insurer to provide coverage related to post mastectomy care
 30 that exceeds the coverage required for post mastectomy care under
 31 federal law.
- 32 SECTION 3. IC 27-13-7-14 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) As used in this
 34 section, "mastectomy" means the removal of all or part of the breast for
 35 reasons that are determined by a licensed physician to be medically
 36 necessary.
- 37 (b) A contract with a health maintenance organization that provides
 38 coverage for a mastectomy must provide coverage as required under 29
 39 U.S.C. 1185b, including coverage for:
 40 (1) prosthetic devices; and
 41 (2) reconstructive surgery incident to a mastectomy including:
 42 (A) all stages of reconstruction of the breast on which the



- 1 mastectomy has been performed; and
 2 (B) surgery and reconstruction of the other breast to produce
 3 symmetry;
 4 in the manner determined by the attending physician and the
 5 patient to be appropriate.
- 6 **(c) In addition to the coverage required by 29 U.S.C. 1185b, a**
 7 **health maintenance organization contract that provides coverage**
 8 **for a mastectomy must provide coverage for:**
- 9 **(1) custom fabricated breast prostheses; and**
 10 **(2) one (1) additional breast prosthesis per breast affected by**
 11 **the mastectomy.**
- 12 ~~(e)~~ **(d)** Coverage required under this section is subject to:
 13 (1) the deductible and coinsurance provisions applicable to a
 14 mastectomy; and
 15 (2) all other terms and conditions applicable to other services
 16 under the contract.
- 17 ~~(d)~~ **(e)** A health maintenance organization shall provide to an
 18 enrollee, at the time that an individual contract or a group contract is
 19 entered into and annually thereafter, written notice of the coverage
 20 required under this section. Notice that is sent by the health
 21 maintenance organization that meets the requirements set forth in 29
 22 U.S.C. 1185b constitutes compliance with this subsection.
- 23 ~~(e)~~ **(f)** The coverage required under this section applies to a contract
 24 with a health maintenance organization that provides coverage for a
 25 mastectomy, regardless of whether an individual who:
 26 (1) underwent a mastectomy; and
 27 (2) is covered under the contract;
 28 was covered under the contract at the time of the mastectomy.
- 29 ~~(f)~~ **(g) Except as provided in subsection (c),** this section does not
 30 require a health maintenance organization to provide coverage related
 31 to post mastectomy care that exceeds the coverage required for post
 32 mastectomy care under federal law.



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 239 as introduced.)

BASSLER, Chairperson

Committee Vote: Yeas 8, Nays 1

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 239, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 14, delete "at the time the policy is issued" and insert "**when the individual's coverage under the state employee health plan begins**".

Page 2, line 23, delete "policy;" and insert "**state employee health plan;**".

Page 2, line 24, delete "policy" and insert "**state employee health plan**".

and when so amended that said bill do pass.

(Reference is to SB 239 as printed January 31, 2020.)

CARBAUGH

Committee Vote: yeas 10, nays 0.

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