



Breast Reconstructive and Symmetry Surgery Following Mastectomy

DESCRIPTION

Reconstructive breast surgery is defined as a surgical procedure designed to restore the normal appearance of the breast after surgery, accidental injury, or trauma. Breast reconstruction is distinguished from cosmetic procedures by the presence of a medical condition, e.g., breast cancer, which leads to the need for breast reconstruction. On some occasions, surgery is performed on the contralateral, normal breast to achieve symmetry.

The proposal is to add words or statements in red.

POLICY

- Reconstructive breast surgery, **or an optional chest wall reconstruction with aesthetic flat closure**, in all stages, on the diseased breast as a result of a mastectomy (not including a [lumpectomy](#) as defined by CPT code 19120; located in the Glossary section of this manual) is considered **medically necessary**. (See **Applicable Mandate Requirements** below.)
- Surgery on the non-diseased breast, to establish symmetry between the two breasts, is considered **medically necessary**. (See **Applicable Mandate Requirements** below.)

APPLICABLE MANDATE REQUIREMENTS

Federal Mandate

The Women's Health and Cancer Rights Act of 1998 (WHCRA) is a federal law that provides protection to individuals who choose to have breast reconstruction in connection with a mastectomy.

According to the WHCRA, coverage must be provided for:

- All stages of reconstruction of the breast on which the mastectomy has been performed;
- Surgery and reconstruction of the other breast to produce a symmetrical appearance; and
- Prostheses and treatment of physical complications of all stages of the mastectomy, including lymphedema

This law applies to two different types of coverage if the health plan covers medical and surgical costs associated with a mastectomy:

1. Group health plans (provided by an employer or union);
2. Individual health insurance policies (not based on employment).

2005 Amendment to the Women's Health and Cancer Rights Act of 1998 (WHCRA):

This Act may be cited as the "Women's Health and Cancer Rights Conforming Amendments of 2005"

(a) In General--A group health plan that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for--

- (1) All stages of reconstruction of the breast on which the mastectomy has been performed
- (2) Surgery and reconstruction of the other breast to produce a symmetrical appearance



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(3) Prostheses and physical complications of mastectomy, including lymphedemas in a manner determined in consultation with the attending physician and the patient

Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

According to the Departments of Labor, Health and Human Services, and the Treasury (2024, October), health plans that cover mastectomies are required to provide coverage for:

- Chest wall reconstruction with aesthetic flat closure, if elected by the patient in consultation with the attending physician in connection with a mastectomy, as a required type of reconstruction.

Tennessee State Mandate

The provisions of this mandate concerning reconstructive breast surgery. Tennessee Code Annotated, Title 56, Chapter 7, Part 2507 read as follows:

(1) Any individual, franchise, blanket or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, health maintenance organization, or managed care organization that provides coverage for mastectomy surgery shall provide coverage for all stages of reconstructive breast surgery on the diseased breast as a result of a mastectomy, but not including a lumpectomy, as well as any surgical procedure on the nondiseased breast deemed necessary to establish symmetry between the two (2) breasts in the manner chosen by the patient and physician. The surgical procedure performed on a nondiseased breast to establish symmetry with the diseased breast must occur within five (5) years of the date the reconstructive breast surgery was performed on a diseased breast.

IMPORTANT REMINDERS

- Any specific products referenced in this policy are just examples and are intended for illustrative purposes only. It is not intended to be a recommendation of one product over another and is not intended to represent a complete listing of all products available. These examples are contained in the parenthetical e.g. statement.
- We develop Medical Policies to provide guidance to Members and Providers. This Medical Policy relates only to the services or supplies described in it. The existence of a Medical Policy is not an authorization, certification, explanation of benefits, or a contract for the service (or supply) that is referenced in the Medical Policy. For a determination of the benefits that a Member is entitled to receive under his or her health plan, the Member's health plan must be reviewed. If there is a conflict between the Medical Policy and a health plan or government program (e.g., TennCare), the express terms of the health plan or government program will govern.

SOURCES

Centers for Medicare and Medicaid Services. (1998). *The Women's Health and Cancer Rights Act*. Retrieved June 1, 2012 from <http://www.cms.hhs.gov>.

Congressional Bills 109th Congress 1st Session H. R. 437. *Women's Health and Cancer Rights Conforming Amendments of 2005*. Retrieved February 12, 2020 from <http://www.gpo.gov/fdsys/pkg/BILLS-109hr437ih/html/BILLS-109hr437ih.htm>.



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Departments of Labor, Health and Human Services, and the Treasury. (2024, October). *FAQs about Affordable Care Act and Women's Health and Cancer Rights Act implantation part 68*. Retrieved January 6, 2025 from <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/aca-implementation-faqs>.

Tennessee Code: Title 56 Insurance: Chapter 7 Policies and Policyholders: Part 25-Mandated Insurer or Plan Options: 56-7-2507. *Reconstructive breast surgery*. Retrieved January 7, 2025 from <http://www.lexisnexis.com>.

EFFECTIVE DATE

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