



March 21, 2023

Mr. Michael J. Queensland
Senate Chief Clerk
State Capitol
P.O. Box 7882
Madison, WI 53707

Mr. Ted Blazel
Assembly Chief Clerk
17 West Main Street
Room 401
Madison, WI 53703

Re: Social and Financial Impact Report—2023 Senate Bill 121—relating to coverage of breast cancer screenings by the Medical Assistance program and health insurance policies and plans.

Dear Chief Clerks Queensland and Blazel:

Pursuant to Wis. Stat. § 601.423, the Office of the Commissioner of Insurance (OCI) is submitting a social and financial impact report on 2023 Senate Bill 121, relating to coverage of breast cancer screenings by the Medical Assistance program and health insurance policies and plans.

Coverage of Mammograms

OCI has determined that 2023 Senate Bill 121 requires a social and financial impact report for the following reasons:

1. The provision requires coverage of a particular treatment, equipment, or drug.
2. Requires a particular benefit design or imposes conditions on cost-sharing under an insurance policy, plan, or contract for the treatment of a particular disease, condition, or other health care need, for a particular type of health care treatment or service, or for the provision of equipment, supplies, or drugs used in connection with a health care treatment or service.

Social Impact

OCI has reviewed the provisions contained in 2023 Senate Bill 121, in particular sections 5 through 17 creating and amending Wis. Stat. § 632.895 (8), that require insurers offering disability insurance policies and non-federal governmental self-funded plans, to cover mammograms and additional radiographic modalities for the screening and evaluation of breast cancer for women who are believed to be at higher risk for cancer including breast cancer. Insurers and non-federal governmental self-funded plans may impose the same exclusions, limitations, and cost-sharing provisions that generally apply to mammograms. However, 2023 Senate Bill 121 amends the provision by eliminating the amount of cost-sharing that can be imposed for essential breast screenings beyond mammography under Wis. Stat. § 632.895 (8) (d) 2. It should be noted that the current draft provides additional screening and evaluation for women. The treatment and the elimination of cost-sharing, while possibly reflective of the higher incidence in females of breast cancer than males, may be viewed as discriminatory by the federal government and Qualified Health Plans (QHPs), and the expanded screening and evaluation may need to be expanded to all individuals regardless of gender.

The health insurance provisions outlined in the bill have the potential to affect Wisconsin consumers who have coverage for, and utilize, mammograms and other essential breast cancer screenings through fully insured or non-federal, governmental self-funded plans. OCI is unable to determine how these proposals could impact access or affordability.

QHPs, in order to be considered as providing essential health benefits, must offer preventive health screenings coverage pursuant to 45 CFR § 147.130 under the Affordable Care Act (ACA). Non-federal governmental self-funded plans are currently subject to Wis. Stat. § 632.895 (9) to (17). This bill would update Wis. Stat. § 632.895 (8) to add mammograms as a mandatorily covered preventive health screening. Therefore, at a minimum, residents who are insured by disability insurance plans, QHPs, and residents who are covered by self-funded non-federal governmental health plans would be eligible for coverage of mammograms and additional radiographic modalities for screening or evaluation of breast cancer in women without health insurers charging a cost-sharing amount.

There are several categories of disability insurance plans that are not currently subject to all ACA requirements including, "grandfathered plans" (plans that were in existence as of March 23, 2010, have been continually offered and have benefits that have not significantly changed over time), and "transitional plans" (plans offered primarily to employers that have been exempted from full compliance with the ACA). Although not required by federal law, it is indeterminate as to how many fully insured disability insurance plans that are not QHPs provide coverage for mammograms, the additional breast cancer screening, or impose cost-sharing greater than the proposed cap. OCI is unable to definitively determine how many residents could benefit from the proposed mandated coverage. Further, the availability of insurance coverage for consumers without these health insurance provisions is indeterminate.

Financial Impact

OCI is unable to determine what financial impact, if any, the newly proposed health insurance bill may have on insurers. The legislation is intended, in part, to increase consumer access to, and affordability of, essential breast screenings beyond mammography by requiring insurers to eliminate a cost-sharing amount for a supplemental breast screening examination or diagnostic breast examination. This provision may result in increased utilization of regular mammogram screening, additional radiographic modalities for breast cancer screenings, and possibly improve adherence that could improve a consumer's medical outcomes. Improved overall health may reduce the necessity for other, more expensive health care treatments.

Currently under the ACA, individual, small, and large group health plans must provide essential health benefits coverage including preventive screenings, and may impose exclusions, limitations, and cost-sharing provisions that generally apply to similar coverage. Insurers offering coverage through the federal marketplace exchange must provide coverage that is substantially similar to the state's established benchmark plan and may not discriminate based upon gender. The state's benchmark plan includes both state and federal coverage requirements and plans are required to offer preventive screenings consistent with 45 CFR § 147.130. Insurers offering grandfathered plans or transitional plans, non-federal governmental health plans, self-funded private employer plans, and large employer group health plans are not restricted to offering a plan that is similar to the Wisconsin benchmark plan. Large employers and non-federal governmental plans may select a benchmark plan from another state provided the plan includes Wisconsin's mandated benefits. For these latter groups, OCI is unable to determine whether the newly proposed and amended coverage of mammograms and additional breast cancer screenings would

provide more expansive benefits than are currently provided. Therefore, OCI cannot determine whether or not there would be an additional cost for the proposed additions and modifications to the current mandate covering mammograms.

Federal guidance requires a state that mandates health benefits in excess of the benchmark plan to defray the cost of the additional mandated health benefits, but only for coverage offered through the federal marketplace exchange (see, 45 CFR § 155.170). Wisconsin's benchmark plan was established as of January 1, 2014, and included all statutory health mandates active on that date. 2023 Senate Bill 121 in sections 5 through 17 amends and creates additional essential health benefits for the screening and evaluation for breast cancer that is to be covered by disability insurers including QHPs offered through the federal exchange. The state would only be required to defray costs if the expanded coverage for breast cancer screening, including the additional radiographic modalities as proposed in 2023 Senate Bill 121, was found by the federal government to be in excess of the current benchmark plan.

OCI is unable to determine the extent to which this additional requirement could increase administrative and claims costs or how the proposed requirements on insurers may impact premium costs passed on to consumers and employers.

Please contact Sarah Smith at (608) 209-6309 or Sarah.Smith2@wisconsin.gov if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nathan Houdek". The signature is fluid and cursive, with the first name "Nathan" and last name "Houdek" clearly distinguishable.

Nathan Houdek
Commissioner

Cc: The Honorable Tony Evers, Governor of Wisconsin