

118TH CONGRESS
1ST SESSION

H. R. 3851

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 HOUSE OF REPRESENTATIVES

JUNE 6, 2023

Mrs. DINGELL (for herself, Mr. FITZPATRICK, Ms. WASSERMAN SCHULTZ, and Mr. ALLRED) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. REQUIRING DIAGNOSTIC AND SUPPLEMENTAL**
5 **BREAST EXAMINATIONS TO BE COVERED**
6 **WITH NO COST-SHARING REQUIREMENTS.**

7 (a) IN GENERAL.—Subpart II of part A of title
8 XXVII of the Public Health Service Act (42 U.S.C.
9 300gg–11 et seq.) is amended by adding at the end the
10 following new section:

11 **“SEC. 2730. DIAGNOSTIC AND SUPPLEMENTAL BREAST EX-**
12 **AMINATIONS.**

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

20 “(b) CONSTRUCTION.—Nothing in this section shall
21 be construed—

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

1 “(2) to supersede a State law that provides
2 greater protections with respect to the coverage of
3 diagnostic and supplemental breast examinations
4 than is provided under this section.

5 “(c) DEFINITIONS.—In this section:

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

11 “(2) DIAGNOSTIC BREAST EXAMINATION.—The
12 term ‘diagnostic breast examination’ means a medi-
13 cally necessary and appropriate (in accordance with
14 National Comprehensive Cancer Network Guide-
15 lines) examination of the breast (including such an
16 examination using diagnostic mammography, breast
17 magnetic resonance imaging, or breast ultrasound)
18 that is—

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

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

24 “(3) SUPPLEMENTAL BREAST EXAMINA-
25 TIONS.—The term ‘supplemental breast examination’

1 means a medically necessary and appropriate (in ac-
2 cordance with National Comprehensive Cancer Net-
3 work Guidelines) examination of the breast (includ-
4 ing such an examination using breast magnetic reso-
5 nance imaging or breast ultrasound) that is—

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

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

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

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

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

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

23 (c) APPLICATION TO HIGH DEDUCTIBLE HEALTH
24 PLANS WITH HEALTH SAVINGS ACCOUNT ELIGIBILITY.—

1 Section 223(c)(2) of the Internal Revenue Code of 1986
2 is amended by adding at the end the following:

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

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

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