

<b>Policy</b>	<b>ADMIN-014</b>
<b>Effective Date</b>	<b>7/17/2024</b>
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Originated Department	Clinical Operations

## Women’s Health and Cancer Rights Act

<b>Audience</b>
Medical Management

<b>Purpose</b>
<p>Medical policies provide general support for applying Mountain Health Co-Op member policy document coverage decisions, and the member-specific benefit plan document must be referenced. The terms of the member-specific Policy document may differ from the standard benefit plan based on this medical policy. If there is a conflict between a member-specific policy document and the Mountain Health Co-Op medical policy, the member document supersedes this policy. Any person(s) applying this medical policy must identify member eligibility, the member-specific policy document, and related policies or guidelines before applying this medical policy, including the existence of any state or federal guidance. Mountain Health Co-Op medical policies are designed for informational purposes only and are not an authorization, explanation of benefits, or contract. Receipt of benefits is subject to the satisfaction of all terms and conditions of the member-specific policy document coverage. Mountain Health Co-Op reserves the sole discretionary right to modify all policies and guidelines at any time.</p>

<b>Definition</b>
<p>The Women’s Health and Cancer Rights Act of 1998 (WHCRA) requires the following benefits: A group health plan and health insurance issuer providing health insurance coverage in connection with a group health plan, which provides medical and surgical benefits concerning mastectomy, shall also provide coverage for:</p> <ol style="list-style-type: none"> <li>1. Reconstruction of the breast on which the mastectomy has been performed;</li> <li>2. Surgery and reconstruction of the other breast to produce a symmetrical appearance;</li> </ol> <p>and</p>

3. Prostheses and physical complications at all stages of mastectomy, including lymphedemas, in a manner determined in consultation with the attending physician and the patient.

The statute requires the WHCRA notification to be sent to participants no later than January 1, 1999. The act also requires plans to notify participants upon enrollment and annually thereafter.

## Policy/Procedure

Mountain Health Co-Op covers breast reconstruction on all covered mastectomies consistent with the WHCRA of 1998 and the Department of Labor clarifications of August 2001.

### Clinical Rationale

Multiple questions have arisen since the enactment of the Women's Health and Cancer Rights Act (WHCRA) of 1998 due to the somewhat ambiguous language used in crafting the legislation. Subsequently, attempts have been made to clarify the intent of the legislation and its implications for the healthcare delivered to affected individuals and the cost ramifications for Health Plans.

A conference call was held with the U.S. Department of Labor (DOL) representatives on August 29, 2001. At that time, it was made clear that in the absence of clarifying legislation or regulations, the DOL was looking for "good faith compliance" with the principles of the WHCRA.

Additionally, specific questions involving common questions/scenarios were raised and discussed. The following questions and their associated answers represent an incomplete but improved picture outlining the expectations of Mountain Health Co-Op in complying with the legislation:

1. How long is a Health Plan expected to provide coverage for "cosmetic" procedures on the unaffected breast to maintain an appearance of symmetry? o Use common sense and the guideline that symmetry only needs to be achieved once. Thus, if symmetry has been achieved at some point in the "treatment plan" then it is probably NOT NECESSARY to cover a second effort. However, suppose no reconstructive procedure(s) were performed for this purpose since the mastectomy or lumpectomy (i.e., no attempt to achieve symmetry). In that case, Mountain Health Co-Op may be responsible for covering such efforts for "several" years beyond the initial mastectomy. If the asymmetry develops much beyond ten years it is probably legitimate to deny coverage if the surgery would not be approved for any other medical or legal reasons. This is a value judgment guided by "good faith".
2. If a woman delays reconstructive surgery "reasonable" time frame that shows "good Faith" is recommended. Therefore, the policy recommends the following: Given that most cancers are not considered cured unless a patient is disease-free for 5 years, it is probably appropriate to allow at least 5 years after the surgery to have reconstruction.

3. The Plan shall use common sense and a sense of what most lay people without any medical education might expect with regard to symmetry. Symmetry does not mean perfectly equal. This may be done only once during the period for reconstructive surgery. If there is disagreement in the presence or absence of symmetry it was recommended that multiple medical opinions be sought.

4. Tattoo coverage to create the sense that a person has a nipple where one does not exist is considered part of the reconstruction, and is covered.

5. A good faith effort should be made to provide a reasonable sense of symmetry between the nipple on the unaffected breast (if there is one) to match the reconstruction using the standard "as the usual reasonable layperson judges".

6. Lumpectomy itself does not mandate that the patient receive reconstruction benefits. If however, the lumpectomy leaves the patient "deformed," reconstruction benefits should apply. For minimal lumpectomies, which leave minimal change in the breast, if the expectation of a layperson of reasonable intellect and common sense would be that the lesion is deforming, reconstruction should be covered.

7. The plan does not limit coverage to just cancer-related malignancies. However, if the plan covers a mastectomy or benefits in connection with such mastectomy, regardless of the type of mastectomy, then the plan must also cover the reconstruction. If coverage of a mastectomy is denied, then the reconstruction can also be denied.

8. The Health plan restricts coverages to therapies found to be safe and effective such as pneumatic compression devices, decompressive physiotherapy and/or compression garments.

9. The health plan does not need to cover all reconstruction methods, only safe and effective.

### **Applicable Coding**

#### **CPT Codes**

No applicable codes

#### **HCPCS Codes**

No applicable codes

### **References**

1. Women's Health and Cancer Rights Act, 1998

2. U.S. Dept. of Labor (DOL), Conference call, August 29, 2001

**Vendors**

- Personify
- HPS

**Review/Revision/Approval History**

Date	Description
7/2024	New Policy Approved VP of Clinical Operations
12/2025	Reviewed by CO-OP Policy Committee

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