

118TH CONGRESS
1ST SESSION

S. 2464

To amend title XXVII of the Public Health Service Act to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from imposing cost-sharing requirements with respect to diagnostic and supplemental breast examinations.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mrs. SHAHEEN (for herself and Mrs. BRITT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title XXVII of the Public Health Service Act to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from imposing cost-sharing requirements with respect to diagnostic and supplemental breast examinations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to Breast Can-
5 cer Diagnosis Act of 2023”.

1 **SEC. 2. REQUIRING DIAGNOSTIC AND SUPPLEMENTAL**
2 **BREAST EXAMINATIONS TO BE COVERED**
3 **WITH NO COST-SHARING REQUIREMENTS.**

4 (a) IN GENERAL.—Subpart II of part A of title
5 XXVII of the Public Health Service Act (42 U.S.C.
6 300gg–11 et seq.) is amended by adding at the end the
7 following new section:

8 **“SEC. 2730. DIAGNOSTIC AND SUPPLEMENTAL BREAST EX-**
9 **AMINATIONS.**

10 “(a) IN GENERAL.—In the case of a group health
11 plan, or a health insurance issuer offering group or indi-
12 vidual health insurance coverage, that provides benefits
13 with respect to diagnostic and supplemental breast exami-
14 nations furnished to an individual enrolled under such
15 plan or such coverage, such plan or coverage shall not im-
16 pose any cost-sharing requirements for these benefits.

17 “(b) CONSTRUCTION.—Nothing in this section shall
18 be construed—

19 “(1) to prohibit a group health plan or health
20 insurance issuer from requiring timely prior author-
21 ization or imposing other appropriate utilization con-
22 trols in approving coverage for any diagnostic and
23 supplemental breast examination; or

24 “(2) to supersede a State law that provides
25 greater protections with respect to the coverage of

1 diagnostic and supplemental breast examinations
2 than is provided under this section.

3 “(c) DEFINITIONS.—In this section:

4 “(1) COST-SHARING REQUIREMENTS.—The
5 term ‘cost-sharing requirements’ means a deductible,
6 coinsurance, copayment, and any maximum limita-
7 tion on the application of such a deductible, coinsur-
8 ance, copayment or similar out-of-pocket expense.

9 “(2) DIAGNOSTIC BREAST EXAMINATION.—The
10 term ‘diagnostic breast examination’ means a medi-
11 cally necessary and appropriate (in accordance with
12 National Comprehensive Cancer Network Guide-
13 lines) examination of the breast (including, but not
14 limited to such an examination using diagnostic
15 mammography, breast magnetic resonance imaging,
16 or breast ultrasound) that is—

17 “(A) used to evaluate an abnormality seen
18 or suspected from a screening examination for
19 breast cancer; or

20 “(B) used to evaluate an abnormality de-
21 tected by another means of examination.

22 “(3) SUPPLEMENTAL BREAST EXAMINA-
23 TIONS.—The term ‘supplemental breast examination’
24 means a medically necessary and appropriate (in ac-
25 cordance with National Comprehensive Cancer Net-

1 work Guidelines) examination of the breast (includ-
 2 ing, but not limited to such an examination using
 3 breast magnetic resonance imaging or breast
 4 ultrasound) that is—

5 “(A) used to screen for breast cancer when
 6 there is no abnormality seen or suspected; and

7 “(B) furnished based on personal or family
 8 medical history or additional factors that may
 9 increase the individual’s risk of breast cancer.”.

10 (b) APPLICATION TO GRANDFATHERED HEALTH
 11 PLANS.—Section 1251(a)(4)(A) of the Patient Protection
 12 and Affordable Care Act (42 U.S.C. 18011(a)(4)(A)) is
 13 amended—

14 (1) by striking “title” and inserting “title, or as
 15 added after the date of the enactment of this Act”;
 16 and

17 (2) by adding at the end the following new
 18 clause:

19 “(v) Section 2730 (relating to cov-
 20 erage for diagnostic and supplemental
 21 breast examinations).”.

22 (c) APPLICATION TO HIGH DEDUCTIBLE HEALTH
 23 PLANS WITH HEALTH SAVINGS ACCOUNT ELIGIBILITY.—
 24 Section 223(c)(2) of the Internal Revenue Code of 1986
 25 is amended by adding at the end the following:

1 “(H) SAFE HARBOR FOR ABSENCE OF DE-
2 DUCTIBLE FOR DIAGNOSTIC AND SUPPLE-
3 MENTAL BREAST EXAMINATIONS.—In the case
4 of plan years beginning on or after January 1,
5 2024, a plan shall not fail to be treated as a
6 high deductible health plan by reason of failing
7 to have a deductible for diagnostic and supple-
8 mental breast examinations.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to plan years begin-
11 ning on or after January 1, 2024.

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