

**As Introduced**

**134th General Assembly**

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**H. B. No. 371**

**Representatives Schmidt, Denson**

**Cosponsors: Representatives Galonski, Troy, Weinstein, Miller, J., Ingram, Creech, Abrams, Pavliga, White, Miranda, O'Brien, Bird, Miller, K., Ghanbari, Young, T., Hoops, Lampton, John**

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**A BILL**

To amend sections 1751.62, 3702.40, 3923.52, 1  
3923.53, and 5164.08 of the Revised Code to 2  
revise the laws governing coverage of screening 3  
mammography and patient notice of dense breast 4  
tissue. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1751.62, 3702.40, 3923.52, 6  
3923.53, and 5164.08 of the Revised Code be amended to read as 7  
follows: 8

**Sec. 1751.62.** (A) As used in this section: 9

(1) "Screening mammography" means a radiologic examination 10  
utilized to detect unsuspected breast cancer at an early stage 11  
in an asymptomatic woman and includes the x-ray examination of 12  
the breast using equipment that is dedicated specifically for 13  
mammography, including, but not limited to, the x-ray tube, 14  
filter, compression device, screens, film, and cassettes, and 15  
that has an average radiation exposure delivery of less than one 16

rad mid-breast. "Screening mammography" includes digital breast 17  
tomosynthesis. "Screening mammography" includes two views for 18  
each breast. The term also includes the professional 19  
interpretation of the film. 20

"Screening mammography" does not include diagnostic 21  
mammography. 22

(2) "Medicare reimbursement rate" means the reimbursement 23  
rate paid in Ohio under the medicare program for screening 24  
mammography that does not include digitization or computer-aided 25  
detection, regardless of whether the actual benefit includes 26  
digitization or computer-aided detection. 27

(3) "Supplemental breast cancer screening" means any 28  
additional screening method deemed medically necessary by a 29  
treating health care provider for proper breast cancer screening 30  
in accordance with applicable American college of radiology 31  
guidelines, including magnetic resonance imaging, ultrasound, or 32  
molecular breast imaging. 33

(B) ~~Every~~ Notwithstanding section 3901.71 of the Revised 34  
Code, every individual or group health insuring corporation 35  
policy, contract, or agreement providing basic health care 36  
services that is delivered, issued for delivery, or renewed in 37  
this state shall provide benefits for the expenses of ~~both~~ all 38  
of the following: 39

(1) ~~Screening mammography to~~ To detect the presence of 40  
breast cancer in adult women, screening mammography; 41

(2) ~~Cytologic screening for~~ To detect the presence of 42  
breast cancer in adult women meeting either of the conditions 43  
described in division (C) (2) of this section, supplemental 44  
breast cancer screening; 45

(3) To detect the presence of cervical cancer, cytologic screening. 46  
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(C) (1) The benefits provided under division (B) (1) of this section shall cover expenses ~~in accordance with all of the following:~~ 48  
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~~(1) If a woman is at least thirty five years of age but under forty years of age, one screening mammography;~~ 51  
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~~(2) If a woman is at least forty years of age but under fifty years of age, either of the following:~~ 53  
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~~(a) One screening mammography every two years;~~ 55

~~(b) If a licensed physician has determined that the woman has risk factors to breast cancer, one screening mammography every year.~~ 56  
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~~(3) If a woman is at least fifty years of age but under sixty five years of age, for one screening mammography every year, including digital breast tomosynthesis.~~ 59  
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(2) The benefits provided under division (B) (2) of this section shall cover expenses for supplemental breast cancer screening for an adult woman who meets either of the following conditions: 62  
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(a) The woman's screening mammography demonstrates, based on the breast imaging reporting and data system established by the American college of radiology, that the woman has dense breast tissue; 66  
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(b) The woman is at an increased risk of breast cancer due to family history, prior personal history of breast cancer, ancestry, genetic predisposition, or other reasons as determined by the woman's health care provider. 70  
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(D) (1) Subject to divisions (D) (2) and (3) of this 74  
section, if a provider, hospital, or other health care facility 75  
provides a service that is a component of the screening 76  
mammography benefit in division (B) (1) of this section or a 77  
component of the supplemental breast cancer screening benefit in 78  
division (B) (2) of this section and submits a separate claim for 79  
that component, a separate payment shall be made to the 80  
provider, hospital, or other health care facility in an amount 81  
that corresponds to the ratio paid by medicare in this state for 82  
that component. 83

(2) Regardless of whether separate payments are made for 84  
the benefit provided under division (B) (1) or (2) of this 85  
section, the total benefit for a screening mammography or 86  
supplemental breast cancer screening shall not exceed one 87  
hundred thirty per cent of the medicare reimbursement rate in 88  
this state for screening mammography or supplemental breast 89  
cancer screening. If there is more than one medicare 90  
reimbursement rate in this state for screening mammography or a 91  
component of a screening mammography or supplemental breast 92  
cancer screening or a component of supplemental breast cancer 93  
screening, the reimbursement limit shall be one hundred thirty 94  
per cent of the lowest medicare reimbursement rate in this 95  
state. 96

(3) The benefit paid in accordance with division (D) (1) of 97  
this section shall constitute full payment. No provider, 98  
hospital, or other health care facility shall seek or receive 99  
remuneration in excess of the payment made in accordance with 100  
division (D) (1) of this section, except for approved deductibles 101  
and copayments. 102

(E) The benefits provided under division (B) (1) or (2) of 103

this section shall be provided only for screening mammographies 104  
or supplemental breast cancer screenings that are performed in a 105  
health care facility or mobile mammography screening unit that 106  
is accredited under the American college of radiology 107  
mammography accreditation program or in a hospital as defined in 108  
section 3727.01 of the Revised Code. 109

(F) The benefits provided under ~~divisions (B) (1) and (2)~~ 110  
division (B) of this section shall be provided according to the 111  
terms of the subscriber contract. 112

(G) The benefits provided under division ~~(B) (2)~~ (B) (3) of 113  
this section shall be provided only for cytologic screenings 114  
that are processed and interpreted in a laboratory certified by 115  
the college of American pathologists or in a hospital as defined 116  
in section 3727.01 of the Revised Code. 117

**Sec. 3702.40.** (A) As used in this section, "mammogram" and 118  
"facility" have the same meanings as in section 263b(a) of the 119  
"Mammography Quality Standards Act of 1992," 106 Stat. 3547 120  
(1992), 42 U.S.C. 263b(a), as amended. 121

(B) As required by 21 C.F.R. 900.12(c) (2), a facility 122  
shall send to each patient who has a mammogram at the facility a 123  
summary of the written report containing the results of the 124  
patient's mammogram. If, based on the breast imaging reporting 125  
and data system established by the American college of 126  
radiology, the patient's mammogram demonstrates that the patient 127  
has dense breast tissue, the summary shall include the following 128  
statement: 129

"Your mammogram ~~demonstrates~~ shows that ~~you have dense~~ 130  
your breast tissue, ~~which could hide abnormalities~~ is dense. 131  
Dense breast tissue, ~~in and of itself,~~ is a relatively very 132

~~common condition. Therefore, this information is not provided to~~ 133  
~~cause undue concern; rather, it is to raise your awareness and~~ 134  
~~promote discussion with your health care provider regarding the~~ 135  
~~presence of dense breast tissue in addition to other risk~~ 136  
~~factors~~ and is not abnormal. However, dense breast tissue can 137  
make it harder to find cancer on a mammogram and also may 138  
increase your risk of developing breast cancer. Because you have 139  
dense breast tissue, you could benefit from additional imaging 140  
tests such as a screening breast ultrasound or breast magnetic 141  
resonance imaging. This information about your breast density is 142  
being provided to you to raise your awareness. It is important 143  
to continue routine screening mammograms and use this 144  
information to speak with your health care provider about your 145  
own risk for breast cancer. At that time, ask your health care 146  
provider if more screening tests might be useful based on your 147  
risk. A report of your mammogram results was sent to your health 148  
care provider." 149

As required by 21 C.F.R. 900.12(c)(3), the facility shall 150  
send to the patient's health care provider, if known, a copy of 151  
the written report containing the results of the patient's 152  
mammogram not later than thirty days after the mammogram was 153  
performed. 154

(C) This section does not do either of the following: 155

(1) Create a new cause of action or substantive legal 156  
right against a person, facility, or other entity; 157

(2) Create a standard of care, obligation, or duty for a 158  
person, facility, or other entity that would provide the basis 159  
for a cause of action or substantive legal right, other than the 160  
duty to send the summary and written report described in 161  
division (B) of this section. 162

**Sec. 3923.52.** (A) As used in this section and section 3923.53 of the Revised Code, "screening mammography":

(1) "Screening mammography" means a radiologic examination utilized to detect unsuspected breast cancer at an early stage in asymptomatic women and includes the x-ray examination of the breast using equipment that is dedicated specifically for mammography, including, but not limited to, the x-ray tube, filter, compression device, screens, film, and cassettes, and that has an average radiation exposure delivery of less than one rad mid-breast. "Screening mammography" includes digital breast tomosynthesis. "Screening mammography" includes two views for each breast. The term also includes the professional interpretation of the film.

"Screening mammography" does not include diagnostic mammography.

(2) "Supplemental breast cancer screening" means any additional screening method deemed medically necessary by a treating health care provider for proper breast cancer screening in accordance with applicable American college of radiology guidelines, including magnetic resonance imaging, ultrasound, or molecular breast imaging.

(B) ~~Every~~ Notwithstanding section 3901.71 of the Revised Code, every policy of individual or group sickness and accident insurance that is delivered, issued for delivery, or renewed in this state shall provide benefits for the expenses of ~~both~~ all of the following:

(1) ~~Screening mammography to~~ To detect the presence of breast cancer in adult women, screening mammography;

(2) ~~Cytologic screening for~~ To detect the presence of

breast cancer in adult women meeting either of the conditions 192  
described in division (C) (2) of this section, supplemental 193  
breast cancer screening; 194

(3) To detect the presence of cervical cancer, cytologic 195  
screening. 196

(C) (1) The benefits provided under division (B) (1) of this 197  
section shall cover expenses in accordance with all of the 198  
following: 199

~~(1) If a woman is at least thirty five years of age but~~ 200  
~~under forty years of age, one screening mammography;~~ 201

~~(2) If a woman is at least forty years of age but under~~ 202  
~~fifty years of age, either of the following:~~ 203

~~(a) One screening mammography every two years;~~ 204

~~(b) If a licensed physician has determined that the woman~~ 205  
~~has risk factors to breast cancer, one screening mammography~~ 206  
~~every year.~~ 207

~~(3) If a woman is at least fifty years of age but under~~ 208  
~~sixty five years of age, for one screening mammography every~~ 209  
~~year, including digital breast tomosynthesis.~~ 210

(2) The benefits provided under division (B) (2) of this 211  
section shall cover expenses for supplemental breast cancer 212  
screening for an adult woman who meets either of the following 213  
conditions: 214

(a) The woman's screening mammography demonstrates, based 215  
on the breast imaging reporting and data system established by 216  
the American college of radiology, that the woman has dense 217  
breast tissue; 218

(b) The woman is at an increased risk of breast cancer due 219  
to family history, prior personal history of breast cancer, 220  
ancestry, genetic predisposition, or other reasons as determined 221  
by the woman's health care provider. 222

(D) As used in this division, "medicare reimbursement 223  
rate" means the reimbursement rate paid in this state under the 224  
medicare program for screening mammography that does not include 225  
digitization or computer-aided detection, regardless of whether 226  
the actual benefit includes digitization or computer-aided 227  
detection. 228

(1) Subject to divisions (D) (2) and (3) of this section, 229  
if a provider, hospital, or other health care facility provides 230  
a service that is a component of the screening mammography 231  
benefit in division (B) (1) of this section or a component of the 232  
supplemental breast cancer screening benefit in division (B) (2) 233  
of this section and submits a separate claim for that component, 234  
a separate payment shall be made to the provider, hospital, or 235  
other health care facility in an amount that corresponds to the 236  
ratio paid by medicare in this state for that component. 237

(2) Regardless of whether separate payments are made for 238  
the benefit provided under division (B) (1) or (2) of this 239  
section, the total benefit for a screening mammography or 240  
supplemental breast cancer screening shall not exceed one 241  
hundred thirty per cent of the medicare reimbursement rate in 242  
this state for screening mammography or supplemental breast 243  
cancer screening. If there is more than one medicare 244  
reimbursement rate in this state for screening mammography or a 245  
component of a screening mammography or supplemental breast 246  
cancer screening or a component of supplemental breast cancer 247  
screening, the reimbursement limit shall be one hundred thirty 248

per cent of the lowest medicare reimbursement rate in this 249  
state. 250

(3) The benefit paid in accordance with division (D)(1) of 251  
this section shall constitute full payment. No provider, 252  
hospital, or other health care facility shall seek or receive 253  
compensation in excess of the payment made in accordance with 254  
division (D)(1) of this section, except for approved deductibles 255  
and copayments. 256

(E) The benefits provided under division (B)(1) or (2) of 257  
this section shall be provided only for screening mammographies 258  
or supplemental breast cancer screenings that are performed in a 259  
facility or mobile mammography screening unit that is accredited 260  
under the American college of radiology mammography 261  
accreditation program or in a hospital as defined in section 262  
3727.01 of the Revised Code. 263

(F) The benefits provided under division ~~(B)(2)~~ (B)(3) of 264  
this section shall be provided only for cytologic screenings 265  
that are processed and interpreted in a laboratory certified by 266  
the college of American pathologists or in a hospital as defined 267  
in section 3727.01 of the Revised Code. 268

(G) This section does not apply to any policy that 269  
provides coverage for specific diseases or accidents only, or to 270  
any hospital indemnity, medicare supplement, or other policy 271  
that offers only supplemental benefits. 272

**Sec. 3923.53.** (A) ~~Every~~ Notwithstanding section 3901.71 of 273  
the Revised Code, every public employee benefit plan that is 274  
established or modified in this state shall provide benefits for 275  
the expenses of ~~both~~ all of the following: 276

(1) ~~Screening mammography to~~ To detect the presence of 277

breast cancer in adult women, <u>screening mammography;</u>	278
(2) <del>Cytologic screening for</del> <u>To detect the presence of</u>	279
<u>breast cancer in adult women meeting any of the conditions</u>	280
<u>described in division (B)(2) of this section, supplemental</u>	281
<u>breast cancer screening;</u>	282
(3) <u>To detect</u> the presence of cervical cancer, <u>cytologic</u>	283
<u>screening.</u>	284
(B) <u>(1)</u> The benefits provided under division (A)(1) of this	285
section shall cover expenses <del>in accordance with all of the</del>	286
<del>following:</del>	287
<del>(1) If a woman is at least thirty-five years of age but</del>	288
<del>under forty years of age, one screening mammography;</del>	289
<del>(2) If a woman is at least forty years of age but under</del>	290
<del>fifty years of age, either of the following:</del>	291
<del>(a) One screening mammography every two years;</del>	292
<del>(b) If a licensed physician has determined that the woman</del>	293
<del>has risk factors to breast cancer, one screening mammography</del>	294
<del>every year.</del>	295
<del>(3) If a woman is at least fifty years of age but under</del>	296
<del>sixty-five years of age, <u>for</u> one screening mammography every</del>	297
<del>year, <u>including digital breast tomosynthesis.</u></del>	298
(2) <u>The benefits provided under division (A)(2) of this</u>	299
<u>section shall cover expenses for supplemental breast cancer</u>	300
<u>screening for an adult woman who meets any of the following</u>	301
<u>conditions:</u>	302
<u>(a) The woman's screening mammography demonstrates, based</u>	303
<u>on the breast imaging reporting and data system established by</u>	304

the American college of radiology, that the woman has dense 305  
breast tissue; 306

(b) The woman is at an increased risk of breast cancer due 307  
to family history, prior personal history of breast cancer, 308  
ancestry, genetic predisposition, or other reasons as determined 309  
by the woman's health care provider. 310

(C) As used in this division, "medicare reimbursement 311  
rate" means the reimbursement rate paid in this state under the 312  
medicare program for screening mammography that does not include 313  
digitization or computer-aided detection, regardless of whether 314  
the actual benefit includes digitization or computer-aided 315  
detection. 316

(1) Subject to divisions (C) (2) and (3) of this section, 317  
if a provider, hospital, or other health care facility provides 318  
a service that is a component of the screening mammography 319  
benefit in division (A) (1) of this section or a component of the 320  
supplemental breast cancer screening benefit in division (A) (2) 321  
of this section and submits a separate claim for that component, 322  
a separate payment shall be made to the provider, hospital, or 323  
other health care facility in an amount that corresponds to the 324  
ratio paid by medicare in this state for that component. 325

(2) Regardless of whether separate payments are made for 326  
the benefit provided under division (A) (1) or (2) of this 327  
section, the total benefit for a screening mammography or 328  
supplemental breast cancer screening shall not exceed one 329  
hundred thirty per cent of the medicare reimbursement rate in 330  
this state for screening mammography or supplemental breast 331  
cancer screening. If there is more than one medicare 332  
reimbursement rate in this state for screening mammography or a 333  
component of a screening mammography or supplemental breast 334

cancer screening or a component of supplemental breast cancer screening, the reimbursement limit shall be one hundred thirty per cent of the lowest medicare reimbursement rate in this state.

(3) The benefit paid in accordance with division (C) (1) of this section shall constitute full payment. No provider, hospital, or other health care facility shall seek or receive compensation in excess of the payment made in accordance with division (C) (1) of this section, except for approved deductibles and copayments.

(D) The benefits provided under division (A) (1) or (2) of this section shall be provided only for screening mammographies or supplemental breast cancer screenings that are performed in a facility or mobile mammography screening unit that is accredited under the American college of radiology mammography accreditation program or in a hospital as defined in section 3727.01 of the Revised Code.

(E) The benefits provided under division ~~(A) (2)~~ (A) (3) of this section shall be provided only for cytologic screenings that are processed and interpreted in a laboratory certified by the college of American pathologists or in a hospital as defined in section 3727.01 of the Revised Code.

**Sec. 5164.08.** (A) As used in this section, ~~"screening mammography"~~ screening mammography:

(1) "Screening mammography" means a radiologic examination utilized to detect unsuspected breast cancer at an early stage in asymptomatic women and includes the x-ray examination of the breast using equipment that is dedicated specifically for mammography, including the x-ray tube, filter, compression

device, screens, film, and cassettes, and that has an average 364  
radiation exposure delivery of less than one rad mid-breast. 365  
"Screening mammography" includes digital breast tomosynthesis. 366  
"Screening mammography" includes two views for each breast. The 367  
term also includes the professional interpretation of the film. 368

"Screening mammography" does not include diagnostic 369  
mammography. 370

(2) "Supplemental breast cancer screening" means any 371  
additional screening method deemed medically necessary by a 372  
treating health care provider for proper breast cancer screening 373  
in accordance with applicable American college of radiology 374  
guidelines, including magnetic resonance imaging, ultrasound, or 375  
molecular breast imaging. 376

(B) The medicaid program shall cover ~~both~~ all of the 377  
following: 378

(1) ~~Screening mammography to~~ To detect the presence of 379  
breast cancer in adult women, screening mammography; 380

(2) ~~Cytologic screening for~~ To detect the presence of 381  
breast cancer in adult women meeting any of the conditions 382  
described in division (C) (2) of this section, supplemental 383  
breast cancer screening; 384

(3) To detect the presence of cervical cancer, cytologic 385  
screening. 386

(C) ~~(1)~~ The medicaid program's coverage ~~of screening-~~ 387  
~~mammography~~ pursuant to division (B) (1) of this section shall ~~be-~~ 388  
~~provided in accordance with all of the following:-~~ 389

~~(1) If a woman is at least thirty five years of age but 390  
under forty years of age, one screening mammography;~~ 391

~~(2) If a woman is at least forty years of age but under  
fifty years of age, either of the following:~~ 392  
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~~(a) One screening mammography every two years;~~ 394

~~(b) If a licensed physician has determined that the woman  
has risk factors to breast cancer, one screening mammography  
every year.~~ 395  
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~~(3) If a woman is at least fifty years of age but under  
sixty five years of age, cover expenses for one screening  
mammography every year, including digital breast tomosynthesis.~~ 398  
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(2) The medicaid program's coverage pursuant to division  
(B) (2) of this section shall cover expenses for supplemental  
breast cancer screening for an adult woman who meets any of the  
following conditions: 401  
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(a) The woman's screening mammography demonstrates, based  
on the breast imaging reporting and data system established by  
the American college of radiology, that the woman has dense  
breast tissue; 405  
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(b) The woman is at an increased risk of breast cancer due  
to family history, prior personal history of breast cancer,  
ancestry, genetic predisposition, or other reasons as determined  
by the woman's health care provider. 409  
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(D) The medicaid program's coverage of screening 413  
mammographies pursuant to division (B) (1) or (2) of this section 414  
shall be provided only for screening mammographies or 415  
supplemental breast cancer screenings that are performed in a 416  
facility or mobile mammography screening unit that is accredited 417  
under the American college of radiology mammography 418  
accreditation program or in a hospital as defined in section 419  
3727.01 of the Revised Code. 420

(E) The medicaid program's coverage of cytologic 421  
screenings pursuant to division ~~(B) (2)~~ (B) (3) of this section 422  
shall be provided only for cytologic screenings that are 423  
processed and interpreted in a laboratory certified by the 424  
college of American pathologists or in a hospital as defined in 425  
section 3727.01 of the Revised Code. 426

**Section 2.** That existing sections 1751.62, 3702.40, 427  
3923.52, 3923.53, and 5164.08 of the Revised Code are hereby 428  
repealed. 429

**Section 3.** Section 1751.62 of the Revised Code, as amended 430  
by this act, applies only to arrangements, policies, contracts, 431  
and agreements that are created, delivered, issued for delivery, 432  
or renewed in this state on or after the effective date of the 433  
amendment. Section 3923.52 of the Revised Code, as amended by 434  
this act, applies only to policies of sickness and accident 435  
insurance delivered, issued for delivery, or renewed in this 436  
state on or after the effective date of the amendment. Section 437  
3923.53 of the Revised Code, as amended by this act, applies 438  
only to public employee benefit plans that are established or 439  
modified in this state on or after the effective date of the 440  
amendment. 441