

1 HB768  
2 140984-1  
3 By Representative Boman  
4 RFD: Health  
5 First Read: 01-MAY-12

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8 SYNOPSIS: Under existing federal law, a group health  
9 plan and a health insurance issuer providing health  
10 insurance coverage in connection with a group  
11 health plan that provides medical and surgical  
12 benefits for a mastectomy is required to provide,  
13 in a case of a participant or beneficiary who is  
14 receiving benefits in connection with a mastectomy  
15 and who elects breast reconstruction in connection  
16 with the mastectomy, coverage for all stages of  
17 reconstruction of the breast on which the  
18 mastectomy has been performed, surgery and  
19 reconstruction of the other breast to produce a  
20 symmetrical appearance, and prostheses and physical  
21 complications of mastectomy, including lymphedemas  
22 in a manner determined in consultation with the  
23 attending physician and the patient. The coverage  
24 may be subject to annual deductibles and  
25 coinsurance provisions as may be deemed appropriate  
26 and as are consistent with those established for  
27 other benefits under the plan or coverage. Written

1 notice of the availability of the coverage is  
2 required to be delivered to the participant upon  
3 enrollment and annually thereafter.

4 This bill would require all individual  
5 health benefit plans executed or renewed in this  
6 state to include coverage for breast reconstruction  
7 surgery after a mastectomy.

8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 To require individual health benefit plans to  
14 include coverage for breast reconstruction surgery after a  
15 mastectomy; and to amend Sections 10A-20-6.16 and 27-21A-23,  
16 Code of Alabama 1975, relating to applicability of insurance  
17 laws to certain health service plans.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. (a) All individual health benefit plans,  
20 contracts, and certificates executed, delivered, issued,  
21 continued, or renewed after the effective date of this act  
22 shall offer, at the time of proposal, sale, or renewal of a  
23 policy subject to this act, coverage for breast reconstruction  
24 surgery after a mastectomy, which shall include the following:

25 (1) All stages of reconstruction of the breast on  
26 which the mastectomy has been performed.

1           (2) Surgery and reconstruction of the other breast  
2 to produce a symmetrical appearance in the manner determined  
3 to be appropriate by the attending physician and the patient.

4           (b) For purposes of this act, a health benefit plan  
5 is an individual insurance plan or policy that covers  
6 hospital, medical, or surgical expenses, health maintenance  
7 organizations, preferred provider organizations, medical  
8 service organizations, physician-hospital organizations, or  
9 any other person, firm, corporation, joint venture, or other  
10 similar business entity that pays for, purchases, or furnishes  
11 health care services to patients, insureds, or beneficiaries  
12 in this state. For the purposes of this act, a health benefit  
13 plan located or domiciled outside of the State of Alabama is  
14 deemed to be subject to this act if it receives, processes,  
15 adjudicates, pays, or denies claims for health care services  
16 submitted by or on behalf of patients, insureds, or  
17 beneficiaries who reside in the State of Alabama or who  
18 receive health care services in the State of Alabama. The term  
19 includes, but is not limited to, entities created pursuant to  
20 Article 6, Chapter 20, Title 10A, Code of Alabama 1975.

21           (c) The coverage required by this section may be  
22 subject to the same deductible for similar health care  
23 services provided by the policy, contract, or plan as well as  
24 a reasonable copayment or coinsurance on the part of the  
25 insured.

26           (d) Written notice of the availability of coverage  
27 for breast reconstruction surgery shall be delivered to the

1 policyholder prior to the inception of the policy and annually  
2 thereafter.

3 (e) An insurer providing coverage under this act and  
4 any participating entity through which the insurer offers  
5 health services shall not:

6 (1) Deny to a covered person eligibility, or  
7 continued eligibility, to enroll or to renew coverage under  
8 the terms of the policy or vary the terms of the policy for  
9 the purpose or with the effect of avoiding compliance with  
10 this act;

11 (2) Provide monetary or other incentives to  
12 encourage a covered person to accept less than the minimum  
13 protections available under this act;

14 (3) Penalize in any way or reduce or limit the  
15 compensation of a health care practitioner for recommending or  
16 providing care to a covered person in accordance with this  
17 act;

18 (4) Provide monetary or other incentives to a health  
19 care practitioner relating to the services provided pursuant  
20 to this act intended to induce or have the effect of inducing  
21 the practitioner to provide care to a covered person in a  
22 manner inconsistent with this act; or

23 (5) Restrict coverage for any portion of a period  
24 within a hospital length of stay required under this act in a  
25 manner which is inconsistent with the coverage provided for  
26 any preceding portion of the stay.

1           Section 2. Sections 10A-20-6.16 and 27-21A-23, Code  
2 of Alabama 1975, are amended to read as follows:

3           "§10A-20-6.16.

4           "(a) No statute of this state applying to insurance  
5 companies shall be applicable to any corporation organized  
6 under this article and amendments thereto or to any contract  
7 made by the corporation unless expressly mentioned in this  
8 article and made applicable; except as follows:

9           "(1) The corporation shall be subject to the  
10 provisions regarding annual premium tax to be paid by insurers  
11 on insurance premiums.

12           "(2) The corporation shall be subject to the  
13 provisions of Chapter 55, Title 27, regarding the prohibition  
14 of unfair discriminatory acts by insurers on the basis of an  
15 applicant's or insured's abuse status.

16           "(3) The corporation shall be subject to the  
17 provisions regarding Medicare Supplement Minimum Standards set  
18 forth in Article 2 of Chapter 19 of Title 27, and Long-Term  
19 Care Insurance Policy Minimum Standards set forth in Article 3  
20 of Chapter 19 of Title 27.

21           "(4) The corporation shall be subject to Section  
22 27-1-17, requiring insurers and health plans to pay health  
23 care providers in a timely manner.

24           "(5) The corporation shall be subject to the  
25 provisions of Chapter 56 of Title 27, regarding the Access to  
26 Eye Care Act.

1           "(6) The corporation shall be subject to the  
2 regulations promulgated by the Commissioner of Insurance  
3 pursuant to Sections 27-7-43 and 27-7-44.

4           "(7) The corporation shall be subject to the  
5 provisions of Chapter 54 of Title 27.

6           "(8) The corporation shall be subject to the  
7 provisions of Chapter 57 of Title 27, requiring coverage to be  
8 offered for the payment of colorectal cancer examinations for  
9 covered persons who are 50 years of age or older, or for  
10 covered persons who are less than 50 years of age and at high  
11 risk for colorectal cancer according to current American  
12 Cancer Society colorectal cancer screening guidelines.

13           "(9) The corporation shall be subject to Chapter 58  
14 of Title 27, requiring that policies and contracts including  
15 coverage for prostate cancer early detection be offered,  
16 together with identification of associated costs.

17           "(10) The corporation shall be subject to Chapter 59  
18 of Title 27 requiring that policies and contracts including  
19 coverage for chiropractic be offered, together with  
20 identification of associated costs.

21           "(11) The corporation shall be subject to Section 1  
22 of the act adding this subdivision requiring that policies and  
23 contracts include coverage for breast reconstruction surgery  
24 after a mastectomy.

25           "(b) The provisions in subsection (a) that require  
26 specific types of coverage to be offered or provided shall not  
27 apply when the corporation is administering a self-funded

1 benefit plan or similar plan, fund, or program that it does  
2 not insure.

3           "§27-21A-23.

4           "(a) Except as otherwise provided in this chapter,  
5 provisions of the insurance law and provisions of health care  
6 service plan laws shall not be applicable to any health  
7 maintenance organization granted a certificate of authority  
8 under this chapter. This provision shall not apply to an  
9 insurer or health care service plan licensed and regulated  
10 pursuant to the insurance law or the health care service plan  
11 laws of this state except with respect to its health  
12 maintenance organization activities authorized and regulated  
13 pursuant to this chapter.

14           "(b) Solicitation of enrollees by a health  
15 maintenance organization granted a certificate of authority  
16 shall not be construed to violate any provision of law  
17 relating to solicitation or advertising by health  
18 professionals.

19           "(c) Any health maintenance organization authorized  
20 under this chapter shall not be deemed to be practicing  
21 medicine and shall be exempt from the provisions of Section  
22 34-24-310, et seq., relating to the practice of medicine.

23           "(d) No person participating in the arrangements of  
24 a health maintenance organization other than the actual  
25 provider of health care services or supplies directly to  
26 enrollees and their families shall be liable for negligence,

1 misfeasance, nonfeasance, or malpractice in connection with  
2 the furnishing of such services and supplies.

3 "(e) Nothing in this chapter shall be construed in  
4 any way to repeal or conflict with any provision of the  
5 certificate of need law.

6 "(f) Notwithstanding the provisions of subsection  
7 (a), a health maintenance organization shall be subject to  
8 Section 27-1-17.

9 "(g) Notwithstanding the provisions of subsection  
10 (a), a health maintenance organization shall be subject to the  
11 provisions of Chapter 56 of this title, regarding the Access  
12 to Eye Care Act.

13 "(h) Notwithstanding the provisions of subsection  
14 (a), a health maintenance organization shall be subject to the  
15 provisions of Chapter 54 of this title.

16 "(i) Notwithstanding the provisions of subsection  
17 (a), a health maintenance organization shall be subject to the  
18 provisions of Chapter 57 of this title, requiring coverage to  
19 be offered for the payment of colorectal cancer examinations  
20 for covered persons who are 50 years of age or older, or for  
21 covered persons who are less than 50 years of age and at high  
22 risk for colorectal cancer according to current American  
23 Cancer Society colorectal cancer screening guidelines.

24 "(j) Notwithstanding the provisions of subsection  
25 (a), a health maintenance organization shall be subject to  
26 Chapter 58 of Title 27, requiring that policies and contracts

1 including coverage for prostate cancer early detection be  
2 offered, together with identification of associated costs.

3 "(k) Notwithstanding the provisions of subsection  
4 (a), a health maintenance organization shall be subject to  
5 Chapter 59 of this title, requiring that policies and  
6 contracts including coverage for chiropractic be offered,  
7 together with identification of associated costs.

8 "(l) Notwithstanding the provisions of subsection  
9 (a), a health maintenance organization shall be subject to  
10 Section 1 of the act adding this subsection."

11 Section 3. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.