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1996 Survey of Rhode Island Law: Legislation: Health Law & Policy. An Act Relating To Health Insurance Coverage - Diabetes, An Act Relating To Health Insurance Coverage -Mastectomy Coverage, An Act Relating To Insurance - Post Partum Hospital Stay Coverage

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Health Law & Policy. *An Act Relating To Health Insurance Coverage—Diabetes.* Provides that certain health insurance policies or plans, issued or renewed after January 1, 1997, must provide coverage for testing equipment and training, as well as treatment of diabetes and diabetes-related problems. Effective, August 6, 1996. 1996 R.I. Pub. Laws ch. 106.

This legislation (the Act) requires that insurance plans providing coverage for physician services, in a physician's office, and those providing major medical or similar types of comprehensive coverage, must reimburse for various diabetes-related services and equipment, if medically appropriate and prescribed by a physician.¹ The Act amends several chapters of Title 27 (Insurance) of the Rhode Island General Laws, specifically, chapters 27-18, 27-19, 27-20, and 27-41,² by adding identical provisions to each chapter.³ In addition to the current services and equipment to be covered, the Act also mandates coverage for new or improved equipment and supplies, as they are approved by the United States Food and Drug Administration (FDA).⁴

The Act further requires that policies reimburse for instruction given to diabetics regarding management and treatment of their disease, including information on the nutritional management of diabetes.⁵ However, reimbursement for education is limited to the following three situations categorized under the Act as "medically necessary visits:" initial diagnosis of diabetes, physician diagnosis of "significant change" in the disease which requires alteration of the patient's self-management regimen, and where

1. R.I. Gen. Laws §§ 27-18-38, -19-35, -20-22, -41-44 (1994 & Supp. 1996). Coverage is required for blood glucose monitors (including monitors for the legally blind), syringes, insulin pumps and related equipment, insulin infusion devices, oral agents for controlling blood sugar, and therapeutic or molded shoes for the prevention of amputation. *Id.*

2. Rhode Island General Laws section 27-18 is entitled, "Accident and Sickness Insurance Policies," section 27-19 is entitled, "Nonprofit Hospital Service Corporations," section 27-20 is entitled, "Nonprofit Medical Service Corporations," and section 27-41 is entitled, "Health Maintenance Organizations."

3. See R.I. Gen. Laws §§ 27-18-38, -19-35, -20-22, -41-44 (1994 & Supp. 1996).

4. "Upon the approval of new or unproved diabetes equipment and supplies by the Food and Drug Administration, all policies governed by this act shall guarantee coverage of such new diabetes equipment and supplies when medically appropriate and prescribed by a physician." *See id.*

5. *Id.* §§ 27-19-35, -20-22, -41-44.

there is a need for re-education.⁶ These services must be provided by a physician or a licensed health care provider to whom a physician refers the patient.⁷ Finally, any co-payments or deductibles imposed on these services may not exceed those applied to any other supplies, equipment or physician office visits.⁸ Despite the aforementioned provisions and mandates, this provision of the Act contains no penalties for failure to comply.

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6. *Id.*

7. *Id.* Medically necessary home visits to provide education are also covered.

8. *Id.* The Act allows benefits for these services to be paid "in accordance with the respective principles and mechanisms of reimbursement for each insurer, hospital, or medical service corporation, or health maintenance organization." *Id.*

Health Law & Policy. *An Act Relating To Health Insurance—Mastectomy Coverage.* Provides that certain health insurance policies or plans issued or renewed after January 1, 1997, must provide coverage for reconstructive surgery or prosthetic devices after a mastectomy. Effective, June 28, 1996. 1996 R.I. Pub. Laws ch. 66.

This legislation (the Act) requires that insurance plans that provide coverage for physician services in a physician's office, and those that provide major medical or similar comprehensive coverage, must now cover prosthetic devices and/or reconstructive surgery following a mastectomy.¹ Coverage for these services is subject to the same deductible and co-insurance conditions applicable to other benefits, and any reconstructive surgery under this Act must be performed within eighteen months of the original mastectomy.² Significantly, the Act does not require insurance plans to cover the mastectomy itself, but if such coverage is provided, the post-mastectomy treatment described in the Act must be covered.³ The plan is not required to provide coverage if the post-mastectomy services are provided by a non-participating physician, unless the patient is referred by a participating health care provider.⁴ Finally, the Act does not preclude managed care or medical necessity reviews by insurers, hospital or medical service corporations, or health maintenance organizations.⁵

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1. R.I. Gen. Laws §§ 27-18-39, -19-34, -20-21, -41-43 (1994 & Supp. 1996). The Act amends several chapters of Title 27 (Insurance) of the Rhode Island General Laws, specifically, chapters 27-18, 27-19, 27-20, and 27-41, by adding identical provisions to each chapter. *Id.* Policies that only provide coverage for specific diseases or supplemental policies are excluded from this Act.

2. *Id.* § 27-18-39. Under the Act, mastectomy is defined as "the removal of all or part of the breast to treat breast cancer, tumor, or mass." *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

Health Law & Policy. *An Act Relating To Insurance—Post Partum Hospital Stay Coverage.* Provides that any health insurance policy or plan, issued or renewed after September 1, 1996, which includes maternity benefits, shall provide for a minimum forty-eight hour hospital stay for vaginal deliveries, and ninety-six hour stay for Caesarean section, for mother and newborn. Also provides that this period may be shortened by the attending health care provider in consultation with the mother, and in accordance with appropriate professional standards and guidelines. Effective, August 6, 1996. 1996 R.I. Pub. Laws chs. 246, 260.

This legislation (the Act) requires insurance plans to provide maternity benefits for a hospital stay of at least forty-eight hours after vaginal delivery, and ninety-six hours after Caesarean section, for mothers and newborns.¹ The stated purpose of the Act is to provide for both an adequate period of post-partum recovery for mothers, and an opportunity for screening the baby for various diseases, as mandated by the Rhode Island statewide screening system.² The Preamble to the Act states that mothers and newborns are routinely being discharged from the hospital within twenty-four hours after delivery,³ which is inconsistent with professional guidelines in this area. This early discharge poses a threat to the health of mothers and babies who were not adequately prepared for such a short stay.⁴

The Act amends several chapters of Title 27 (Insurance) of the Rhode Island General Laws, including chapters 27-18, 27-19, 27-20, and 27-41,⁵ by adding identically worded sections to each chap-

1. R.I. Gen. Laws §§ 27-18-33.1, -19-23.1, -20-17.1, -41-30.1 (1994 & Supp. 1996).

2. 1996 R.I. Pub. Laws ch. 260. Diseases that can be detected by early screening include phenylketonuria, hypothyroidism, hearing deficits, and various blood disorders.

3. *Id.* The legislature estimates that in 1995, between 5000 and 8000 mothers were discharged in less than 24 hours, at a savings of \$1000 to \$2000 per delivery.

4. *Id.* The legislature cited the American College of Obstetrics and Gynecology (ACOG), which recommends a hospital stay of 48 to 96 hours after birth, unless there has been adequate preparation for a shorter stay, including prenatal education, home visits and a mechanism for follow-up.

5. Rhode Island General Laws section 27-18 is entitled, "Accident and Sickness Insurance Policies," section 27-19 is entitled, "Nonprofit Hospital Service Corporations," section 27-20 is entitled, "Nonprofit Medical Service Corporations," and section 27-41 is entitled, "Health Maintenance Organizations."

ter.⁶ The amendments are designed to protect both the patient and the health care provider.⁷

Though the Act provides a reimbursement provision, it allows a health care provider, in consultation with the mother, to decide on a shorter length of stay.⁸ However, this decision must be in accordance with professional guidelines.⁹ If there is early discharge, post-delivery care must include home visits, parent education and other necessary services such as clinical tests.¹⁰

Finally, the Act also provides that any subscriber denied benefits under this section may appeal in accordance with Rhode Island Department of Health regulations.¹¹ As a result, physicians or other health care providers may not be penalized for ordering care consistent with the provisions of this section.¹²

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6. See R.I. Gen. Laws §§ 27-18-33.1, -19-23.1, -20-17.1, -41-30.1 (1994 & Supp. 1996).

7. The Act defines "health care provider" as the attending obstetrician, family or general practitioner, or certified nurse midwife attending mother and baby. 1996 R.I. Pub. Laws ch. 260.

8. R.I. Gen. Laws §§ 27-18-33.1, -19-23.1, -20-17.1, -41-30.1.

9. *Id.* Guidelines of both ACOG and the American Academy of Pediatrics relative to early discharge must be followed.

10. *Id.*

11. *Id.* Those regulations are found in Rhode Island General Laws section 23-17.12.

12. *Id.* The Act specifically prohibits termination of the health care provider's services, or reducing capitation payment.