A BILL FOR AN ACT

RELATING TO TITLE 24, HAWAII REVISED STATUTES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:10A-116, Hawaii Revised Statutes, 2 is amended to read as follows: 3 "\$431:10A-116 Coverage for specific services. Every person insured under a policy of accident and health or sickness 5 insurance delivered or issued for delivery in this State shall 6 be entitled to the reimbursements and coverages specified below: (1)Notwithstanding any provision to the contrary, whenever a policy, contract, plan, or agreement 9 provides for reimbursement for any visual or 10 optometric service[, which] that is within the lawful 11 scope of practice of a duly licensed optometrist, the 12 person entitled to benefits or the person performing 13 the services shall be entitled to reimbursement 14 whether the service is performed by a licensed 15 physician or by a licensed optometrist. Visual or 16 optometric services shall include eye or visual 17 examination, or both, or a correction of any visual or

1	muscular anomaly, and the supplying of ophthalmic
2	materials, lenses, contact lenses, spectacles,
3	eyeglasses, and appurtenances thereto;

- (2) Notwithstanding any provision to the contrary, for all policies, contracts, plans, or agreements issued on or after May 30, 1974, whenever provision is made for reimbursement or indemnity for any service related to surgical or emergency procedures[, which] that is within the lawful scope of practice of any practitioner licensed to practice medicine in this State, reimbursement or indemnification under the policy, contract, plan, or agreement shall not be denied when the services are performed by a dentist acting within the lawful scope of the dentist's license;
 - (3) Notwithstanding any provision to the contrary,
 whenever the policy provides reimbursement or payment
 for any service[, which] that is within the lawful
 scope of practice of a psychologist licensed in this
 State, the person entitled to benefits or performing
 the service shall be entitled to reimbursement or

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1		payment, whether the service is performed by a
2		licensed physician or licensed psychologist;
3	(4)	Notwithstanding any provision to the contrary, each
4		policy, contract, plan, or agreement issued on or
5		after February 1, 1991, except for policies that only
6		provide coverage for specified diseases or other
7		limited benefit coverage, but including policies
8		issued by companies subject to chapter 431, article
9		10A, part II, and chapter 432, article 1, shall
10		provide coverage for screening by low-dose mammography
11		for occult breast cancer as follows:
12		(A) For women forty years of age and older, an annual
13		mammogram; and
14		(B) For a woman of any age with a history of breast
15		cancer or whose mother or sister has had a
16		history of breast cancer, a mammogram upon the
17		recommendation of the woman's physician.
18		The services provided in this paragraph are
19		subject to any coinsurance provisions that may be in
20		force in these policies, contracts, plans, or
21		agreements[+]; provided that the insured's dollar

1		limits, deductibles, and copayments for services shall
2		be on terms at least as favorable to the insured as
3		those applicable to other radiological examinations.
4		For the purpose of this paragraph, the term "low-
5		dose mammography" means the x-ray examination of the
6		breast using equipment dedicated specifically for
7		mammography, including but not limited to the x-ray
8		tube, filter, compression device, screens, films, and
9		cassettes, with an average radiation exposure delivery
10		of less than one rad mid-breast, with two views for
11		each breast. An insurer may provide the services
12		required by this paragraph through contracts with
13		providers; provided that the contract is determined to
14		be a cost-effective means of delivering the services
15		without sacrifice of quality and meets the approval of
16		the director of health; and
17	(5)	(A) (i) Notwithstanding any provision to the
18		contrary, whenever a policy, contract, plan,
19		or agreement provides coverage for the
20		children of the insured, that coverage shall
21		also extend to the date of birth of any

1	newborn child to be adopted by the insured;
2	provided that the insured gives written
3	notice to the insurer of the insured's
4	intent to adopt the child prior to the
5	child's date of birth or within thirty days
6	after the child's birth or within the time
7	period required for enrollment of a natural
8	born child under the policy, contract, plan
9	or agreement of the insured, whichever
10	period is longer; provided further that if
11	the adoption proceedings are not successful
12	the insured shall reimburse the insurer for
13	any expenses paid for the child; and
14 (ii)	Where notification has not been received by
15	the insurer prior to the child's birth or
16	within the specified period following the
17	child's birth, insurance coverage shall be
18	effective from the first day following the
19	insurer's receipt of legal notification of
20	the insured's ability to consent for

1	Ţ	treatment of the infant for whom coverage is
2	S	sought; and
3	(B) When t	the insured is a member of a health
4	mainte	enance organization, coverage of an adopted
5	newbo	rn is effective:
6	(i) I	From the date of birth of the adopted
7	ī	newborn when the newborn is treated from
8	k	oirth pursuant to a provider contract with
9	1	the health maintenance organization, and
10	·	written notice of enrollment in accord with
11	1	the health maintenance organization's usual
12	6	enrollment process is provided within thirty
13		days of the date the insured notifies the
14	1	health maintenance organization of the
15	:	insured's intent to adopt the infant for
16	Ţ	whom coverage is sought; or
17	(ii) l	From the first day following receipt by the
18	ł	health maintenance organization of written
19	1	notice of the insured's ability to consent
20	:	for treatment of the infant for whom
21	(coverage is sought and enrollment of the

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1	adopted newborn in accord with the health
2	maintenance organization's usual enrollment
3	process if the newborn has been treated from
4	birth by a provider not contracting or
5	affiliated with the health maintenance
6	organization."
7	SECTION 2. Section 432:1-605, Hawaii Revised Statutes, is
8	amended by amending subsection (b) to read as follows:
9	"(b) The services provided in subsection (a) are subject
10	to any coinsurance provisions that may be in force in these
11	policies, contracts, plans, or agreements [-]; provided that the
12	member's dollar limits, deductibles, and copayments for services
13	shall be on terms at least as favorable to the member as those
14	applicable to other radiological examinations."
15	SECTION 3. Section 432E-34, Hawaii Revised Statutes, is
16	amended as follows:
17	1. By amending subsection (d) to read:
18	"(d) [Upon receipt of a request for appeal pursuant to
19	subsection (c), the commissioner shall review the request for
20	external review submitted by the enrollee pursuant to subsection
21	(a) determine whether an enrolled is eligible for external

Ţ	10v10w an	a, if eligible, shall feler the emplied to external
2	review.	The commissioner's determination of eligibility for
3	external	review shall be made in accordance with the terms of
4	the enrol	lee's health benefit plan and all applicable provisions
5	of this p	art. If an enrollee is not eligible for external
6	review, t	he commissioner shall notify the enrollee, the
7	enrollee'	s appointed representative, and the health carrier
8	within th	ree business days of the reason for ineligibility.
9	(1)	The commissioner may determine that a request is
10		eligible for external review under subsection (b)
11		notwithstanding a health carrier's initial
12		determination that the request is ineligible and
13		require that it be referred for external review; and
14	(2)	In making a determination under paragraph (1), the
15		commissioner's decision shall be made in accordance
16		with the terms of the enrollee's health benefit plan
17		and shall be subject to all applicable provisions of
18		this part."
19	2.	By amending subsection (g) to read:
20	" (g)	Within five business days after the date of receipt
21	of notice	pursuant to subsection (e), the health carrier or its

- 1 designated utilization review organization shall provide to the
- 2 assigned independent review organization all documents and
- 3 information it considered in issuing the adverse action that is
- 4 the subject of external review[-] and any documents related to
- 5 the request for external review that have been received by the
- 6 health carrier or its designated utilization review
- 7 organization. Failure by the health carrier or its utilization
- 8 review organization to provide the documents and information
- 9 within five business days shall not delay the conduct of the
- 10 external review; provided that the assigned independent review
- 11 organization may terminate the external review and reverse the
- 12 adverse action that is the subject of the external review. The
- 13 independent review organization shall notify the enrollee, the
- 14 enrollee's appointed representative, the health carrier, and the
- 15 commissioner within three business days of the termination of an
- 16 external review and reversal of an adverse action pursuant to
- 17 this subsection."
- 18 SECTION 4. Section 432E-35, Hawaii Revised Statutes, is
- 19 amended as follows:
- 20 1. By amending subsections (b) through (f) to read:

"(b) Upon receipt of a request for an expedited external 1 review, the commissioner shall immediately send a copy of the 2 request to the health carrier. Immediately upon receipt of the 3 request, the health carrier shall determine whether the request 4 meets the reviewability requirements set forth in [subsection 5 $\frac{(a)}{(a)}$ section 432E-34(b). The health carrier shall immediately 6 notify the enrollee or the enrollee's appointed representative 7 of its determination of the enrollee's eligibility for expedited 8 external review. 9 10 Notice of ineligibility for expedited external review shall include a statement informing the enrollee and the enrollee's 11 appointed representative that a health carrier's initial 12 13 determination that an external review request that is ineligible for review may be appealed to the commissioner by submission of 14 15 a request to the commissioner. 16 [Upon-receipt of a request for appeal pursuant to (C) subsection (b), the commissioner shall review the request for 17 18 expedited external review submitted pursuant to subsection (a) 19 and, if eligible, shall refer the enrollee for external review. 20 The commissioner's determination of eligibility for expedited 21 external review shall be made in accordance with the terms of

1	the enro	llee's health benefit plan and all applicable provisions		
2	of this	part. If an enrollee is not-eligible for expedited		
3	external review, the commissioner shall immediately notify the			
4	enrollee	, the enrollee's appointed representative, and the		
5	health ca	arrier of the reasons for incligibility.		
6	(1)	The commissioner may determine that a request is		
7		eligible for expedited external review under section		
8		432E-34(b) notwithstanding a health carrier's initial		
9		determination that the request is ineligible and		
10		require that it be referred for external review; and		
11	(2)	In making a determination under paragraph (1), the		
12		commissioner's decision shall be made in accordance		
13		with the terms of the enrollee's health benefit plan		
14		and shall be subject to all applicable provisions of		
15		this part.		
16	(d)	If the commissioner determines that an enrollee is		
17	eligible	for expedited external review [even-though the enrollee		
18	has not c	exhausted the health carrier's internal review process,		
19	pursuant	to subsection (c) and the request for expedited		
20	external	review is based on an adverse determination as provided		
21	under sub	osection (a)(1), the health carrier shall not be		

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- 1 required to proceed with its internal review process[.—The
- 2 health carrier] but may elect to proceed with its internal
- 3 review process [even though the request is determined by the
- 4 commissioner to be eligible for expedited external review];
- 5 provided that the internal review process shall not delay or
- 6 terminate an expedited external review unless the health carrier
- 7 decides to reverse its adverse determination and provide
- 8 coverage or payment for the health care service that is the
- 9 subject of the adverse determination. Immediately after making
- 10 a decision to reverse its adverse determination, the health
- 11 carrier shall notify the enrollee, the enrollee's authorized
- 12 representative, the independent review organization assigned
- 13 pursuant to subsection (e), and the commissioner in writing of
- 14 its decision. The assigned independent review organization
- 15 shall terminate the expedited external review upon receipt of
- 16 notice from the health carrier pursuant to this subsection.
- (e) Upon receipt of the notice pursuant to subsection (b)
- 18 or a determination of the commissioner pursuant to subsection
- 19 $\left[\frac{d}{d}\right]$ (c) that the enrollee meets the eligibility requirements
- 20 for expedited external review, the commissioner shall
- 21 immediately randomly assign an independent review organization

- 1 to conduct the expedited external review from the list of
- 2 approved independent review organizations qualified to conduct
- 3 the external review, based on the nature of the health care
- 4 service that is the subject of the adverse action and other
- 5 factors determined by the commissioner including conflicts of
- 6 interest pursuant to section 432E-43, compiled and maintained by
- 7 the commissioner to conduct the external review and immediately
- 8 notify the health carrier of the name of the assigned
- 9 independent review organization.
- 10 (f) Upon receipt of the notice from the commissioner of
- 11 the name of the independent review organization assigned to
- 12 conduct the expedited external review, the health carrier or its
- 13 [designee] designated utilization review organization shall
- 14 provide or transmit all documents and information it considered
- 15 in making the adverse action that is the subject of the
- 16 expedited external review, and any documents related to the
- 17 request for expedited external review that have been received by
- 18 the health carrier or its designated utilization review
- 19 organization, to the assigned independent review organization
- 20 electronically or by telephone, facsimile, or any other
- 21 available expeditious method."

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2 "(h) As expeditiously as the enrollee's medical condition 3 or circumstances requires, but in no event more than seventy-two 4 hours after the date of receipt of the request for an expedited 5 external review that meets the reviewability requirements set forth in [subsection (a),] section 432E-34(b), the assigned 6 7 independent review organization shall: 8 (1)Make a decision to uphold or reverse the adverse 9 action; and 10 (2) Notify the enrollee, the enrollee's appointed 11 representative, the health carrier, and the 12 commissioner of the decision. 13 If the notice provided pursuant to this subsection was not 14 in writing, within forty-eight hours after the date of providing 15 that notice, the assigned independent review organization shall 16 provide written confirmation of the decision to the enrollee, 17 the enrollee's appointed representative, the health carrier, and 18 the commissioner that includes the information provided in 19 section [432E-37.] 432E-34(j).

2. By amending subsection (h) to read:

1 Upon receipt of the notice of a decision reversing the 2 adverse action, the health carrier shall immediately approve the 3 coverage that was the subject of the adverse action." SECTION 5. Section 432E-36, Hawaii Revised Statutes, is 4 amended as follows: 5 6 1. By amending subsections (c) through (g) to read: 7 "(c) Upon notice of the request for expedited external review, the health carrier shall immediately determine whether 8 9 the request meets the requirements of subsection $[\frac{b}{\cdot}]$ (g). 10 The health carrier shall immediately notify the commissioner, the enrollee, and the enrollee's appointed representative of its 11 12 eligibility determination. 13 Notice of eligibility for expedited external review 14 pursuant to this subsection shall include a statement informing 15 the enrollee and, if applicable, the enrollee's appointed representative that a health carrier's initial determination 16 17 that the external review request is ineligible for review may be 18 appealed to the commissioner. 19 (d) [Upon receipt of a request for appeal pursuant to

subsection (c), the commissioner shall review the request for

external review submitted by the enrollee pursuant to subsection

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1	(a), acce	rmine whether an enforce is erigible for external
2	review an	d, if eligible, shall refer the enrollee to external
3	review.	The commissioner's determination of eligibility for
4	external	review shall be made in accordance with the terms of
5	the enrol	lee's health benefit plan and all applicable provisions
6	of this p	art. If an enrollee is not eligible for external
7	review, t	he-commissioner shall notify the enrollee, the
8	enrollee!	s appointed representative, and the health carrier of
9	the reaso	n for incligibility within three business days.
10	(1)	The commissioner may determine that a request is
11		eligible for external review under subsection (g)
12		notwithstanding a health carrier's initial
13		determination that the request is ineligible and
14		require that it be referred for external review; and
15	(2)	In making a determination under paragraph (1), the
16		commissioner's decision shall be made in accordance
17		with the terms of the enrollee's health benefit plan
18		and shall be subject to all applicable provisions of
19		this part.
20	(e)	Upon receipt of the notice pursuant to subsection
21	[(a)] (c)	or a determination of the commissioner pursuant to

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- 1 subsection (d) that the enrollee meets the eligibility
- 2 requirements for expedited external review, the commissioner
- 3 shall immediately randomly assign an independent review
- 4 organization to conduct the expedited external review from the
- 5 list of approved independent review organizations qualified to
- 6 conduct the external review, based on the nature of the health
- 7 care service that is the subject of the adverse action and other
- 8 factors determined by the commissioner including conflicts of
- 9 interest pursuant to section 432E-43, compiled and maintained by
- 10 the commissioner to conduct the external review and immediately
- 11 notify the health carrier of the name of the assigned
- 12 independent review organization.
- (f) Upon receipt of the notice from the commissioner of
- 14 the name of the independent review organization assigned to
- 15 conduct the expedited external review, the health carrier or its
- 16 [designee] designated utilization review organization shall
- 17 provide or transmit all documents and information it considered
- 18 in making the adverse action that is the subject of the
- 19 expedited external review, and any documents related to the
- 20 request for expedited external review that have been received by
- 21 the health carrier or its designated utilization review

1	organizati	on, to the assigned independent review organization
2	electronic	ally or by telephone, facsimile, or any other
3	available	expeditious method.
4	(g)	Except for a request for an expedited external review
5	made pursu	ant to subsection (b), within three business days
6	after the	date of receipt of the request, the commissioner shall
7	notify the	health carrier that the enrollee has requested an
8	[expedited] external review pursuant to this section. Within
9	five busin	ess days following the date of receipt of notice, the
10	health car	rier shall determine whether:
11	(1)	The individual is or was an enrollee in the health
12		benefit plan at the time the health care service or
13		treatment was recommended or requested or, in the case
14	ı	of a retrospective review, was an enrollee in the
15		health benefit plan at the time the health care
16		service or treatment was provided;
17	(2)	The recommended or requested health care service or
18		treatment that is the subject of the adverse action:
19		(A) Would be a covered benefit under the enrollee's
20		health benefit plan but for the health carrier's
21		determination that the service or treatment is

ı			experimental or investigational for the
2			enrollee's particular medical condition; and
3		(B)	Is not explicitly listed as an excluded benefit
4			under the enrollee's health benefit plan;
5	(3)	The	enrollee's treating physician or treating advanced
6		prac	tice registered nurse has certified in writing
7		that	::
8		(A)	Standard health care services or treatments have
9			not been effective in improving the condition of
10			the enrollee;
11		(B)	Standard health care services or treatments are
12			not medically appropriate for the enrollee; or
13		(C)	There is no available standard health care
14			service or treatment covered by the health
15			carrier that is more beneficial than the health
16			care service or treatment that is the subject of
17			the adverse action;
18	(4)	The	enrollee's treating physician or treating advanced
19		prac	tice registered nurse:
20		(A)	Has recommended a health care service or
21			treatment that the physician or advanced practice

1			registered nurse certifies, in writing, is likely
2			to be more beneficial to the enrollee, in the
3			physician's or advanced practice registered
4			nurse's opinion, than any available standard
5			health care services or treatments; or
6		(B)	Who is a licensed, board certified or board
7			eligible physician qualified to practice in the
8			area of medicine appropriate to treat the
9			enrollee's condition, or who is an advanced
10			practice registered nurse qualified to treat the
11			enrollee's condition, has certified in writing
12			that scientifically valid studies using accepted
13			protocols demonstrate that the health care
14			service or treatment that is the subject of the
15			adverse action is likely to be more beneficial to
16			the enrollee than any available standard health
17			care services or treatments;
18	(5)	The	enrollee has exhausted the health carrier's
19		inte	rnal appeals process or the enrollee is not
20		requ	ired to exhaust the health carrier's internal
21		appe	als process pursuant to section 432E-33(b); and

1	(6) The enrollee has provided all the information and
2	forms required by the commissioner that are necessary
3	to process an external review, including the release
4	form and disclosure of conflict of interest
5	information as provided under section 432E-33(a)."
6	2. By amending subsection (i) to read:
7	"(i) [Upon receipt of a request for appeal pursuant to
8	subsection (h), the commissioner shall review the request for
9	external review submitted pursuant to subsection (a) and, if
10	eligible, shall refer the enrollee for external review. The
11	commissioner's determination of eligibility for expedited
12	external review shall be made in accordance with the terms of
13	the enrollee's health benefit-plan and all applicable provisions
14	of this part. If an enrollee is not eligible for external
15	review, the commissioner shall notify the enrollee, the
16	enrollee's appointed representative, and the health carrier of
17	the reasons for incligibility within three business days.
18	(1) The commissioner may determine that a request is
19	eligible for external review under subsection (g)
20	notwithstanding a health carrier's initial

1		determination that the request is ineligible and
2		require that it be referred for external review; and
3	(2)	In making a determination under paragraph (1), the
4		commissioner's decision shall be made in accordance
5		with the terms of the enrollee's health benefit plan
6		and shall be subject to all applicable provisions of
7		this part."
8	3.	By amending subsection (1) to read:
9	"(1)	Within five business days after the date of receipt
10	of notice	pursuant to subsection (j), the health carrier or its
11	designate	d utilization review organization shall provide to the
12	assigned	independent review organization all documents and
13	informati	on it considered in issuing the adverse action that is
14	the subje	ct of external review[-] and any documents related to
15	the reque	st for external review that have been received by the
16	health ca	rrier or its designated utilization review
17	organizat	ion. Failure by the health carrier or its designated
18	utilizati	on review organization to provide the documents and
19	informati	on within five business days shall not delay the
20	conduct o	f the external review; provided that the assigned
21	independe	nt review organization may terminate the external

- 1 review and reverse the adverse action that is the subject of the
- 2 external review. The independent review organization shall
- 3 notify the enrollee, the enrollee's appointed representative,
- 4 the health carrier, and the commissioner within three business
- 5 days of the termination of an external review and reversal of an
- 6 adverse action pursuant to this subsection."
- 7 4. By amending subsection (o) to read:
- 8 "(o) Except as provided in subsection (p), within twenty
- 9 days after being selected to conduct the external review, a
- 10 clinical reviewer shall provide an opinion to the assigned
- 11 independent review organization pursuant to subsection (q)
- 12 regarding whether the recommended or requested health care
- 13 service or treatment subject to an appeal pursuant to this
- 14 section shall be covered.
- The clinical [+] reviewer's[+] opinion shall be in writing
- 16 and shall include:
- 17 (1) A description of the enrollee's medical condition;
- 18 (2) A description of the indicators relevant to
- determining whether there is sufficient evidence to
- demonstrate that the recommended or requested health
- 21 care service or treatment is more likely than not to

1		be more beneficial to the enforce than any available
2		standard health care services or treatments and
3		whether the adverse risks of the recommended or
4		requested health care service or treatment would not
5		be substantially increased over those of available
6		standard health care services or treatments;
7	(3)	A description and analysis of any medical or
8		scientific evidence, as that term is defined in
9		section 432E-1.4, considered in reaching the opinion;
10	(4)	A description and analysis of any medical necessity
11		[criteria defined in section 432E-1]; and
12	(5)	Information on whether the reviewer's rationale for
13		the opinion is based on [approval]:
14		(A) Approval of the health care service or treatment
15		by the federal Food and Drug Administration for
16		the condition; or [medical]
17		(B) Medical or scientific evidence or evidence-based
18		standards that demonstrate that the expected
19		benefits of the recommended or requested health
20		care service or treatment is likely to be more
21		beneficial to the enrollee than any available

1	standard health care services or treatments and		
2	the adverse risks of the recommended or requested		
3	health care service or treatment would not be		
4	substantially increased over those of available		
5	standard health care services or treatments."		
6	5. By amending subsection (r) to read:		
7	"(r) Except as provided in subsection (s), within twenty		
8	days after the date it receives the opinion of the clinical		
9	reviewer pursuant to subsection (o), the assigned independent		
10	review organization, in accordance with subsection (t), shall		
11	determine whether the health care service at issue in an		
12	external review pursuant to this section shall be a covered		
13	benefit and shall notify the enrollee, the enrollee's appointed		
14	representative, the health carrier, and the commissioner of its		
15	determination. The independent review organization shall		
16	include in the notice of its decision:		
17	(1) A general description of the reason for the request		
18	<pre>for external review;</pre>		
19	(2) The written opinion of each clinical reviewer,		
20	including the recommendation of each clinical reviewer		
21	as to whether the recommended or requested health care		

1		service or treatment should be covered and the		
2		rationale for the reviewer's recommendation;		
3	(3)	The date the independent review organization was		
4		assigned by the commissioner to conduct the external		
5		[+]review[+];		
6	(4)	The date the external review was conducted;		
7	(5)	The date the decision was issued;		
8	(6)	The principal reason or reasons for its decision; and		
9	(7)	The rationale for its decision.		
10	Upon	receipt of a notice of a decision reversing the		
11	adverse action, the health carrier immediately shall approve			
12	coverage of the recommended or requested health care service or			
13	treatment	treatment that was the subject of the adverse action."		
14	SECT	ION 6. Statutory material to be repealed is bracketed		
15	and stric	ken. New statutory material is underscored.		
16	SECT	ION 7. This Act shall take effect on July 1, 2025.		

Report Title:

Insurance; Health Insurance; External Review Procedure; Mammography

Description:

Requires health insurers, mutual benefit societies, and health maintenance organizations to cover mandated services for mammography at least as favorably as coverage for other radiological examinations. Provides amendments to external review procedures to improve consistency with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act. Takes effect 7/1/2025. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.