

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.

## SENATE ENROLLED ACT No. 239

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AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 5-10-8-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2020]: **Sec. 16.5. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.**

**(b) As used in this section, "mastectomy" means the removal of all or part of a breast for reasons that are determined by a licensed physician to be medically necessary.**

**(c) A state employee health plan that provides coverage for a mastectomy must provide coverage as required under 29 U.S.C. 1185b, including coverage for:**

- (1) prosthetic devices; and**
- (2) reconstructive surgery incident to a mastectomy including:**
  - (A) all stages of reconstruction of the breast on which the mastectomy has been performed; and**
  - (B) surgery and reconstruction of the other breast to produce symmetry;**

**in the manner determined by the attending physician and the covered individual to be appropriate.**

**(d) In addition to the coverage required by 29 U.S.C. 1185b, a state employee health plan that provides coverage for a mastectomy must provide coverage for:**

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- (1) custom fabricated breast prostheses; and**
- (2) one (1) additional breast prosthesis per breast affected by the mastectomy.**

**(e) Coverage required under this section is subject to:**

- (1) the deductible and coinsurance provisions applicable to a mastectomy; and**
- (2) all other terms and conditions applicable to other benefits.**

**(f) A state employee health plan must provide to a covered individual, when the individual's coverage under the state employee health plan begins and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the state employee health plan that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.**

**(g) The coverage required under this section applies to a state employee health plan that provides coverage for a mastectomy, regardless of whether an individual who:**

- (1) underwent a mastectomy; and**
- (2) is covered under the state employee health plan;**

**was covered under the state employee health plan at the time of the mastectomy.**

**(h) Except as provided in subsection (d), this section does not require a state employee health plan to provide coverage related to postmastectomy care that exceeds the coverage required for postmastectomy care under federal law.**

SECTION 2. IC 27-8-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 26. (a) As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

(b) A policy of accident and sickness insurance that provides coverage for a mastectomy may not be issued, amended, delivered, or renewed in Indiana unless the policy provides coverage as required under 29 U.S.C. 1185b, including coverage for:

- (1) prosthetic devices; and
- (2) reconstructive surgery incident to a mastectomy including:
  - (A) all stages of reconstruction of the breast on which the mastectomy has been performed; and
  - (B) surgery and reconstruction of the other breast to produce symmetry;

in the manner determined by the attending physician and the patient to be appropriate.



**(c) In addition to the coverage required by 29 U.S.C. 1185b, a policy of accident and sickness insurance that provides coverage for a mastectomy must provide coverage for:**

- (1) custom fabricated breast prostheses; and**
- (2) one (1) additional breast prosthesis per breast affected by the mastectomy.**

**(d)** Coverage required under this section is subject to:

- (1) the deductible and coinsurance provisions applicable to a mastectomy; and
- (2) all other terms and conditions applicable to other benefits.

**(e)** An insurer that issues a policy of accident and sickness insurance shall provide to an insured, at the time the policy is issued and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the insurer that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

**(f)** The coverage required under this section applies to a policy of accident and sickness insurance that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the policy;

was covered under the policy at the time of the mastectomy.

**(g) Except as provided in subsection (c),** this section does not require an insurer to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 3. IC 27-13-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

(b) A contract with a health maintenance organization that provides coverage for a mastectomy must provide coverage as required under 29 U.S.C. 1185b, including coverage for:

- (1) prosthetic devices; and
- (2) reconstructive surgery incident to a mastectomy including:
  - (A) all stages of reconstruction of the breast on which the mastectomy has been performed; and
  - (B) surgery and reconstruction of the other breast to produce symmetry;

in the manner determined by the attending physician and the patient to be appropriate.



**(c) In addition to the coverage required by 29 U.S.C. 1185b, a health maintenance organization contract that provides coverage for a mastectomy must provide coverage for:**

- (1) custom fabricated breast prostheses; and**
- (2) one (1) additional breast prosthesis per breast affected by the mastectomy.**

~~(c)~~ **(d)** Coverage required under this section is subject to:

- (1) the deductible and coinsurance provisions applicable to a mastectomy; and
- (2) all other terms and conditions applicable to other services under the contract.

~~(d)~~ **(e)** A health maintenance organization shall provide to an enrollee, at the time that an individual contract or a group contract is entered into and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the health maintenance organization that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

~~(e)~~ **(f)** The coverage required under this section applies to a contract with a health maintenance organization that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the contract;

was covered under the contract at the time of the mastectomy.

~~(f)~~ **(g) Except as provided in subsection (c),** this section does not require a health maintenance organization to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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