

# Benefit Brief



SUBJECT: Women's Health and Cancer Rights Act (WHCRA)

DATE: June 5, 2009

**This Benefit Brief applies to employers with fully insured or self-funded group health plans with no less than two participants who are active employees.**

The Women's Health and Cancer Rights Act (WHCRA) requires group health plans to do the following:

- Provide certain benefits in connection with a mastectomy;
- Provide plan participants with notices of their rights under WHCRA; and
- Protect patient eligibility.

## **Who Must Comply with WHCRA?**

Most employer-provided group health plans are subject to WHCRA, including fully insured and self-funded plans. Government and church plans must also comply with one exception: self-funded non-federal government plans can elect to opt out of WHCRA by filing an election with CMS prior to the beginning of each plan year. Plans that opt out must notify participants in writing annually and at enrollment that they do not provide WHCRA benefits. WHCRA does not apply to a group health plan for any plan year in which the plan has fewer than two participants who are current employees on the first day of the plan year. Most retiree-only plans (if completely separate from the active employee plan) are not subject to WHCRA.

## **What are the Required Benefits?**

Group health plans and insurers that provide medical and surgical benefits for a mastectomy must also provide coverage for the following:

- All stages of reconstruction of the breast on which a mastectomy has been performed;
- Surgery and reconstruction of the other breast to product a symmetrical appearance;
- Prosthesis; and
- Treatment of physical complications of the mastectomy, including lymphedemas.

These benefits are subject to the same deductibles and coinsurance applicable to other medical and surgical benefits provided by the group health plan. The required coverage and treatment will be determined in consultation with the patient and their physician.

A group health plan subject to WHCRA may not do the following:

- Deny a patient eligibility to enroll in or renew coverage under the terms of the plan solely for the purpose of avoiding the requirements regarding mastectomy coverage; or
- Penalize or reduce the reimbursement of an attending provider, or provide incentives to an attending provider, to induce the provider to provide care in a manner inconsistent with WHCRA.

**What are the Notice Requirements?**

WHCRA requires that employers or insurance carriers provide written notice of the availability of the required coverage to participants upon enrollment in the plan. The enrollment notice may be furnished by itself or included in a summary plan description or certificate of insurance.

WHCRA also requires employers or insurance carriers to provide an annual notice to participants. The DOL does not require the annual notice to be delivered at any particular time during the plan year. The annual notice may be provided by itself or with a benefit newsletter, open enrollment materials, or any other written information that is distributed by the employer.

Employers should check with their insurance carrier to see if they are providing the notices. If not, Benecon can provide our clients and broker partners with sample notices.

If you have questions about WHCRA, please contact Danielle Omans at The Benecon Group at [domans@benecon.com](mailto:domans@benecon.com) or the number below.

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