My health coverage is through an individual policy, not through an employer. What rights, if any, do I have under WHCRA?

Health insurance issuers are required to provide benefits for certain services relating to mastectomies for individual health insurance policies offered, sold, issued, renewed, in effect, or operated on or after October 21, 1998. These requirements are generally within the jurisdiction of the State insurance department. If you have further questions related to your WHCRA rights under an individual health insurance policy, call your State insurance department or the Department of Health and Human Services at 410-786-1665 (not a toll-free number).

Resources:

WHCRA is administered by the U.S. Departments of Labor and Health and Human Services. If you have questions regarding your WHCRA rights under an employer-sponsored group health plan, contact the following:
1-888-444-EESA (3372) - Ask for a copy of Questions and Answers: Recent Changes in Health Care Law and a list of all publications from the Employee Benefits Security Administration.

www.dol.gov/esea - Click on Contact Us for the addresses of the 15 field offices that can assist you with health-related questions. Also view EBSA's publications on health.

www.naic.org - This is the address of the National Association of Insurance Commissioners. Click on State Insurance Regulators, then the state of your choice for the office in your state.

www.cms.hhs.gov - The address of the Centers for Medicare and Medicaid Services. Click on HIPAA, then HIPAA Health Insurance Reform, for more information on WHCRA and HIPAA.

Your Rights After A Mastectomy

Women’s Health and Cancer Rights Act of 1998

If you have had a mastectomy or expect to have one, you may be entitled to special rights under the Women’s Health and Cancer Rights Act of 1998 (WHCRA).

The following questions and answers clarify a woman’s basic WHCRA rights. Under WHCRA, if a woman’s group health plan covers mastectomies, her plan must provide certain benefits if she chooses reconstructive surgery.

Your health plan or issuer is required to provide notice to you regarding your coverage rights under WHCRA when you enroll in the health plan, and then once each year.
The following information provides answers to frequently asked questions about WHCRA.

I've been diagnosed with breast cancer and plan to have a mastectomy. How will WHCRA affect my benefits?

Under WHCRA, group health plans, insurance companies, and health maintenance organizations (HMOs) offering mastectomy coverage must also provide coverage for certain services related to the mastectomy, in a manner determined in consultation with the attending physician and the patient. Required coverage includes 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, prosthesis, and treatment of physical complications of the mastectomy, including lymphedema.

I have not been diagnosed with cancer. However, due to other medical reasons I must undergo a mastectomy. Does WHCRA apply to me?

Yes, the protections under WHCRA apply to citizens in all 50 states. When you are undergoing a mastectomy due to reasons such as cancer or another medical condition, WHCRA applies to ensure comprehensive coverage for the necessary medical services.

I just changed jobs and am enrolled under my new employer's plan. Under WHCRA, is my new employer's plan required to cover my reconstructive surgery?

Yes, under WHCRA, employers are required to provide coverage for reconstructive surgery within 60 days of the employee's enrollment. This applies to any employee who undergoes a mastectomy, regardless of the reason.

I understand that my group health plan is required to provide coverage for my mastectomy and reconstructive surgery. Does WHCRA cover the cost of reconstructive surgery?

Under WHCRA, group health plans must provide coverage for reconstructive surgery as defined by the American Society of Plastic Surgeons. This includes all stages of reconstruction as long as the surgery is medically necessary and the patient is billed for the surgery.

My employer's group health plan provides coverage through an insurance company. Does WHCRA provide reform efforts if my plan is provided through a mastectomy, including lymphedema? Call your plan administrator [phone number here] for more information.

Your plan may provide the same notice it provided when you enrolled in the plan as the annual notice of changes, including information about the plan's coverage for mastectomy and reconstructive surgery.

When did the WHCRA requirements take effect?

The WHCRA requirements apply to group health plans for the first time on January 1, 1996. To find out when your plan began, check your summary plan description (SPD), the document that outlines your benefits and your rights under the plan. If you do not have a copy, contact your plan administrator.

My State requires health insurance issuers to provide the benefits required by WHCRA and also requires health insurance issuers to cover minimum hospital stays in connection with a mastectomy (which is not required by WHCRA). If I have a mastectomy and breast reconstruction, am I also entitled to the minimum hospital stay?

Yes, if your plan requires a hospital stay for mastectomy and breast reconstruction, you are entitled to the minimum hospital stay required by your State law. If your plan does not require a hospital stay, you are entitled to the hospital stay required by WHCRA, which is 5 days for mastectomy and 10 days for breast reconstruction.

What can I expect to find in my annual notice?

Your annual notice should describe the categories of mastectomy-related benefits available under the plan. For example, your annual notice might say: "The following categories of services and benefits are available:

2. Cancer-related benefits, including:
   a. Mastectomy
   b. Reconstruction surgery
   c. Radiation therapy
   d. Chemotherapy
   e. Supportive care services, including:
      i. Social services
      ii. Pain management
      iii. Psychosocial counseling"

Your plan may provide a similar list of services and benefits. If you have additional State protections, check with your State insurance department.