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# SENATE BILL No. 195

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-8-7.2; IC 27-8-14; IC 27-13-7-15.3.

**Synopsis:** Insurance coverage for diagnostic mammograms. Prohibits dollar limits, deductibles, copayments, or coinsurance for certain diagnostic mammograms under a state employee health plan, a policy of accident and sickness insurance, or a health maintenance organization contract, that are less favorable than those allowed for breast cancer screening mammography. Requires the department of state personnel to request written guidance from the federal Internal Revenue Service concerning the status of an annual diagnostic mammogram as "preventive care" under Section 223(c)(2) of the Internal Revenue Code (for purposes of determining whether a deductible under a high deductible health plan is not required).

**Effective:** Upon passage; July 1, 2012.

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**Waltz**

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January 4, 2012, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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**SENATE BILL No. 195**



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 5-10-8-7.2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.2. (a) As used in this
- 3 section, "breast cancer diagnostic service" means a procedure intended
- 4 to aid in the diagnosis of breast cancer. The term includes procedures
- 5 performed on an inpatient basis and procedures performed on an
- 6 outpatient basis, including the following:
- 7 (1) Breast cancer screening mammography.
- 8 (2) Surgical breast biopsy.
- 9 (3) Pathologic examination and interpretation.
- 10 (b) As used in this section, "breast cancer outpatient treatment
- 11 services" means procedures that are intended to treat cancer of the
- 12 human breast and that are delivered on an outpatient basis. The term
- 13 includes the following:
- 14 (1) Chemotherapy.
- 15 (2) Hormonal therapy.
- 16 (3) Radiation therapy.
- 17 (4) Surgery.



- 1 (5) Other outpatient cancer treatment services prescribed by a  
2 physician.
- 3 (6) Medical follow-up services related to the procedures set forth  
4 in subdivisions (1) through (5).
- 5 (c) As used in this section, "breast cancer rehabilitative services"  
6 means procedures that are intended to improve the results of or to  
7 ameliorate the debilitating consequences of the treatment of breast  
8 cancer and that are delivered on an inpatient or outpatient basis. The  
9 term includes the following:
- 10 (1) Physical therapy.
- 11 (2) Psychological and social support services.
- 12 (3) Reconstructive plastic surgery.
- 13 (d) As used in this section, "breast cancer screening mammography"  
14 means a standard, two (2) view per breast, low-dose radiographic  
15 examination of the breasts that is:
- 16 (1) furnished to an asymptomatic woman; and
- 17 (2) performed by a mammography services provider using  
18 equipment designed by the manufacturer for and dedicated  
19 specifically to mammography in order to detect unsuspected  
20 breast cancer.
- 21 The term includes the interpretation of the results of a breast cancer  
22 screening mammography by a physician.
- 23 (e) As used in this section, "covered individual" means a female  
24 individual who is:
- 25 (1) covered under a self-insurance program established under  
26 section 7(b) of this chapter to provide group health coverage; or
- 27 (2) entitled to services under a contract with a health maintenance  
28 organization (as defined in IC 27-13-1-19) that is entered into or  
29 renewed under section 7(c) of this chapter.
- 30 **(f) As used in this section, "diagnostic mammogram" means a**  
31 **mammogram furnished to a covered individual who has a:**
- 32 **(1) personal history of breast cancer; or**
- 33 **(2) breast abnormality that is suspicious for breast cancer and**  
34 **requires mammography for diagnostic evaluation.**
- 35 **The term includes the interpretation of the results of a diagnostic**  
36 **mammogram by a physician.**
- 37 (g) As used in this section, "mammography services provider"  
38 means an individual or facility that:
- 39 (1) has been accredited by the American College of Radiology;
- 40 (2) meets equivalent guidelines established by the state  
41 department of health; or
- 42 (3) is certified by the federal Department of Health and Human

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- 1 Services for participation in the Medicare program (42 U.S.C.  
2 1395 et seq.).
- 3 ~~(g)~~ **(h)** As used in this section, "woman at risk" means a woman who  
4 meets at least one (1) of the following descriptions:
- 5 (1) A woman who has a personal history of breast cancer.  
6 (2) A woman who has a personal history of breast disease that  
7 was proven benign by biopsy.  
8 (3) A woman whose mother, sister, or daughter has had breast  
9 cancer.  
10 (4) A woman who is at least thirty (30) years of age and has not  
11 given birth.
- 12 ~~(h)~~ **(i)** A self-insurance program established under section 7(b) of  
13 this chapter to provide health care coverage must provide covered  
14 individuals with coverage for breast cancer diagnostic services, breast  
15 cancer outpatient treatment services, and breast cancer rehabilitative  
16 services. The coverage must provide reimbursement for breast cancer  
17 screening mammography at a level at least as high as:
- 18 (1) the limitation on payment for screening mammography  
19 services established in 42 CFR 405.534(b)(3) according to the  
20 Medicare Economic Index at the time the breast cancer screening  
21 mammography is performed; or  
22 (2) the rate negotiated by a contract provider according to the  
23 provisions of the insurance policy;  
24 whichever is lower. The costs of the coverage required by this  
25 subsection may be paid by the state or by the employee or by a  
26 combination of the state and the employee.
- 27 ~~(i)~~ **(j)** A contract with a health maintenance organization that is  
28 entered into or renewed under section 7(c) of this chapter must provide  
29 covered individuals with breast cancer diagnostic services, breast  
30 cancer outpatient treatment services, and breast cancer rehabilitative  
31 services.
- 32 ~~(j)~~ **(k)** The coverage required by subsection ~~(h)~~ **(i)** and services  
33 required by subsection ~~(i)~~ **(j)** may not be subject to dollar limits,  
34 deductibles, or coinsurance provisions that are less favorable to  
35 covered individuals than the dollar limits, deductibles, or coinsurance  
36 provisions applying to physical illness generally under the  
37 self-insurance program or contract with a health maintenance  
38 organization.
- 39 ~~(k)~~ **(l)** The coverage for breast cancer diagnostic services required  
40 by subsection ~~(h)~~ **(i)** and the breast cancer diagnostic services required  
41 by subsection ~~(i)~~ **(j)** must include the following:  
42 (1) In the case of a covered individual who is at least thirty-five

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- 1 (35) years of age but less than forty (40) years of age, at least one  
 2 (1) baseline breast cancer screening mammography performed  
 3 upon the individual before she becomes forty (40) years of age.  
 4 (2) In the case of a covered individual who is:  
 5 (A) less than forty (40) years of age; and  
 6 (B) a woman at risk;  
 7 at least one (1) breast cancer screening mammography performed  
 8 upon the covered individual every year.  
 9 (3) In the case of a covered individual who is at least forty (40)  
 10 years of age, at least one (1) breast cancer screening  
 11 mammography performed upon the individual every year.  
 12 (4) Any additional mammography views that are required for  
 13 proper evaluation.  
 14 (5) Ultrasound services, if determined medically necessary by the  
 15 physician treating the covered individual.  
 16 **(h) (m)** The coverage for breast cancer diagnostic services required  
 17 by subsection **(h) (i)** and the breast cancer diagnostic services required  
 18 by subsection **(h) (j)** shall be provided in addition to any benefits  
 19 specifically provided for x-rays, laboratory testing, or wellness  
 20 examinations.  
 21 **(n) Except as provided in subsection (o), the coverage provided**  
 22 **by a:**  
 23 **(1) self-insurance program established under section 7(b) of**  
 24 **this chapter to provide health care coverage; or**  
 25 **(2) contract with a health maintenance organization that is**  
 26 **entered into or renewed under section 7(c) of this chapter;**  
 27 **for a diagnostic mammogram that is ordered one (1) time per year**  
 28 **in conjunction with an annual physical examination may not be**  
 29 **subject to dollar limits, deductibles, copayments, or coinsurance**  
 30 **provisions that are less favorable to a covered individual than the**  
 31 **dollar limits, deductibles, copayments, or coinsurance provisions**  
 32 **that apply to breast cancer screening mammography under the**  
 33 **self-insurance program or contract with a health maintenance**  
 34 **organization.**  
 35 **(o) Subsection (n) does not apply to a:**  
 36 **(1) self-insurance program established under section 7(b) of**  
 37 **this chapter to provide health care coverage; or**  
 38 **(2) contract with a health maintenance organization that is**  
 39 **entered into or renewed under section 7(c) of this chapter;**  
 40 **that is a high deductible health plan if the federal Internal Revenue**  
 41 **Service does not determine that a diagnostic mammogram that is**  
 42 **ordered one (1) time per year in conjunction with an annual**

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1 physical examination is considered to be preventive care for which  
 2 a deductible under a high deductible health plan is not required by  
 3 26 U.S.C. 223(c)(2).

4 SECTION 2. IC 27-8-14-2.4 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2012]: Sec. 2.4. (a) As used in this chapter, "diagnostic  
 7 mammogram" means a mammogram furnished to an insured who  
 8 has a:

- 9 (1) personal history of breast cancer; or  
 10 (2) breast abnormality that is suspicious for breast cancer and  
 11 requires mammography for diagnostic evaluation.

12 (b) The term includes the interpretation of the results of a  
 13 diagnostic mammogram by a physician.

14 SECTION 3. IC 27-8-14-7 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2012]: Sec. 7. (a) Except as provided in subsection (b), the  
 17 coverage provided under an accident and sickness insurance policy  
 18 for a diagnostic mammogram that is ordered one (1) time per year  
 19 in conjunction with an annual physical examination may not be  
 20 subject to dollar limits, deductibles, or coinsurance provisions that  
 21 are less favorable to an insured than the dollar limits, deductibles,  
 22 or coinsurance provisions that apply to breast cancer screening  
 23 mammography under the accident and sickness insurance policy.

24 (b) Subsection (a) does not apply to an accident and sickness  
 25 policy that is a high deductible health plan if the federal Internal  
 26 Revenue Service does not determine that a diagnostic mammogram  
 27 that is ordered one (1) time per year in conjunction with an annual  
 28 physical examination is considered to be preventive care for which  
 29 a deductible under a high deductible health plan is not required by  
 30 26 U.S.C. 223(c)(2).

31 SECTION 4. IC 27-13-7-15.3 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15.3. (a) As used in this  
 33 section, "breast cancer screening mammography" has the meaning set  
 34 forth in IC 27-8-14-2.

35 (b) As used in this section, "diagnostic mammogram" means a  
 36 mammogram furnished to an enrollee who has a:

- 37 (1) personal history of breast cancer; or  
 38 (2) breast abnormality that is suspicious for breast cancer and  
 39 requires mammography for diagnostic evaluation.

40 The term includes the interpretation of the results of a diagnostic  
 41 mammogram by a physician.

42 (b) (c) As used in this section, "woman at risk" has the meaning set

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1 forth in IC 27-8-14-5.

2 ~~(e)~~ **(d)** Except as provided in subsection ~~(g)~~; **(h)**, a health  
3 maintenance organization issued a certificate of authority in Indiana  
4 shall provide breast cancer screening mammography as a covered  
5 service under every group contract that provides coverage for basic  
6 health care services.

7 ~~(d)~~ **(e)** Except as provided in subsection ~~(g)~~; **(h)**, the coverage that  
8 a health maintenance organization must provide under this section must  
9 include the following:

10 (1) If the enrollee is at least thirty-five (35) years of age but less  
11 than forty (40) years of age and a female, coverage for at least one  
12 (1) baseline breast cancer screening mammography performed  
13 upon the enrollee before the enrollee becomes forty (40) years of  
14 age.

15 (2) If the enrollee is less than forty (40) years of age and a woman  
16 at risk, one (1) breast cancer screening mammography performed  
17 upon the enrollee every year.

18 (3) If the enrollee is at least forty (40) years of age and a female,  
19 one (1) breast cancer screening mammography performed upon  
20 the enrollee every year.

21 (4) Any additional mammography views that are required for  
22 proper evaluation.

23 (5) Ultrasound services, if determined medically necessary by the  
24 physician treating the enrollee.

25 ~~(e)~~ **(f)** Except as provided in subsection ~~(g)~~; **(h)**, the coverage that  
26 a health maintenance organization must provide under this section may  
27 not be subject to a contract provision that is less favorable to an  
28 enrollee or a subscriber than contract provisions applying to physical  
29 illness generally under the health maintenance organization contract.

30 ~~(f)~~ **(g)** Except as provided in subsection ~~(g)~~; **(h)**, the coverage that  
31 a health maintenance organization must provide under this section is  
32 in addition to services specifically provided for x-rays, laboratory  
33 testing, or wellness examinations.

34 ~~(g)~~ **(h)** In the case of coverage that is not employer based, the health  
35 maintenance organization must offer to provide the coverage described  
36 in subsections ~~(e)~~ **(d)** through ~~(f)~~; **(g)**.

37 **(i) To the extent allowed by federal law, the coverage provided**  
38 **under an individual contract or a group contract for a diagnostic**  
39 **mammogram that is ordered one (1) time per year in conjunction**  
40 **with an annual physical examination may not be subject to a**  
41 **contract provision that is less favorable to an enrollee than the**  
42 **contract provisions that apply to breast cancer screening**

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1        **mammography under the individual contract or group contract.**  
2        SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **The department**  
3        **of state personnel shall, not later than June 1, 2012, request from**  
4        **the federal Internal Revenue Service written guidance concerning**  
5        **whether one (1) diagnostic mammogram (as defined in**  
6        **IC 27-8-14-2.4, as added by this act) per year that is ordered in**  
7        **conjunction with an annual physical examination is considered to**  
8        **be preventive care for which a deductible under a high deductible**  
9        **health plan is not required by 26 U.S.C. 223(c)(2).**  
10        (b) **This SECTION expires December 31, 2012.**  
11        SECTION 6. [EFFECTIVE JULY 1, 2012] (a) **IC 5-10-8-7.2, as**  
12        **amended by this act, applies to a self-insurance program or a**  
13        **contract with a health maintenance organization that is**  
14        **established, entered into, amended, or renewed after June 30, 2012.**  
15        (b) **IC 27-8-14, as amended by this act, applies to an accident**  
16        **and sickness insurance policy that is issued, delivered, amended, or**  
17        **renewed after June 30, 2012.**  
18        (c) **IC 27-13-7-15.3, as amended by this act, applies to an**  
19        **individual contract or a group contract that is entered into,**  
20        **delivered, amended, or renewed after June 30, 2012.**  
21        (d) **This SECTION expires July 1, 2014.**  
22        SECTION 7. **An emergency is declared for this act.**

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