

# ASSEMBLY, No. 4801

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

**Sponsored by:**

**Assemblyman ANTWAN L. MCCLELLAN**

**District 1 (Atlantic, Cape May and Cumberland)**

**Assemblyman ERIK K. SIMONSEN**

**District 1 (Atlantic, Cape May and Cumberland)**

**Assemblyman BRIAN BERGEN**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

“Michelle’s Law”; requires health benefit plans to cover mammogram for an individual if recommended by health care provider.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/19/2020)**

1 AN ACT concerning health benefits for mammograms, designated as  
2 Michelle's Law, and amending P.L.1991, c.279 and P.L.2004,  
3 c.86.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 1 of P.L.1991, c.279 (C.17:48-6g) is amended to  
9 read as follows:

10 1. a. No group or individual hospital service corporation  
11 contract providing hospital or medical expense benefits shall be  
12 delivered, issued, executed, or renewed in this State or approved for  
13 issuance or renewal in this State by the Commissioner of Banking  
14 and Insurance, on or after the effective date of this act, unless the  
15 contract provides benefits to any subscriber or other person covered  
16 thereunder for expenses incurred in conducting:

17 (1) one baseline mammogram examination for women who are  
18 40 years of age; a mammogram examination every year for women  
19 age 40 and over; and~~], in the case of a woman who is under 40~~  
20 ~~years of age and has a family history of breast cancer or other breast~~  
21 ~~cancer risk factors,]~~ a mammogram examination at such age and  
22 intervals as **[deemed medically necessary]** recommended by **[the**  
23 **woman's]** a covered person's health care provider; and

24 (2) an ultrasound evaluation, a magnetic resonance imaging  
25 scan, a three-dimensional mammography, or other additional testing  
26 of an entire breast or breasts, after a **[baseline ]**mammogram  
27 examination, if the mammogram demonstrates extremely dense  
28 breast tissue, if the mammogram is abnormal within any degree of  
29 breast density including not dense, moderately dense,  
30 heterogeneously dense, or extremely dense breast tissue, or if the  
31 patient has additional risk factors for breast cancer including but not  
32 limited to family history of breast cancer, prior personal history of  
33 breast cancer, positive genetic testing, extremely dense breast tissue  
34 based on the Breast Imaging Reporting and Data System established  
35 by the American College of Radiology, or other indications as  
36 determined by the patient's health care provider. The coverage  
37 required under this paragraph may be subject to utilization review,  
38 including periodic review, by the hospital service corporation of the  
39 medical necessity of the additional screening and diagnostic testing.

40 b. These benefits shall be provided to the same extent as for  
41 any other sickness under the contract.

42 c. The provisions of this section shall apply to all contracts in  
43 which the hospital service corporation has reserved the right to  
44 change the premium.

45 (cf: P.L.2013, c.196, s.1)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to  
2 read as follows:

3       2. a. No group or individual medical service corporation  
4 contract providing hospital or medical expense benefits shall be  
5 delivered, issued, executed, or renewed in this State or approved for  
6 issuance or renewal in this State by the Commissioner of Banking  
7 and Insurance, on or after the effective date of this act, unless the  
8 contract provides benefits to any subscriber or other person covered  
9 thereunder for expenses incurred in conducting:

10       (1) one baseline mammogram examination for women who are  
11 40 years of age; a mammogram examination every year for women  
12 age 40 and over; and~~],~~ in the case of a woman who is under 40  
13 years of age and has a family history of breast cancer or other breast  
14 cancer risk factors,~~]~~ a mammogram examination at such age and  
15 intervals as ~~deemed medically necessary~~ recommended by ~~the~~  
16 ~~woman's~~ a covered person's health care provider; and

17       (2) an ultrasound evaluation, a magnetic resonance imaging  
18 scan, a three-dimensional mammography, or other additional testing  
19 of an entire breast or breasts, after a ~~baseline~~ baseline mammogram  
20 examination, if the mammogram demonstrates extremely dense  
21 breast tissue, if the mammogram is abnormal within any degree of  
22 breast density including not dense, moderately dense,  
23 heterogeneously dense, or extremely dense breast tissue, or if the  
24 patient has additional risk factors for breast cancer including but not  
25 limited to family history of breast cancer, prior personal history of  
26 breast cancer, positive genetic testing, extremely dense breast tissue  
27 based on the Breast Imaging Reporting and Data System established  
28 by the American College of Radiology, or other indications as  
29 determined by the patient's health care provider. The coverage  
30 required under this paragraph may be subject to utilization review,  
31 including periodic review, by the medical service corporation of the  
32 medical necessity of the additional screening and diagnostic testing.

33       b. These benefits shall be provided to the same extent as for  
34 any other sickness under the contract.

35       c. The provisions of this section shall apply to all contracts in  
36 which the medical service corporation has reserved the right to  
37 change the premium.

38 (cf: P.L.2013, c.196, s.2)

39

40       3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to  
41 read as follows:

42       3. a. No group or individual health service corporation contract  
43 providing hospital or medical expense benefits shall be delivered,  
44 issued, executed, or renewed in this State or approved for issuance  
45 or renewal in this State by the Commissioner of Banking and  
46 Insurance, on or after the effective date of this act, unless the

1 contract provides benefits to any subscriber or other person covered  
2 thereunder for expenses incurred in conducting:

3 (1) one baseline mammogram examination for women who are  
4 40 years of age; a mammogram examination every year for women  
5 age 40 and over; and~~], in the case of a woman who is under 40~~  
6 ~~years of age and has a family history of breast cancer or other breast~~  
7 ~~cancer risk factors,]~~ a mammogram examination at such age and  
8 intervals as ~~]~~ **deemed medically necessary** recommended by ~~]~~ **the**  
9 **woman's]** a covered person's health care provider; and

10 (2) an ultrasound evaluation, a magnetic resonance imaging  
11 scan, a three-dimensional mammography, or other additional testing  
12 of an entire breast or breasts, after a ~~]~~ **baseline ]** mammogram  
13 examination, if the mammogram demonstrates extremely dense  
14 breast tissue, if the mammogram is abnormal within any degree of  
15 breast density including not dense, moderately dense,  
16 heterogeneously dense, or extremely dense breast tissue, or if the  
17 patient has additional risk factors for breast cancer including but not  
18 limited to family history of breast cancer, prior personal history of  
19 breast cancer, positive genetic testing, extremely dense breast tissue  
20 based on the Breast Imaging Reporting and Data System established  
21 by the American College of Radiology, or other indications as  
22 determined by the patient's health care provider. The coverage  
23 required under this paragraph may be subject to utilization review,  
24 including periodic review, by the health service corporation of the  
25 medical necessity of the additional screening and diagnostic testing.

26 b. These benefits shall be provided to the same extent as for  
27 any other sickness under the contract.

28 c. The provisions of this section shall apply to all contracts in  
29 which the health service corporation has reserved the right to  
30 change the premium.

31 (cf: P.L.2013, c.196, s.3)

32

33 4. Section 4 of P.L.1991, c.279 (C17B:26-2.1e) is amended to  
34 read as follows:

35 4. a. No individual health insurance policy providing hospital or  
36 medical expense benefits shall be delivered, issued, executed, or  
37 renewed in this State or approved for issuance or renewal in this  
38 State by the Commissioner of Banking and Insurance, on or after  
39 the effective date of this act, unless the policy provides benefits to  
40 any named insured or other person covered thereunder for expenses  
41 incurred in conducting:

42 (1) one baseline mammogram examination for women who are  
43 40 years of age; a mammogram examination every year for women  
44 age 40 and over; and~~], in the case of a woman who is under 40~~  
45 ~~years of age and has a family history of breast cancer or other breast~~  
46 ~~cancer risk factors,]~~ a mammogram examination at such age and

1 intervals as **【deemed medically necessary】** recommended by **【the**  
2 woman's**】** a covered person's health care provider; and

3 (2) an ultrasound evaluation, a magnetic resonance imaging  
4 scan, a three-dimensional mammography, or other additional testing  
5 of an entire breast or breasts, after a **【baseline 】**mammogram  
6 examination, if the mammogram demonstrates extremely dense  
7 breast tissue, if the mammogram is abnormal within any degree of  
8 breast density including not dense, moderately dense,  
9 heterogeneously dense, or extremely dense breast tissue, or if the  
10 patient has additional risk factors for breast cancer including but not  
11 limited to family history of breast cancer, prior personal history of  
12 breast cancer, positive genetic testing, extremely dense breast tissue  
13 based on the Breast Imaging Reporting and Data System established  
14 by the American College of Radiology, or other indications as  
15 determined by the patient's health care provider. The coverage  
16 required under this paragraph may be subject to utilization review,  
17 including periodic review, by the insurer of the medical necessity of  
18 the additional screening and diagnostic testing.

19 b. These benefits shall be provided to the same extent as for  
20 any other sickness under the policy.

21 c. The provisions of this section shall apply to all policies in  
22 which the insurer has reserved the right to change the premium.

23 (cf: P.L.2013, c.196, s.4)  
24

25 5. Section 5 of P.L.1991, c.279 (C.17B:27:46.1f) is amended to  
26 read as follows:

27 5. a. No group health insurance policy providing hospital or  
28 medical expense benefits shall be delivered, issued, executed, or  
29 renewed in this State or approved for issuance or renewal in this  
30 State by the Commissioner of Banking and Insurance, on or after  
31 the effective date of this act, unless the policy provides benefits to  
32 any named insured or other person covered thereunder for expenses  
33 incurred in conducting:

34 (1) one baseline mammogram examination for women who are  
35 40 years of age; a mammogram examination every year for women  
36 age 40 and over; and**【**, in the case of a woman who is under 40  
37 years of age and has a family history of breast cancer or other breast  
38 cancer risk factors,**】** a mammogram examination at such age and  
39 intervals as **【deemed medically necessary】** recommended by **【the**  
40 woman's**】** a covered person's health care provider; and

41 (2) an ultrasound evaluation, a magnetic resonance imaging  
42 scan, a three-dimensional mammography, or other additional testing  
43 of an entire breast or breasts, after a **【baseline 】**mammogram  
44 examination, if the mammogram demonstrates extremely dense  
45 breast tissue, if the mammogram is abnormal within any degree of  
46 breast density including not dense, moderately dense,  
47 heterogeneously dense, or extremely dense breast tissue, or if the

1 patient has additional risk factors for breast cancer including but not  
2 limited to family history of breast cancer, prior personal history of  
3 breast cancer, positive genetic testing, extremely dense breast tissue  
4 based on the Breast Imaging Reporting and Data System established  
5 by the American College of Radiology, or other indications as  
6 determined by the patient's health care provider. The coverage  
7 required under this paragraph may be subject to utilization review,  
8 including periodic review, by the insurer of the medical necessity of  
9 the additional screening and diagnostic testing.

10 b. These benefits shall be provided to the same extent as for  
11 any other sickness under the policy.

12 c. The provisions of this section shall apply to all policies in  
13 which the insurer has reserved the right to change the premium.

14 (cf: P.L.2013, c.196, s.5)

15

16 6. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to  
17 read as follows:

18 6. a. Notwithstanding any provision of law to the contrary, a  
19 certificate of authority to establish and operate a health maintenance  
20 organization in this State shall not be issued or continued by the  
21 Commissioner of Banking and Insurance on or after the effective  
22 date of this act unless the health maintenance organization provides  
23 health care services to any enrollee for the conduct of:

24 (1) one baseline mammogram examination for women who are  
25 40 years of age; a mammogram examination every year for women  
26 age 40 and over; and~~],~~ in the case of a woman who is under 40  
27 years of age and has a family history of breast cancer or other breast  
28 cancer risk factors,~~]~~ a mammogram examination at such age and  
29 intervals as ~~deemed medically necessary~~ recommended by ~~the~~  
30 ~~woman's~~ a covered person's health care provider; and

31 (2) an ultrasound evaluation, a magnetic resonance imaging  
32 scan, a three-dimensional mammography, or other additional testing  
33 of an entire breast or breasts, after a ~~baseline~~ **baseline** mammogram  
34 examination, if the mammogram demonstrates extremely dense  
35 breast tissue, if the mammogram is abnormal within any degree of  
36 breast density including not dense, moderately dense,  
37 heterogeneously dense, or extremely dense breast tissue, or if the  
38 patient has additional risk factors for breast cancer including but not  
39 limited to family history of breast cancer, prior personal history of  
40 breast cancer, positive genetic testing, extremely dense breast tissue  
41 based on the Breast Imaging Reporting and Data System established  
42 by the American College of Radiology, or other indications as  
43 determined by the patient's health care provider. The coverage  
44 required under this paragraph may be subject to utilization review,  
45 including periodic review, by the health maintenance organization  
46 of the medical necessity of the additional screening and diagnostic  
47 testing.

1       b. These health care services shall be provided to the same  
2 extent as for any other sickness under the enrollee agreement.

3       c. The provisions of this section shall apply to all enrollee  
4 agreements in which the health maintenance organization has  
5 reserved the right to change the schedule of charges.

6 (cf: P.L.2013, c.196, s.8)

7

8       7. Section 7 of P.L.2004, c.86 (C.17B:27A-7.10) is amended to  
9 read as follows:

10       7. a. Every individual health benefits plan that is delivered,  
11 issued, executed, or renewed in this State pursuant to P.L.1992,  
12 c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in  
13 this State, on or after the effective date of this act, shall provide  
14 benefits to any person covered thereunder for expenses incurred in  
15 conducting:

16       (1) one baseline mammogram examination for women who are  
17 40 years of age; a mammogram examination every year for women  
18 age 40 and over; and~~],~~ in the case of a woman who is under 40  
19 years of age and has a family history of breast cancer or other breast  
20 cancer risk factors,~~]~~ a mammogram examination at such age and  
21 intervals as ~~deemed medically necessary~~ recommended by ~~the~~  
22 ~~woman's~~ a covered person's health care provider; and

23       (2) an ultrasound evaluation, a magnetic resonance imaging  
24 scan, a three-dimensional mammography, or other additional testing  
25 of an entire breast or breasts, after a ~~baseline~~ baseline mammogram  
26 examination, if the mammogram demonstrates extremely dense  
27 breast tissue, if the mammogram is abnormal within any degree of  
28 breast density including not dense, moderately dense,  
29 heterogeneously dense, or extremely dense breast tissue, or if the  
30 patient has additional risk factors for breast cancer including but not  
31 limited to family history of breast cancer, prior personal history of  
32 breast cancer, positive genetic testing, extremely dense breast tissue  
33 based on the Breast Imaging Reporting and Data System established  
34 by the American College of Radiology, or other indications as  
35 determined by the patient's health care provider. The coverage  
36 required under this paragraph may be subject to utilization review,  
37 including periodic review, by the carrier of the medical necessity of  
38 the additional screening and diagnostic testing.

39       b. The benefits shall be provided to the same extent as for any  
40 other medical condition under the health benefits plan.

41       c. The provisions of this section shall apply to all health  
42 benefit plans in which the carrier has reserved the right to change  
43 the premium.

44 (cf: P.L.2013, c.196, s.6)

45

46       8. Section 8 of P.L.2004, c.86 (C.17B:27A-19.13) is amended  
47 to read as follows:

1       8. a. Every small employer health benefits plan that is  
2 delivered, issued, executed, or renewed in this State pursuant to  
3 P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or  
4 renewal in this State, on or after the effective date of this act, shall  
5 provide benefits to any person covered thereunder for expenses  
6 incurred in conducting:

7       (1) one baseline mammogram examination for women who are  
8 40 years of age; a mammogram examination every year for women  
9 age 40 and over; and~~], in the case of a woman who is under 40~~  
10 years of age and has a family history of breast cancer or other breast  
11 cancer risk factors,~~]~~ a mammogram examination at such age and  
12 intervals as ~~]~~ **deemed medically necessary** recommended by ~~]~~ **the**  
13 **woman's** a covered person's health care provider; and

14       (2) an ultrasound evaluation, a magnetic resonance imaging  
15 scan, a three-dimensional mammography, or other additional testing  
16 of an entire breast or breasts, after a ~~]~~ **baseline** ~~]~~ **mammogram**  
17 examination, if the mammogram demonstrates extremely dense  
18 breast tissue, if the mammogram is abnormal within any degree of  
19 breast density including not dense, moderately dense,  
20 heterogeneously dense, or extremely dense breast tissue, or if the  
21 patient has additional risk factors for breast cancer including but not  
22 limited to family history of breast cancer, prior personal history of  
23 breast cancer, positive genetic testing, extremely dense breast tissue  
24 based on the Breast Imaging Reporting and Data System established  
25 by the American College of Radiology, or other indications as  
26 determined by the patient's health care provider. The coverage  
27 required under this paragraph may be subject to utilization review,  
28 including periodic review, by the carrier of the medical necessity of  
29 the additional screening and diagnostic testing.

30       b. The benefits shall be provided to the same extent as for any  
31 other medical condition under the health benefits plan.

32       c. The provisions of this section shall apply to all health  
33 benefit plans in which the carrier has reserved the right to change  
34 the premium.

35 (cf: P.L.2013, c.196, s.7)

36  
37       9. Section 9 of P.L.2004, c.86 (C.52:14-17.29i) is amended to  
38 read as follows:

39       9. a. The State Health Benefits Commission shall provide  
40 benefits to each person covered under the State Health Benefits  
41 Program for expenses incurred in conducting:

42       (1) one baseline mammogram examination for women who are  
43 40 years of age; a mammogram examination every year for women  
44 age 40 and over; and~~], in the case of a woman who is under 40~~  
45 years of age and has a family history of breast cancer or other breast  
46 cancer risk factors,~~]~~ a mammogram examination at such age and

1 intervals as **【deemed medically necessary】** recommended by **【the**  
2 woman's**】** a covered person's health care provider; and

3 (2) an ultrasound evaluation, a magnetic resonance imaging  
4 scan, a three-dimensional mammography, or other additional testing  
5 of an entire breast or breasts, after a **【baseline 】**mammogram  
6 examination, if the mammogram demonstrates extremely dense  
7 breast tissue, if the mammogram is abnormal within any degree of  
8 breast density including not dense, moderately dense,  
9 heterogeneously dense, or extremely dense breast tissue, or if the  
10 patient has additional risk factors for breast cancer including but not  
11 limited to family history of breast cancer, prior personal history of  
12 breast cancer, positive genetic testing, extremely dense breast tissue  
13 based on the Breast Imaging Reporting and Data System established  
14 by the American College of Radiology, or other indications as  
15 determined by the patient's health care provider. The coverage  
16 required under this paragraph may be subject to utilization review,  
17 including periodic review, by the carrier of the medical necessity of  
18 the additional screening and diagnostic testing.

19 b. The benefits shall be provided to the same extent as for any  
20 other medical condition under the contract.

21 (cf: P.L.2013, c.196, s.9)

22  
23 10. This act shall take effect immediately.

## 24 25 26 STATEMENT

27  
28 This bill requires health benefit plans to cover the cost of a  
29 mammogram if a health care provider recommends the examination.

30 Presently, health benefit plans are only required to cover  
31 mammograms for women who are 40 and over or women under the  
32 age of 40 if they have a family history of breast cancer or other  
33 breast cancer related risk factor. Health benefit plans must also  
34 cover additional testing of an entire breast or breasts after a baseline  
35 mammogram examination. Under this bill, health benefit plans will  
36 be required to cover the cost of a mammogram examination, and  
37 any additional testing after the examination, if the health care  
38 provider of the subscriber or other person covered under the plan  
39 recommends it. Mammograms for women 40 and over will still be  
40 covered under this bill.

41 This bill, named "Michelle's Law," is in response to the tragic  
42 death of Michelle DeVita. Michelle was a 38-year-old woman who  
43 lost her battle to breast cancer. Under the requirements of the  
44 current law, insurance was not required to provide her coverage for  
45 a mammogram