**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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| BILL: | SB 158 |
| INTRODUCER: | Senator Berman |
| SUBJECT: | Coverage for Diagnostic and Supplemental Breast Examinations |
| DATE: | March 4, 2025 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Davis | Betta | AEG | **Favorable** |
| 2. | | | AP | |

## I. Summary:

SB 158 prohibits the state group insurance program from imposing any cost-sharing liability for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. The prohibition is effective January 1, 2026, consistent with the start of the new plan year.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.

The bill has a significant, negative fiscal impact on the state. See Section V., Fiscal Impact Statement.

The bill provides an effective date of January 1, 2026.

## II. Present Situation:

### Background

Rates of breast cancer vary among different groups of people. Rates vary between women and men and among people of different ethnicities and ages. Rates of breast cancer incidence (new cases) and mortality (death) are much lower among men than among women. The American Cancer Society made the following estimates regarding cancer among women in the U.S. during 2024:

- 310,720 new cases of invasive breast cancer (This includes new cases of primary breast cancer, but not breast cancer recurrences);
- 56,500 new cases of ductal carcinoma in situ (DCIS), a non-invasive breast cancer; and

- 42,250 breast cancer deaths.[1]

The estimates for men in the U.S. for 2024 were:
- 2,790 new cases of invasive breast cancer (This includes new cases of primary breast cancers, but not breast cancer recurrences); and
- 530 breast cancer deaths.[2]

Breast cancer is the second most common form of cancer diagnosed in women, and it is estimated that one in eight women will be diagnosed with breast cancer in her lifetime.[3] It accounts for 30 percent of all new female cancers in the United States each year.[4] The median age at which a woman is diagnosed is 62 with a very small percentage of women who are diagnosed under the age of 45.[5]

**Risks and Risk Factors**

There are no absolute ways to prevent breast cancer as there might be with other forms of cancer; however, there are some risk factors that may increase a woman's chances of receiving a diagnosis. Some risk factors that are out of an individual's control are:
- Being born female;
- Aging beyond 55;
- Inheriting certain gene changes;
- Having a family or personal history of breast cancer;
- Being of certain race or ethnicity;
- Being taller;
- Having dense breast tissue;
- Having certain benign breast conditions;
- Starting menstrual periods early, usually before age 12;
- Having radiation to the chest; and
- Being exposed to the drug, diethylstilbestrol (DES).[6]

For many of the factors above, it is unclear why these characteristics make an individual more susceptible to a cancer diagnosis other than perhaps being female. However, men can and do receive breast cancer diagnoses, just in very small numbers. About one in every 100 breast cancers diagnosed in the United States is found in a man.[7]

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[1] *Cancer Facts & Figures*, pgs. 10-11, American Cancer Society - Cancer Facts & Figures 2024 (last visited February 20, 2025).
[2] *Id.*
[3] American Cancer Society, *Key Statistics for Breast Cancer*, Breast Cancer Statistics | How Common Is Breast Cancer? | American Cancer Society (last visited February 25, 2025).
[4] *Id.*
[5] *Id.*
[6] American Cancer Society, *Breast Cancer Risk Factors You Cannot Change-* *Breast Cancer Risk Factors You Can't Change | American Cancer Society (last visited February 25, 2025).*
[7] Centers for Disease Control and Prevention, *Breast Cancer in Men-* *About Breast Cancer in Men | Breast Cancer | CDC* (last visited February 25, 2025).

**Breast Cancer Screening**

In Florida, a group, blanket, or franchise accident or health insurance policy issued, amended, delivered, or renewed in this state must provide coverage for at least the following:

- A baseline mammogram for any woman who is 35 years of age or older, but younger than 40 years of age.
- A mammogram every two years for any woman who is 40 years of age or older, but younger than 50 years of age, or more frequently based on the patient's physician's recommendation.
- A mammogram every year for any woman who is 50 years of age or older.
- One or more mammograms a year, based upon a physician's recommendation, for any woman who is at risk for breast cancer because of a personal or family history of breast cancer, because of having a history of biopsy-proven benign breast disease, because of having a mother, sister, or daughter who has or has had breast cancer, or because a woman has not given birth before the age of 30.[8]

Each such insurer must offer, for an appropriate additional premium, this same coverage without such coverage being subject to the deductible or coinsurance provisions of the policy.[9]

However, mammography is only the initial step in early detection and, by itself, unable to diagnose cancer. A mammogram is an x-ray of the breast.[10] While screening mammograms are routinely performed to detect breast cancer in women who have no apparent symptoms, diagnostic mammograms are used after suspicious results on a screening mammogram or after some signs of breast cancer alert the physician to check the tissue.[11]

If a mammogram shows something abnormal, early detection of breast cancer requires diagnostic follow-up or additional supplemental imaging required to rule out breast cancer or confirm the need for a biopsy.[12] An estimated 12-16 percent of women screened with modern digital mammography require follow-up imaging.[13] Out-of-pocket costs are particularly burdensome on those who have previously been diagnosed with breast cancer, as diagnostic tests are recommended rather than traditional screening.[14] When breast cancer is detected early, the five-year relative survival rate is ninety-nine percent.[15]

[8] Section 627.6613(1), F.S.
[9] Section 627.6613(3), F.S.
[10] *What Is The Difference Between A Diagnostic Mammogram And A Screening Mammogram?* National Breast Cancer Foundation - https://www.nationalbreastcancer.org/diagnostic-mammogram (last visited February 25, 2025).
[11] *Id.*
[12] *Breast Cancer Screening & Early Detection*, Susan G. Komen Organization - https://www.komen.org/breast-cancer/screening/ (last visited January 30, 2024).
[13] *Id.*
[14] *Id.*
[15] *Early Detection*, National Breast Cancer Foundation - Breast Cancer Early Detection - National Breast Cancer Foundation (last visited February 25, 2025).

**Regulation of Insurance in Florida**

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[16] As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[17] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[18] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[19] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[20]

The Agency for Health Care Administration (AHCA) regulates the quality of care by health maintenance organizations (HMO) under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.[21] As part of the certificate process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[22]

**State Employee Health Plan**

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).[23] The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[24] To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S. For the 2025 Plan Year, which began January 1, 2025, the HMO plans under contract with DSGI are Aetna, Capital Health Plan, and United Healthcare, and the preferred provider organization (PPO) plan is Florida Blue.[25]

[16] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the Financial Services Commission appoints the commissioner of the Office of Insurance Regulation.
[17] Section 624.418, F.S.
[18] Section 624.316(1)(a), F.S.
[19] Section 624.318(2), F.S.
[20] Section 624.3161, F.S.
[21] Section 641.21(1), F.S.
[22] Section 641.495, F.S.
[23] Section 110.123, F.S.
[24] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.
[25] Department of Management Services, Division of State Group Insurance, *2024 Open Enrollment Brochure for Active State Employee Participants*, available at https://www.mybenefits.myflorida.com/beta_-_open_enrollment (last visited February 25, 2025).

**Breast Cancer Screening Coverage**

Currently, the Program covers 100 percent of the costs of screening, preventive mammograms, (consistent with federal requirements related to essential health benefits coverage). Out of pocket costs, such as copayments, may vary for supplemental and diagnostic imaging based on the enrollee's plan and the provider selected.

## III. Effect of Proposed Changes:

**Section 1** amends s. 110.123, F.S., to provide definitions of "Cost-sharing requirement," "Diagnostic breast examination," and "Supplemental breast examination."

**Section 2** amends s. 110.12303, F.S., to prohibit the state group insurance program from imposing any cost-sharing requirement on an enrollee (such as a deductible, copayment, coinsurance, or any other cost-sharing) with respect to coverage for diagnostic breast examinations and supplemental breast examinations in any contract or plan for state employee health benefits that provides coverage for diagnostic breast examinations or supplemental breast examinations. While current plans provide diagnostic breast examinations without cost sharing, cost sharing for supplemental examinations among the current plans vary. The bill provides parameters for what constitutes supplemental breast examinations, prohibiting cost sharing for examinations that are:

- Medically necessary and appropriate breast imaging examinations conducted in accordance with the most recent applicable guidelines of the National Comprehensive Cancer Network, which may include magnetic resonance imaging and ultrasounds and other types of examinations;
- Used when no abnormality is seen or suspected; and
- Based on personal or family medical history or other increased risk factors.

The bill provides that if, under federal law, this prohibition would result in health savings account ineligibility under s. 223 of the Internal Revenue Code, the prohibition applies only to health savings account qualified high-deductible health plans with respect to the deductible of such a plan after the person has satisfied the minimum deductible under such plan.

**Section 3** provides that the bill takes effect January 1, 2026.

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates out-of-pocket costs for diagnostic and supplemental imaging for breast examinations, which is anticipated to improve access to these tests and likely to result in more patients receiving an earlier diagnosis. Early diagnosis increases the likelihood of successful treatment, which may result in savings for health insurers and HMOs.

C. Government Sector Impact:

The bill's prohibition on out-of-pocket costs for diagnostic and supplemental breast examinations has the potential to generate a higher insurance premium for the state group health plan. Historically, the state has covered premium inflation in the Program with General Revenue, rather than pass on premium increases to employees.

The Division of State Group Insurance within the Department of Management Services (DMS) estimates the bill will have an estimated fiscal impact of $3.6 million annually in increased claim costs to state health plans due to the elimination of cost sharing and a projected increase in utilization.[26]

The DMS included the following fiscal impact breakout between the PPO and HMO plans:

- Due to the differences in cost sharing arrangements, the PPO plan will experience a greater fiscal impact estimated at $2.3 million. The removal of cost sharing as it relates to advanced imaging drives most of the estimated impact. The remaining impact is due to an estimated 13-27 percent increase in utilization for both the under age 45 population as well as the over age 45 population.
- HMO impacts are estimated to be lower due to the limited cost share responsibility of the standard HMO plan. Cumulative impacts for the HMO plans are estimated at approximately $1.3 million (Self-Insured HMOs - $1.31 million and Fully-Insured

[26] *See* Department of Management Services, *2025 Agency Legislative Bill Analysis for SB 158* at 3 (Feb. 24, 2025) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

HMO - $11,309). The removal of cost sharing as well as increased utilization drives the estimated impact.[27]

The bill does not appear to implicate the Patient Protection and Affordable Care Act, as it is a cost-sharing bill only and does not mandate any new coverage or service or require any additions to the benchmark plan. Florida's EHB Benchmark Plan already includes diagnostic imaging.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.123 and 110.12303.

## IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[27] *Id.*