

1 State of Arkansas *As Engrossed: S3/4/25 S3/19/25*

2 95th General Assembly

A Bill

3 Regular Session, 2025

SENATE BILL 83

4

5 By: Senator J. Bryant

6 By: Representative K. Moore

7

8

For An Act To Be Entitled

9 AN ACT TO MANDATE COVERAGE FOR BREAST RECONSTRUCTION
10 SURGERIES; TO REQUIRE PRIOR AUTHORIZATION FOR BREAST
11 RECONSTRUCTION SURGERIES; TO ESTABLISH A MINIMUM
12 REIMBURSEMENT RATE FOR BREAST RECONSTRUCTION
13 SURGERIES; AND FOR OTHER PURPOSES.

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Subtitle

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TO MANDATE COVERAGE FOR BREAST
18 RECONSTRUCTION SURGERIES; TO REQUIRE
19 PRIOR AUTHORIZATION FOR BREAST
20 RECONSTRUCTION SURGERIES; AND TO
21 ESTABLISH A MINIMUM REIMBURSEMENT RATE
22 FOR BREAST RECONSTRUCTION SURGERIES.

23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25

26 SECTION 1. Arkansas Code Title 23, Chapter 79, is amended to add an
27 additional subchapter to read as follows:

28

29 Subchapter 29 – Coverage for Breast Reconstruction Surgery

30

31 23-79-2901. Definitions.

32 As used in this subchapter:

33 (1) "Ambulatory surgery center" means an entity certified by:

34 (A) Medicare as an ambulatory surgical center that
35 operates for the purpose of providing surgical services to patients and that
36 is eligible to receive reimbursement from Medicaid for ambulatory surgery



1 services;

2 (B) The Joint Commission, an entity for the accreditation
3 of healthcare organizations;

4 (C) The Accreditation Association for Ambulatory Health
5 Care; or

6 (D) The American Association for Accreditation of
7 Ambulatory Surgery Facilities;

8 (2)(A) "Breast reconstruction surgery" means all stages of
9 surgery to repair physical defects caused by the extirpation or medical
10 treatment of diseased breast tissue and all stages of surgery to reconstruct
11 a breast mound or to create a new breast mound and to reestablish symmetry
12 between two (2) breasts:

13 (i) Following:

14 (a) Trauma;

15 (b) The loss of breast tissue due to
16 congenital or noncongenital diseases; or

17 (c) A mastectomy; or

18 (ii) For prophylaxis against a future disease of the
19 breast.

20 (B) "Breast reconstruction surgery" includes without
21 limitation:

22 (i) Augmentation, reduction, and mastectomy and all
23 procedures for a contralateral breast necessary for symmetry;

24 (ii) All breast reconstruction modalities, including
25 without limitation implant-based breast reconstruction, tissue-based breast
26 reconstruction, and any breast reconstruction modalities that are developed
27 subsequent to the effective date of this act that are recognized within Level
28 I of the Healthcare Common Procedure Coding System codes and are determined
29 by rule of the Insurance Commissioner to qualify under this subchapter;

30 (iii) All types of breast reconstruction contained
31 within the modalities under subdivision (2)(B)(ii) of this section, including
32 without limitation:

33 (a) Immediate implant-based breast
34 reconstruction;

35 (b) Delayed implant-based breast
36 reconstruction;

1 (c) Myocutaneous flap tissue-based breast
2 reconstruction;

3 (d) Microvascular free flap tissue-based
4 breast reconstruction;

5 (e) Structural fat grafting tissue-based
6 breast reconstruction;

7 (f) Combined implant-based and tissue-based
8 breast reconstruction; and

9 (g) Any type of breast reconstruction that is
10 developed subsequent to the effective date of this act that is recognized
11 within Level I of the Healthcare Common Procedure Coding System codes and is
12 determined by rule of the commissioner to qualify under this subchapter;

13 (iv) All procedural variations, iterations, or
14 approaches associated with the breast reconstruction types under subdivision
15 (2)(B)(iii) of this section, as noted within the short descriptor or the
16 description for the Level I Healthcare Common Procedure Coding System code
17 covering the modalities and types of breast reconstruction;

18 (v) Chest wall reconstruction, including without
19 limitation an aesthetic flat closure;

20 (vi) Custom fabricated breast prostheses, including
21 without limitation replacement of such breast prostheses; and

22 (vii) Coverage for the mechanical, medical, and
23 surgical treatment of physical complications of a mastectomy, breast
24 reconstruction surgery, chest wall reconstruction, radiation, and lymph node
25 surgery;

26 (3) "Enrollee" means an individual entitled to coverage of
27 healthcare services from a healthcare insurer;

28 (4) "Facility reimbursement rate" means the amount paid to a
29 healthcare facility by a healthcare insurer for certain procedures and
30 includes the costs of healthcare services;

31 (5)(A) "Health benefit plan" means:

32 (i) An individual, blanket, or group plan, policy,
33 or contract for healthcare services issued, renewed, or extended in this
34 state by a healthcare insurer, health maintenance organization, hospital
35 medical service corporation, or self-insured governmental or church plan in
36 this state; and

1 (ii) Any health benefit program receiving state or
2 federal appropriations from the State of Arkansas, including the Arkansas
3 Medicaid Program and the Arkansas Health and Opportunity for Me Program
4 established by the Arkansas Health and Opportunity for Me Act of 2021, § 23-
5 61-1001 et seq.

6 (B) "Health benefit plan" includes:

7 (i) Indemnity and managed care plans; and

8 (ii) Plans providing health benefits to state and
9 public school employees under § 21-5-401 et seq.

10 (C) "Health benefit plan" does not include:

11 (i) A plan that provides only dental benefits or eye
12 and vision care benefits;

13 (ii) A disability income plan;

14 (iii) A credit insurance plan;

15 (iv) Insurance coverage issued as a supplement to
16 liability insurance;

17 (v) Medical payments under an automobile or
18 homeowners insurance plan;

19 (vi) A health benefit plan provided under Arkansas
20 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
21 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

22 (vii) A plan that provides only indemnity for
23 hospital confinement;

24 (viii) An accident-only plan;

25 (ix) A specified disease plan other than a cancer
26 insurance plan or cancer supplemental policy; or

27 (x) A long-term-care-only plan;

28 (6) "Healthcare facility" means:

29 (A) An ambulatory surgery center;

30 (B) A hospital; or

31 (C) An outpatient surgery center;

32 (7)(A) "Healthcare insurer" means any insurance company,
33 hospital and medical service corporation, health maintenance organization, or
34 a nonprofit agricultural membership organization as defined under § 23-60-104
35 that issues or delivers health benefit plans in this state.

36 (B) "Healthcare insurer" does not include an entity that

1 provides only dental benefits or eye and vision care benefits;

2 (8) "Healthcare professional" means a person who is licensed,
3 certified, or otherwise authorized by the laws of this state to administer
4 health care in the ordinary course of the practice of his or her profession;

5 (9) "Healthcare professional reimbursement rate" means the
6 amount paid to a healthcare professional by a healthcare insurer for
7 procedures and includes the costs of healthcare services;

8 (10) "Healthcare service" means an item or service provided to
9 an individual for the purposes of alleviating, curing, healing, or preventing
10 human illness, injury, or physical disability;

11 (11) "Hospital" means a facility licensed as a hospital by the
12 Division of Health Facility Services under § 20-9-213;

13 (12) "Mastectomy" means the removal of all or part of the breast
14 for medically necessary reasons as determined by a healthcare professional;

15 (13) "Out-of-network provider" means a healthcare professional
16 that provides healthcare services to an enrollee but is not a participating
17 provider;

18 (14)(A) "Outpatient surgery center" means a facility in which
19 surgical services are offered that require the use of general or intravenous
20 anesthetics, and where, in the opinion of the attending physician,
21 hospitalization, as defined in the present licensure law, is not necessary.

22 (B) "Outpatient surgery center" does not include:

23 (i) A medical office owned and operated by a
24 physician or more than one (1) physician licensed by the Arkansas State
25 Medical Board, if the medical office does not bill a facility fee to a third-
26 party payor; or

27 (ii) A dental office that has a Moderate Sedation
28 Facility Permit or a Deep Sedation-General Anesthesia Facility Permit issued
29 by the Arkansas State Board of Dental Examiners; and

30 (15) "Participating provider" means a healthcare professional
31 that has a healthcare contract with a contracting entity to provide
32 healthcare services to an enrollee with the expectation of receiving payment
33 either directly from the contracting entity or from a healthcare insurer
34 affiliated with the contracting entity.

35
36 23-79-2902. Coverage for breast reconstruction surgery.

1 (a) On and after January 1, 2026, a health benefit plan that is
2 offered, issued, or renewed in this state shall provide coverage for all
3 modalities, types, and techniques of a healthcare service provided for a
4 breast reconstruction surgery and shall cover any surgery determined as the
5 best course of treatment by a healthcare professional, consistent with
6 prevailing medical standards, and in consultation with the patient.

7 (b) The coverage for breast reconstruction surgery under this section:

8 (1) Shall be subject to policy deductibles, copayment
9 requirements, or coinsurance requirements of a healthcare insurer at a cost
10 that is no more than those costs associated with the health benefit plan's
11 in-network rate for the healthcare service;

12 (2) Does not diminish or limit benefits otherwise allowable
13 under a health benefit plan; and

14 (3) Shall not affect an enrollee's eligibility or continued
15 eligibility to enroll or renew coverage under the terms of the health benefit
16 plan solely for the purpose of avoiding the requirements of this subchapter.

17 (c) If an enrollee is forced to use an out-of-network provider due to
18 a healthcare insurer's network inadequacy, the enrollee's financial
19 responsibility shall remain at an in-network rate.

20
21 23-79-2903. Prior authorization required for breast reconstruction
22 surgery – Single case agreements.

23 (a) A healthcare insurer shall require prior authorization for breast
24 reconstruction surgery.

25 (b) If a healthcare insurer does not have a participating provider who
26 provides a breast reconstruction surgery that has been determined as the best
27 course of treatment by a healthcare professional and is consistent with
28 prevailing medical standards and in consultation with the patient, then the
29 healthcare insurer that provides a prior authorization or predetermination of
30 the healthcare service shall automatically approve a single case agreement at
31 the same rate as specified under § 23-79-2904(a).

32
33 23-79-2904. Reimbursement rate – Penalties for late payment or
34 nonpayment.

35 (a) If a healthcare insurer does not have a participating provider who
36 provides a breast reconstruction surgery that has been determined as the best

1 course of treatment by a healthcare professional and is consistent with
2 prevailing medical standards and in consultation with the patient, then the
3 healthcare insurer shall reimburse the out-of-network provider who performs
4 the breast reconstruction surgery at an amount that is the lesser of:

5 (1) The healthcare professional's billed charges for the
6 healthcare services; or

7 (2) The eightieth percentile of all charges for the particular
8 healthcare service performed by a healthcare professional in the same or
9 similar specialty and provided in the same or similar geographical area as
10 reported in a benchmarking database that is maintained by a nonprofit
11 organization if that nonprofit organization is not affiliated with,
12 financially supported by, or otherwise supported by a healthcare insurer.

13 (b) A healthcare insurer shall provide a fair and reasonable facility
14 reimbursement rate for healthcare services performed by a healthcare
15 professional in a healthcare facility under this subchapter.

16 (c)(1) In the case of a healthcare insurer that does not reimburse an
17 out-of-network provider or a healthcare facility as required under this
18 section, the healthcare insurer, in addition to making the required payment
19 for the healthcare services, shall pay the out-of-network provider or
20 healthcare facility an amount that is three (3) times the difference between:

21 (A) The initial payment, or in the case of a notice of
22 denial of payment, zero dollars (\$0.00); and

23 (B) The out-of-network reimbursement rate required under
24 this section, less any cost-sharing required to be paid by the enrollee.

25 (2) The payment that is required under subdivision (c)(1) of
26 this section is subject to interest in a manner specified by the Insurance
27 Commissioner by rule.

28
29 23-79-2905. Coverage eligibility.

30 A healthcare insurer providing benefits under this subchapter shall not
31 deny an enrollee eligibility or continued eligibility to enroll or renew
32 coverage under the terms of the health benefit plan solely for the purpose of
33 avoiding the requirements of this subchapter.

34
35 23-79-2906. Waiver prohibited.

36 (a) The provisions of this subchapter shall not be waived by contract.

1 (b) A contractual arrangement or action taken in conflict with this
2 subchapter or that purport to waive any requirement of this subchapter is
3 void.

4 (c) This subchapter shall not be used by a healthcare insurer to lower
5 reimbursement rates for other healthcare services involving breast
6 reconstruction provided by a participating provider.

7
8 23-79-2907. Rules.

9 (a) The Insurance Commissioner shall develop and promulgate rules for
10 the implementation and administration of this subchapter.

11 (b) The State Board of Finance shall develop and promulgate rules for
12 the administration of this subchapter for the plans providing health benefits
13 to state and public school employees under § 21-5-401 et seq.

14
15 /s/J. Bryant
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18 **APPROVED: 4/3/25**
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