New Jersey has become the 14th state to pass breast density notification legislation, joining the ranks of Alabama, California, Connecticut, Hawaii, Maryland, New York, Nevada, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, and Virginia. The law will apply to all contracts and policies of insurance that are delivered, issued, executed or renewed or approved for issuance or renewal in New Jersey on or after May 1st.

The law, in relevant part, requires health insurers to provide health benefits coverage for an ultrasound evaluation, a magnetic resonance imaging (MRI) scan, a three-dimensional mammography, or other additional testing of an entire breast or breasts, after a baseline mammogram examination, (1) if the mammogram demonstrates extremely dense breast tissue, (2) if the mammogram is abnormal within any degree of breast density including not dense, moderately dense, heterogeneously dense, or extremely dense breast tissue, or (3) if the patient has additional risk factors for breast cancer, including but not limited to, (a) family history of breast cancer, (b) prior personal history of breast cancer, (c) positive genetic testing, (d) extremely dense breast tissue based on the Breast Imaging Reporting and Data System established by the American College of Radiology, or (e) other indications as determined by the patient’s health care provider. The additional testing may be subject to utilization review for medical necessity.

Most importantly and impacting your practice, effective May 1, 2014, a facility that provides a mammography report pursuant to the federal Mammography Quality Standard Act must include the following information, at a minimum, in the mammography report sent to the patient and the patient’s health care provider:

Your mammogram may show that you have dense breast tissue as determined by the Breast Imaging Reporting and Data System established by the American College of Radiology. Dense breast tissue is very common and is not abnormal. However, in some cases, dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with a risk factor for breast cancer. Discuss this and other risks for breast cancer that pertain to your personal medical history with our health care provider. A report of your results was sent to your health care provider. You may also find more information about breast density at the website of the American College of Radiology, www.acr.org.

The bill provides that the information on breast density included in mammography reports will not impose a standard of care obligation upon a patient’s health care provider. The law stipulates that the information in the report is intended to increase awareness of breast cancer and help facilitate a conversation between a patient and a patient’s health care provider regarding the patient’s risks for breast cancer.

The health benefits coverage requirements apply to health, hospital, and medical service corporations; commercial, individual, and group health insurers; health maintenance organizations; and health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs. The requirements for coverage also apply to the State Health Benefits Program, which by law requires similar health benefits coverage under the School Employees’ Health Benefits Program.

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