Medical Coverage Policy | Breast Reconstruction Mandate

EFFECTIVE DATE: 11|05|2014
POLICY LAST UPDATED: 01|16|2018

OVERVIEW

Reconstructive breast surgery is defined as surgical procedures that are designed to restore the normal appearance of the breast after surgery, accidental injury, or trauma. This policy is to document surgical services that are covered under the federal and Rhode Island State mandates as post-mastectomy services. Other services noted in the mandate are covered in other individual policies listed below.

MEDICAL CRITERIA

BlueCHiP for Medicare and Commercial Products
Not applicable

PRIOR AUTHORIZATION

Prior authorization review is not required or recommended when filed with a cancer diagnosis. For all other diagnosis codes, prior authorization is obtained via the web-based tool to determine if potentially cosmetic.

POLICY STATEMENT

BlueCHiP for Medicare and Commercial Products
The following procedures are covered under the federal and RI state mandates for post-mastectomy services:

- All stages of breast reconstruction following a mastectomy or lumpectomy including, but not limited to:
  - Breast implants
  - Flap reconstruction
  - Nipple/areolar reconstruction and tattooing
  - Surgery for symmetry of the contralateral (opposite) breast
  - Revision of previously reconstructed breast
- Basic breast prosthetic(s) and mastectomy bras (see "Breast Prosthesis and Mastectomy Bras" policy)
- Treatment of physical complications of mastectomy, including lymphedema (see Lymphedema pumps and Combined Decongestive Therapy)
- Suction-assisted lipectomy
- Ultrasonic-assisted liposuction
- Second or subsequent stage sculpturing
- Tattooing of the nipple/areola as part of breast reconstruction (CPT codes 11920, 11921, 11922) is covered when performed by a physician or a licensed tattoo artist. Permanent makeup artists must be licensed as a tattoo artist in the state in which the services are rendered. Members who choose to have services provided by a tattoo artist need to complete the special handling form below, attach a copy of the invoice for the tattoo services, and mail the completed form to the address on the bottom on the form. If additional assistance is required, the member should contact BCBSRI Customer Service.

Special-Handling-Claim-Form-sch-12609

COVERAGE

BlueCHiP for Medicare and Commercial Products

Benefits may vary between groups/contracts. Please refer to individual's member agreement/subscriber agreement for applicable surgery, durable medical equipment, and physical therapy benefits/coverage.

BACKGROUND

The Women's Health and Cancer Rights Act (WHCRA) of 1998, a federal mandate, mandated coverage of reconstructive surgery following mastectomy for all health plans that provide medical and surgical benefits.

Women's Health and Cancer Rights Act The Federal Law

The Women's Health and Cancer Rights Act (WHCRA), signed into law on October 21, 1998, contains protections for patients who elect breast reconstruction in connection with a mastectomy. For plan participants and beneficiaries receiving benefits in connection with a mastectomy, plans offering coverage for a mastectomy must also cover reconstructive surgery and other benefits related to a mastectomy.

WHCRA:

- *Applies to group health plans for plan years starting on or after October 21, 1998*
- *Applies to group health plans, health insurance companies or HMOs, if the plan or coverage provides medical and surgical benefits with respect to a mastectomy*
- *Requires coverage for reconstructive surgery in a manner determined in consultation with the attending physician and the patient*

Under WHCRA, mastectomy benefits must include coverage for:

- *Reconstruction of the breast on which the mastectomy was performed*
- *Surgery and reconstruction of the other breast to produce a symmetrical appearance*
- *Prostheses and physical complications at all stages of mastectomy, including lymphedemas*

Under WHCRA, mastectomy benefits may be subject to annual deductibles and coinsurance consistent with those established for other benefits under the plan or coverage.

The law also contains prohibitions against:

- *Plans and issuers denying patients eligibility or continued eligibility to enroll or renew coverage under the plan to avoid the requirements of WHCRA*
- *Plans and issuers providing incentives to, or penalizing, physicians to induce them to provide care in a manner inconsistent with the WHCRA*

Group health plans, health insurance companies and HMOs covered by the law must notify individuals of the coverage required by WHCRA upon enrollment and annually thereafter.

Rhode Island General Law

"RIGL 27-20-29 Mastectomy treatment.

(a) All individual or group health insurance coverage and health benefit plans delivered, issued for delivery or renewed in this state on or after January 1, 2005, which provides medical and surgical benefits with respect to mastectomy shall provide, in a case of any person covered in the individual market or covered by a group health plan 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; and

Prostheses and treatment of physical complications, including lymphademas, at all stages of mastectomy; in a manner determined in consultation with the attending physician and the patient. Such coverage may be subject to annual deductibles and coinsurance provisions applied to the mastectomy and consistent with those established for other benefits under the plan or coverage. As used in this section, "mastectomy" means the removal of all or part of a breast. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

(b) Notice. A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the United States Secretary of Health and Human Services. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted as part of any yearly informational packet sent to the participant or beneficiary.

(c) As used in this section, "prosthetic devices" means and includes the provision of initial and subsequent prosthetic devices pursuant to an order of the patient's physician or surgeon.

(d) Nothing in this section shall be construed to require an individual or group policy to cover the surgical procedure known as mastectomy or to prevent the application of deductible or copayment provisions contained in the policy or plan, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

(e) Nothing in this section shall be construed to prevent a group health plan or a health insurance carrier offering health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.
(f) Nothing in this section shall preclude the conducting of managed care reviews and medical necessity reviews by an insurer, hospital or medical service corporation or health maintenance organization.

(g) Prohibitions. A group health plan and a health insurance carrier offering group or individual health insurance coverage may not:

1) Deny to a patient eligibility, or continued eligibility, to enroll or renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section; nor

(2) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section."

RIGL 27-20-29.1 Insurance coverage for mastectomy hospital stays. – *(a) The Rhode Island General Assembly recognizes that breast cancer is a unique illness with both a physical and emotional impact on patients. Every individual or group hospital or medical services plan contract delivered, issued for delivery, or renewed in this state shall provide coverage for a minimum forty-eight (48) hour time period in a hospital after the surgical procedures known as a mastectomy, and a minimum twenty-four (24) hours after an axillary node dissection. Any decision to shorten this minimum coverage shall be made by the attending physician in consultation with and upon agreement by the patient. If the patient participates in an early discharge, defined as in-patient care following a mastectomy that is less than forty-eight hours and in-patient care following an axillary node dissection that is less than twenty-four (24) hours, coverage shall include a minimum of one home visit conducted by a physician or registered nurse.*

(b) Any subscriber who is aggrieved by a denial of benefits to be provided under this section may appeal the denial in accordance with regulations of the department of health, which have been promulgated pursuant to chapter 23 of title 17.12. No policy or plan covered under this chapter shall terminate the services, reduce capitation payment, or penalize an attending physician or other health care provider who orders care consistent with the provisions of this section.

(c) All plans subject to this section shall provide notice to each enrollee:

(1) In the next mass mailing made by the plan to the employee; or

(2) As part of any informational packet sent to the enrollee.

CODING

BlueCHiP for Medicare and Commercial Products

Claims filed with the diagnosis codes in the attachments below do not require prior authorization:
List of ICD-10 cancer diagnosis codes 2018:

2018 ICD10 final.pdf

RELATED POLICIES

Preauthorization via Web-Based Tool for Procedures
Lymphedema Pumps
Combined Decongestive Therapy
Breast Prosthesis and Mastectomy Bras
Breast Implant Removal
Mastectomy Hospital Stays Mandate
Prophylactic Mastectomy

PUBLISHED

Provider Update, March 2018
Provider Update, March 2017
Provider Update, May 2016
Provider Update, December 2015
Provider Update, January 2015
Provider Update, October 2013
Provider Update, July 2012
Provider Update, March 2011
Provider Update, April 2010
Provider Update, April 2009
Provider Update, May 2008
Policy Update, July 2006

REFERENCES

RIGL 27-20-29 Mastectomy treatment.
RIGL 27-20-29.1 Insurance coverage for mastectomy hospital stays
Women's Health and Cancer Rights Act: http://www.dol.gov/ebsa/newsroom/fswhcra.html

CLICK THE ENVELOPE ICON BELOW TO SUBMIT COMMENTS

This medical policy is made available to you for informational purposes only. It is not a guarantee of payment or a substitute for your medical judgment in the treatment of your patients. Benefits and eligibility are determined by the member's subscriber agreement or member certificate and/or the employer agreement, and those documents will supersede the provisions of this medical policy. For information on member-specific benefits, call the provider call center. If you provide services to a member which are determined to not be medically necessary (or in some cases medically necessary services which are non-covered benefits), you may not charge the member for the services unless you have informed the member and they have agreed in writing in advance to continue with the treatment at their own expense. Please refer to your participation agreement(s) for the applicable provisions. This policy is current at the time of publication; however, medical practices, technology, and knowledge are constantly changing. BCBSRI reserves the right to review and revise this policy for any reason and at any time, with or without notice. Blue Cross & Blue Shield of Rhode Island is an independent licensee of the Blue Cross and Blue Shield Association.