

# LEGISLATIVE BRIEF

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## Women's Health and Cancer Rights Act

The federal Women's Health and Cancer Rights Act of 1998 (WHCRA) requires all health plans which provide medical and surgical benefits for a mastectomy to also cover breast reconstruction. The law, which became effective on Oct. 21, 1998, is administered by the Departments of Labor (DOL) and Health and Human Services (HHS). This Legislative Brief addresses common questions regarding the WHCRA's requirements.

### WHO MUST COMPLY WITH THIS LAW?

The law applies to ERISA group health plans, state and local government plans, church plans, individual plans and health insurers.

### WHAT IF MY STATE ALSO HAS A LAW REGARDING BREAST RECONSTRUCTION BENEFITS?

This federal law does not preempt any state law in effect on or before Oct. 21, 1998, if the state law requires at least the same level of coverage as provided by WHCRA.

### WHAT COVERAGE IS REQUIRED?

Plans that provide medical and surgical benefits for a mastectomy must also provide coverage for:

- Reconstruction of the breast on which the mastectomy has been performed;
- Surgery and reconstruction of the other breast to produce a symmetrical appearance;
- External breast prostheses (breast forms that fit into a bra) that are needed before or during the reconstruction; and
- Treatment of physical complications in all stages of mastectomy, including lymphedemas.

Coverage is determined by the health plan, in coordination with the physician and patient.

### MAY A HEALTH PLAN APPLY A DEDUCTIBLE OR CHARGE A COPAYMENT FOR BREAST RECONSTRUCTION BENEFITS?

Yes. Breast reconstruction surgery benefits may be subject to an annual deductible or coinsurance provision if it is consistent with the cost-sharing measures imposed on other similar benefits under the plan.

### WHAT NOTICES ARE REQUIRED?

- **Initial Notice** (deadline has passed)—A one-time notice was required to be furnished no later than Jan. 1, 1999, as part of the first general mailing made after Oct. 21, 1998, or in the yearly informational packet sent out regarding the plan.
- **At Enrollment**—Notice must be provided to participants upon enrollment in the plan.
- **Annually**—A notice must be provided annually to participants under the plan.



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## *Enrollment Notice*

If you have had or are going to have a mastectomy, you may be entitled to certain benefits under the Women's Health and Cancer Rights Act of 1998 (WHCRA). For individuals receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for:

- All stages of reconstruction of the breast on which the mastectomy was performed;
- Surgery and reconstruction of the other breast to produce a symmetrical appearance;
- Prostheses; and
- Treatment of physical complications of the mastectomy, including lymphedema.

These benefits will be provided subject to the same deductibles and coinsurance applicable to other medical and surgical benefits provided under this plan. Therefore, the following deductibles and coinsurance apply: [insert deductibles and coinsurance applicable to these benefits].

If you would like more information on WHCRA benefits, call our broker, Jennifer Holly at 864-232-6723.



CLARKE & COMPANY  
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