



Senate

General Assembly

File No. 186

February Session, 2014

Senate Bill No. 190

Senate, March 31, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT REQUIRING HEALTH INSURANCE COVERAGE FOR TOMOSYNTHESIS FOR BREAST CANCER SCREENINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-503 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2015*):

3 (a) (1) Each individual health insurance policy providing coverage
4 of the type specified in subdivisions (1), (2), (4), (10), (11) and (12) of
5 section 38a-469 delivered, issued for delivery, renewed, amended or
6 continued in this state shall provide benefits for mammographic
7 examinations to any woman covered under the policy that are at least
8 equal to the following minimum requirements: (A) A baseline
9 mammogram or tomosynthesis for any woman who is thirty-five to
10 thirty-nine years of age, inclusive; and (B) a mammogram or
11 tomosynthesis every year for any woman who is forty years of age or
12 older.

13 (2) Such policy shall provide additional benefits for:

14 (A) Comprehensive ultrasound screening of an entire breast or
15 breasts if a mammogram or tomosynthesis demonstrates
16 heterogeneous or dense breast tissue based on the Breast Imaging
17 Reporting and Data System established by the American College of
18 Radiology or if a woman is believed to be at increased risk for breast
19 cancer due to family history or prior personal history of breast cancer,
20 positive genetic testing or other indications as determined by a
21 woman's physician or advanced practice registered nurse; and

22 (B) Magnetic resonance imaging of an entire breast or breasts in
23 accordance with guidelines established by the American Cancer
24 Society.

25 (b) Benefits under this section shall be subject to any policy
26 provisions that apply to other services covered by such policy.

27 (c) Each mammography report provided to a patient shall include
28 information about breast density, based on the Breast Imaging
29 Reporting and Data System established by the American College of
30 Radiology. Where applicable, such report shall include the following
31 notice: "If your mammogram or tomosynthesis demonstrates that you
32 have dense breast tissue, which could hide small abnormalities, you
33 might benefit from supplementary screening tests, which can include a
34 breast ultrasound screening or a breast MRI examination, or both,
35 depending on your individual risk factors. A report of your
36 mammography or tomosynthesis results, which contains information
37 about your breast density, has been sent to your physician's office and
38 you should contact your physician if you have any questions or
39 concerns about this report."

40 Sec. 2. Section 38a-530 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective January 1, 2015*):

42 (a) (1) Each group health insurance policy providing coverage of the
43 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-
44 469 delivered, issued for delivery, renewed, amended or continued in
45 this state shall provide benefits for mammographic examinations to

46 any woman covered under the policy that are at least equal to the
47 following minimum requirements: (A) A baseline mammogram or
48 tomosynthesis for any woman who is thirty-five to thirty-nine years of
49 age, inclusive; and (B) a mammogram or tomosynthesis every year for
50 any woman who is forty years of age or older.

51 (2) Such policy shall provide additional benefits for:

52 (A) Comprehensive ultrasound screening of an entire breast or
53 breasts if a mammogram or tomosynthesis demonstrates
54 heterogeneous or dense breast tissue based on the Breast Imaging
55 Reporting and Data System established by the American College of
56 Radiology or if a woman is believed to be at increased risk for breast
57 cancer due to family history or prior personal history of breast cancer,
58 positive genetic testing or other indications as determined by a
59 woman's physician or advanced practice registered nurse; and

60 (B) Magnetic resonance imaging of an entire breast or breasts in
61 accordance with guidelines established by the American Cancer
62 Society.

63 (b) Benefits under this section shall be subject to any policy
64 provisions that apply to other services covered by such policy.

65 (c) Each mammography report provided to a patient shall include
66 information about breast density, based on the Breast Imaging
67 Reporting and Data System established by the American College of
68 Radiology. Where applicable, such report shall include the following
69 notice: "If your mammogram or tomosynthesis demonstrates that you
70 have dense breast tissue, which could hide small abnormalities, you
71 might benefit from supplementary screening tests, which can include a
72 breast ultrasound screening or a breast MRI examination, or both,
73 depending on your individual risk factors. A report of your
74 mammography or tomosynthesis results, which contains information
75 about your breast density, has been sent to your physician's office and
76 you should contact your physician if you have any questions or
77 concerns about this report."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2015</i>	38a-503
Sec. 2	<i>January 1, 2015</i>	38a-530

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
State Comptroller - Fringe Benefits (State Employee and Retiree Health Accounts)	GF, TF - Cost	Up to \$900,000	Up to \$1.8 million
The State	Indeterminate - Cost	At least \$222,206	At least \$444,412

Municipal Impact:

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	STATE MANDATE - Cost	\$522,266	\$1,044,532

Explanation

The bill will result in a cost to the state employee and retiree health plan¹, municipalities, and the state, for providing coverage for tomosynthesis and breast ultrasounds in the event a tomosynthesis shows dense breast tissue. The total estimated cost to the state in FY 15 is approximately \$1.1 million and \$2.2 million in FY 16. This cost is attributable to 1) the estimated cost to the state plan in FY 15 and FY 16 of up to \$900,000 and \$1.8 million respectively and 2) the cost to the state pursuant to the federal Affordable Care Act (ACA) (see below) in FY 15 and FY 16 of at least \$222,206 and \$444,412 respectively. The cost to fully insured municipalities in FY 15 and FY 16 is

¹ The state employee and retiree health plan is a self-insured health plan. Pursuant to federal law, self-insured health plans are exempt from state health mandates. However, the state has traditionally adopted all state health mandates.

approximately \$522,266 and \$1.0 million respectively.²

The fiscal impact assumes mammography claims will be replaced with tomosynthesis claims to some extent. It is uncertain what the current availability of this technology is in the state. Therefore, the fiscal impact may be mitigated based on actual utilization and the availability of tomosynthesis. Lastly, it is uncertain to what extent tomosynthesis will impact breast ultrasound screenings. It is unlikely to increase ultrasound screenings significantly as individuals identified as having dense breast tissue on a mammogram are already receiving breast ultrasounds as covered under current law.

The state plan does not currently provide coverage for experimental/investigational treatments except in specific circumstances involving individuals with cancer. Tomosynthesis is currently considered experimental under the state employee and retiree health plan and not medically necessary. Secondly, the cost to the state pursuant to the ACA may be underrepresented as it is uncertain at this time if the enrollment information reported reflects the total number of covered lives by exchange plans or the number of individuals who purchased a policy. Lastly, the cost to the state plan and municipalities may be mitigated to the extent the plans are able to utilize administrative methods such as prior authorization to approve coverage for certain procedures.

Municipal Impact

As previously stated, the bill may increase costs to certain fully insured, municipal plans that do not currently provide coverage for tomosynthesis. The coverage requirements may result in increased premium costs when municipalities enter into new health insurance contracts after January 1, 2015. In addition, many municipal health

² The estimated cost is based on the per member per month (PMPM) increase which assumes a cost differential between traditional mammograms (which have no cost share under the ACA) and tomosynthesis of approximately \$50. The cost estimate for the state employee plan is based on plan membership as of February 2014; municipal impact is based on Dept. of Labor employment information as of December 31, 2013; state impact based on Exchange enrollment is as of January 2014.

plans are recognized as “grandfathered” health plans under the ACA.³ It is unclear what effect the adoption of certain health mandates will have on the grandfathered status of certain municipal plans under ACA. Pursuant to federal law, self-insured health plans are exempt from state health mandates.

The State and the federal ACA

Lastly, the ACA requires that, the state’s health exchange’s qualified health plans (QHPs)⁴, include a federally defined essential health benefits package (EHB). The federal government is allowing states to choose a benchmark plan⁵ to serve as the EHB until 2016 when the federal government is anticipated to revisit the EHB.

While states are allowed to mandate benefits in excess of the EHB, the federal law requires the state to defray the cost of any such additional mandated benefits for all plans sold in the exchange, by reimbursing the carrier or the insured for the excess coverage. State mandated benefits enacted after December 31, 2011 cannot be considered part of the EHB for 2014-2015 unless they are already part of the benchmark plan.⁶ However, neither the agency nor the mechanism for the state to pay these costs has been established.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to 1) inflation, 2) the number of covered lives in the state, municipal and exchange health plans, and 3) the utilization of services.

Sources: Department of Labor

³ Grandfathered plans include most group insurance plans and some individual health plans created or purchased on or before March 23, 2010.

⁴ The state’s health exchange, Access Health CT, opened its marketplace for Connecticut residents to purchase QHPs from carriers, with coverage starting January 1, 2014.

⁵ The state’s benchmark plan is the Connecticut HMO plan with supplemental coverage for pediatric dental and vision care as required by the ACA.

⁶ Source: Dept. of Health and Human Services. *Frequently Asked Questions on Essential Health Benefits Bulletin* (February 21, 2012).

*Office of the State Comptroller
Office of the State Comptroller State Health Plan, Health Benefit Document as of
July 2013*

OLR Bill Analysis**SB 190*****AN ACT REQUIRING HEALTH INSURANCE COVERAGE FOR TOMOSYNTHESIS FOR BREAST CANCER SCREENINGS.*****SUMMARY:**

This bill requires certain health insurance policies to cover mammograms or tomosynthesis, rather than just mammograms. Tomosynthesis is a type of mammography that creates a three-dimensional picture of the breast using X-rays. Coverage must include a baseline exam for a woman age 35 to 39 and one exam a year for a woman age 40 or older. If tomosynthesis shows dense breast tissue, the policy must also cover a breast ultrasound. The law already requires coverage for a breast ultrasound if a mammogram shows dense breast tissue.

The bill applies to individual and group policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan. It also applies to individual policies that cover limited benefits. Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

The bill also requires notices on mammography reports regarding dense breast tissue to refer to mammograms or tomosynthesis, rather than just mammograms.

EFFECTIVE DATE: January 1, 2015

BACKGROUND***Related Federal Law***

The federal Patient Protection and Affordable Care Act (P.L. 111-148) allows a state to require health plans sold through the state's health insurance exchange to offer benefits beyond those included in the required "essential health benefits," provided the state defrays the cost of those additional benefits. The requirement applies to benefit mandates enacted after December 31, 2011. Thus, the state is required to pay the insurance carrier or enrollee to defray the cost of any new benefits mandated after that date.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 19 Nay 0 (03/13/2014)