

IN-NETWORK EXCEPTIONS FOR BREAST RECONSTRUCTION SURGERY FOLLOWING MASTECTOMY

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Related Policies
<ul style="list-style-type: none"> Breast Reconstruction Post Mastectomy Requests for In-Network Exceptions Timeframe Standards for Utilization Management (UM) Initial Decisions

INSTRUCTIONS FOR USE

This Clinical Policy provides assistance in interpreting Oxford benefit plans. Unless otherwise stated, Oxford policies do not apply to Medicare Advantage members. Oxford reserves the right, in its sole discretion, to modify its policies as necessary. This Clinical Policy is provided for informational purposes. It does not constitute medical advice. The term Oxford includes Oxford Health Plans, LLC and all of its subsidiaries as appropriate for these policies.

When deciding coverage, the member specific benefit plan document must be referenced. The terms of the member specific benefit plan document [e.g., Certificate of Coverage (COC), Schedule of Benefits (SOB), and/or Summary Plan Description (SPD)] may differ greatly from the standard benefit plan upon which this Clinical Policy is based. In the event of a conflict, the member specific benefit plan document supersedes this Clinical Policy. All reviewers must first identify member eligibility, any federal or state regulatory requirements, and the member specific benefit plan coverage prior to use of this Clinical Policy. Other Policies may apply.

UnitedHealthcare may also use tools developed by third parties, such as the MCG™ Care Guidelines, to assist us in administering health benefits. The MCG™ Care Guidelines are intended to be used in connection with the independent professional medical judgment of a qualified health care provider and do not constitute the practice of medicine or medical advice.

CONDITIONS OF COVERAGE

Applicable Lines of Business/ Products	This policy applies to Oxford Commercial plan membership.
Benefit Type	General benefits package
Referral Required (Does not apply to non-gatekeeper products)	No
Authorization Required (Precertification always required for inpatient admission)	Yes ¹
Precertification with Medical Director Review Required	Yes ¹
Applicable Site(s) of Service (If site of service is not listed, Medical Director review is required)	Inpatient, Office, Outpatient
Special Considerations	¹ Review by a Medical Director or their designee is required for coverage.

PURPOSE

In-Network Exception requests often arise because the Member or their treating Physician believes that the medical service required is not available within the Oxford network. This policy outlines the criteria that needs to be met in order for an In-Network Exception to be approved for breast reconstruction surgery after mastectomy. This policy addresses these requests for Members residing within Oxford's service area.

BENEFIT CONSIDERATIONS

Before using this policy, please check the member specific benefit plan document and any federal or state mandates, if applicable.

Women's Health and Cancer Rights Act of 1998, § 713 (a)

This Act requires that any group health plan, and/or health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall provide, in case of a participant or beneficiary who is receiving benefits in connection with a lymph node dissection, lumpectomy or a mastectomy for the treatment of breast cancer and who elects breast reconstruction in connection with such service, coverage for:

- Reconstruction of the breast on which the mastectomy has been performed;
- Surgery and reconstruction of the other breast to produce symmetrical appearance; and
- Prostheses and physical complications at all stages of mastectomy, including lymphedemas in a manner determined in consultation with the attending physician and the patient.

New Jersey (NJ) Commercial Products

Oxford **will not** deny requests for the use of out-of-network providers who can provide services at the same surgery session if an in-network provider is not available to provide the services at the same surgery session because:

- The in-network provider does not work with the surgeon who performs the mastectomy; **or**
- The in-network provider does not perform the required surgical procedure.

New York (NY) Commercial Plans Only

The NY Department of Financial Services has interpreted the post mastectomy treatment mandate as giving the patient and their attending physician the ability to choose the post mastectomy treatment. As a result, an insurer cannot apply its utilization or medical necessity review process to the patient's post-mastectomy treatment.

Also, there are additional requirements for participating Mastectomy Surgeon treating a Member on a NY product when the mastectomy and reconstruction procedures are performed in the same or different operative session, refer to [Process for NY Products](#) in the Policy section below.

Essential Health Benefits for Individual and Small Group

For plan years beginning on or after January 1, 2014, the Affordable Care Act of 2010 (ACA) requires fully insured non-grandfathered individual and small group plans (inside and outside of Exchanges) to provide coverage for ten categories of Essential Health Benefits ("EHBs"). Large group plans (both self-funded and fully insured), and small group ASO plans, are not subject to the requirement to offer coverage for EHBs. However, if such plans choose to provide coverage for benefits which are deemed EHBs, the ACA requires all dollar limits on those benefits to be removed on all Grandfathered and Non-Grandfathered plans. The determination of which benefits constitute EHBs is made on a state by state basis. As such, when using this policy, it is important to refer to the member specific benefit plan document to determine benefit coverage.

DEFINITIONS

Term	Applicable State	Definition
Adverse Determination	CT & NY	A denial, reduction, termination, rescission of coverage, or failure to make payment (in whole or in part) of a benefit. Note: Neither the initial or subsequent processing of the claim by Oxford may be considered an Adverse Determination if the denial or failure to make payment (whole or in part) is based solely on a coding determination (i.e., assignment of diagnosis and or CPT/HCPCS or other procedure code) and the provider is a NY hospital.

Term	Applicable State	Definition
Adverse Determination (continued)	NJ	A denial, reduction or termination of, or a failure to make payment (in whole or in part) for, a benefit, including a denial, reduction or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit resulting from application of any utilization review, denial of a request for an in-plan exception, as well as a failure to cover an item or service for which benefits are otherwise provided because the HMO/carrier determines the item or service to be experimental or investigational, cosmetic, dental rather than medical, excluded as a pre-existing condition or because the HMO/carrier has rescinded the coverage.
Breast Reconstruction Surgeon	NY	Any surgeon performing the reconstruction portion of the surgery, including but not limited to plastic surgeons, assistant surgeons, etc.
In-Network Exception	CT & NY	A determination made by Oxford to provide coverage for medical services rendered by an out-of-network (non-participating) provider at a level of coverage and cost share equivalent to that which would be applied to the same services if rendered by an in-network (participating) provider.
	NJ	A request by a member or provider to obtain medically necessary covered services from an out-of-network provider, with the member's liability limited to network level cost sharing, because the carrier's network does not have providers who are qualified, accessible, and available to perform the medically necessary covered service the member requires.
Mastectomy Surgeon	NY	Any surgeon that is performing the mastectomy regardless of the provider specialty (general surgeon, surgical oncologist, etc.).
Non-Participating Provider Consent Form	NY	A required form a Member must sign when a participating surgeon seeks to use a non-participating plastic surgeon and/or non-participating assistant surgeon for post-mastectomy breast reconstruction services when the reconstruction is being performed within the same or different operative session as the mastectomy.
Participating Provider (Physician, Specialist, Hospital, Ancillary)	NY	A Provider who has a contract with Oxford to provide services to specific Oxford Members (i.e., Freedom, Liberty networks). UnitedHealth Choice Plus network providers located outside of the tri-state area (CT, NJ, and NY) may be considered in-network. Check the member specific benefit plan document for eligibility.

POLICY

In-Network Exception Requests

In-Network Exception requests often arise because the Member or their participating physician believes that the medical service required is not available within the Oxford network. All requests for In-Network Exceptions must be made by the Participating Provider prior to rendering of the medical services. Members enrolled on certain products may also initiate an In-Network Exception on their own or designate the Non-Participating Provider to initiate the request on their behalf. In-Network Exception requests must be made at least two weeks prior to the scheduled surgery.

Note: There are additional requirements for participating Mastectomy Surgeon treating a Member on a New York product when the mastectomy and reconstruction procedures are performed in the same or different operative session, refer to [Process for NY Products](#) section of this policy for additional information.

Oxford's review will be based upon the precise type of reconstruction requested by the attending physician and the Member.

Example: If a deep inferior epigastric artery perforator flap (DIEP) flap has been requested, Oxford's network obligation will be considered fulfilled only if a participating surgeon is available to perform a DIEP flap.

If Oxford:

- **Can locate a participating team** for the Member, as outlined in the [Requests for In-Network Exceptions](#) policy, the request for the exception **will not** be approved. Oxford will notify the Member that there are teams of participating surgeons who can perform the mastectomy and/or the reconstruction requested by the attending physician and the Member.

- **Cannot locate a participating team** for the Member, then the In-Network Exception **will** be approved. If an exception is approved, it will be only for that specific stage of the breast reconstruction. The Member will be informed that the exception will not extend to other stages of reconstruction.

Exception: There are additional requirements for participating Mastectomy Surgeons treating Members on New York products when the mastectomy and reconstruction procedures are performed in the same or different operative session, refer to [Process for NY Products](#) below.

Additional Information: A separate request must be made at least two weeks prior to the scheduled Stage II or Stage III surgery. Stage II requests will be reviewed just as the Stage I was reviewed. However, certification of Stage I does not require certification of Stage II. In addition, if stage I and II have been approved as exceptions, then Stage III will be approved as well. If no previous In-Network Exceptions have been made for Stage I or Stage II then the Stage III request will be processed as Stage I or II above.

Exception: This does not apply to participating Mastectomy Surgeons treating Members on a New York product when the mastectomy and reconstruction procedures are performed in the same operative session. Please refer to [Process for NY Products](#) section of this policy for additional information.

Process for NY Products

The following procedures and responsibilities apply when a participating Mastectomy Surgeon is treating a Member on a New York (NY) product when the mastectomy and reconstruction procedures are performed in the same or different operative session.

Participating Mastectomy Surgeon Using a Participating Breast Reconstruction Surgeon

Participating Mastectomy Surgeons are required to use an Oxford participating Breast Reconstruction Surgeon, including but not limited to plastic surgeons, assistant surgeons, etc., when the reconstruction is being performed within the same surgical or different operative session as the mastectomy. In this scenario, the *Non-Participating Provider Consent Form* is not required (see below for more information).

If a participating Mastectomy Surgeon is unable to locate a participating Breast Reconstruction Surgeon, including but not limited to plastic surgeons, assistant surgeons, etc., they must contact the health plan for assistance.

Participating Mastectomy Surgeon Responsibilities

If the participating Mastectomy Surgeon is recommending the use of a non-participating Breast Reconstruction Surgeon including but not limited to plastic surgeons, assistant surgeons, etc., for a reconstruction that is being performed within the same surgical or different operative session as the mastectomy, prior to making a recommendation or scheduling services the participating Mastectomy Surgeon is **required** to:

1. Verbally discuss options and financial impact with the Member.

- The provider must review this policy and the [Non-Participating Provider Consent Form](#) with the Member.
 - The discussion must explain participating and non-participating alternatives and provide the Member with an understanding of all the providers involved in the Member's care (e.g., plastic surgeon, assistant surgeon, etc.)
 - The discussion must include a conversation explaining the financial impact of using a non-participating provider. Refer to the [Coordinate the Member's Care](#) as directed by the Member_section below for details.
 - A copy of the [Non-Participating Provider Consent Form](#) must be provided to the Member.
- The discussion must occur no more than 90 days, and no less than 14 days before the scheduled date of the procedure.
- If the Member does not sign the form at the end of the discussion, explain that it needs to be completed and returned no less than 14 days before the scheduled date of the procedure.
- The discussion must then be noted in the Member's medical record.

2. Obtain a completed [Non-Participating Provider Consent Form](#):

- The Member will need to either agree or disagree to receive out-of-network services, by signing, dating and returning the form no less than 14 days before the scheduled date of the procedure. If the Member:
 - **Member Does Agree:** refer to the [Coordinate the Member's Care as directed by the Member \(3a\)](#) for additional details.
 - **Member Does Not Agree:** refer to the [Coordinate the Member's Care as directed by the Member \(bullet 3b\)](#) for additional details.
- The participating Mastectomy Surgeon must then sign and date the form to acknowledge the Member's decision.
- The [Non-Participating Provider Consent Form](#) must be kept on file by the participating Mastectomy Surgeon.

- d. A separate [Non-Participating Provider Consent Form](#) is required for each episode of surgical care when the participating Mastectomy Surgeon wants to refer to or involve a non-participating Breast Reconstruction Surgeon, including but not limited to plastic surgeons, assistant surgeons, etc., in a Member's care.
- e. The [Non-Participating Provider Consent Form](#) will only be valid for 90 days from the date of Member signature.
- f. Oxford may request a copy of the completed [Non-Participating Provider Consent Form](#) from the participating Mastectomy Surgeon (who is required to keep the form on file) in order to conduct standard business.
 - i. When requested, the participating Mastectomy Surgeon must provide a copy of the [Non-Participating Provider Consent Form](#) within 15 days of the request.
 - ii. If a copy of the completed [Non-Participating Provider Consent Form](#) is not received within 15 days of the request, the participating Mastectomy Surgeon's claim will be denied administratively for failure to comply with this protocol.
 - iii. In these instances, the participating Mastectomy Surgeon is prohibited from balance billing the Member.

3. Coordinate the Member's care as directed by the Member in the [Non-Participating Provider Consent Form](#) (including, but not limited to, using a participating Breast Reconstruction Surgeon, plastic surgeons, assistant surgeons, etc., In-Network Exception and/or claim appeals).

a. If Member agrees to the use of non-participating provider:

Ensure that the Member understands the financial obligations of using a non-participating Breast Reconstruction Surgeon including but not limited to plastic surgeons, assistant surgeons, etc., at a participating facility.

- **For Members with out-of-network benefits:** Non-participating Breast Reconstruction Surgeon including but not limited to plastic surgeons, assistant surgeons, etc., claims will be paid at the out-of-network benefit level. Out-of-network cost shares and deductibles will apply. In addition, Members may be responsible to the non-participating Breast Reconstruction Surgeon(s), plastic surgeon, assistant surgeon, etc., for any amount above the amount paid by the health plan, as determined by the Member's out-of-network benefit; **or**
- **For Members with only in-network benefits:** Non-participating Breast Reconstruction Surgeon including but not limited to plastic surgeons, assistant surgeons, etc., claims will be denied because the Member has no coverage for services provided by non-participating providers. Members will therefore be responsible for the entire cost of the service(s).

b. If Member does NOT agree to the use of non-participating provider:

- If the participating Mastectomy Surgeon is unable to locate a participating Breast Reconstruction Surgeon, including but not limited to plastic surgeons, assistant surgeons, etc., they must contact the health plan for assistance in locating a participating Breast Reconstruction Surgeon, plastic surgeon, assistant surgeon, etc.
- If the participating Mastectomy Surgeon still wants to recommend the non-participating Breast Reconstruction Surgeon, plastic surgeon, assistant surgeon, etc., they **must** contact Oxford to request and initiate an In-Network Exception request.

In-Network Exception Process

When a participating Breast Reconstruction Surgeon is:

1. Available at the same facility where the procedure is requested

Oxford will:

- a. Deny the *In-Network Exception* request.
- b. Provide names of participating surgeons who can perform the requested reconstruction (with an in-network Mastectomy Surgeon at an in-network facility) including their specialty and contact information, in the determination notice.
- c. Advise the Member that the use of a non-participating reconstruction surgeon, plastic surgeon, assistant surgeon, etc., will be more costly than if they were to use a participating surgeon (unless an In-Network Exception has been approved).
- d. Advise the Member that she is entitled to have the mastectomy and breast reconstruction performed during the same surgical procedure.
- e. Provide information on the appeal process.

2. Not available at the same facility where the procedure is requested

- a. Oxford will attempt to negotiate a rate as payment in-full for all stages of the procedure and all related procedures (minus any in-network cost share that the Member is responsible for) with the non-participating reconstruction surgeon, plastic surgeon, assistant surgeon, etc.
- b. If the non-participating Breast Reconstruction Surgeon, plastic surgeon, assistant surgeon, etc.:
 - **Agrees to a negotiated rate:** Oxford will approve the In-Network Exception and send a determination notice.

- **Does NOT agree to a negotiated rate and a participating surgical team is available at a *different participating facility*:** Oxford will deny the In-Network Exception request **and** provide the same required information referenced in bullets [1b through 1e](#), above.

Determination Timeframe

Oxford will make determinations within a reasonable period of time appropriate to the medical circumstances, but not later than 15 days after receipt of the request. If additional information is needed, Oxford will notify the Provider and the Member of the information required to complete the review and will make a determination no later than 15 days from the receipt of all required information: [Timeframe Standards for Utilization Management \(UM\) Initial Decisions](#).

APPLICABLE CODES

The following list(s) of procedure and/or diagnosis codes is provided for reference purposes only and may not be all inclusive. Listing of a code in this policy does not imply that the service described by the code is a covered or non-covered health service. Benefit coverage for health services is determined by the member specific benefit plan document and applicable laws that may require coverage for a specific service. The inclusion of a code does not imply any right to reimbursement or guarantee claim payment. Other Policies may apply.

CPT Code	Description
11920	Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin, including micropigmentation; 6.0 sq cm or less
11921	Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin, including micropigmentation; 6.1 to 20.0 sq cm
11922	Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin, including micropigmentation; each additional 20.0 sq cm, or part thereof (List separately in addition to code for primary procedure)
11970	Replacement of tissue expander with permanent prosthesis
11971	Removal of tissue expander(s) without insertion of prosthesis
15271	Application of skin substitute graft to trunk, arms, legs, total wound surface area up to 100 sq cm; first 25 sq cm or less wound surface area
15272	Application of skin substitute graft to trunk, arms, legs, total wound surface area up to 100 sq cm; each additional 25 sq cm wound surface area, or part thereof (list separately in addition to code for primary procedure)
15777	Implantation of biologic implant (e.g., acellular dermal matrix) for soft tissue reinforcement (i.e., breast, trunk) (List separately in addition to code for primary procedure)
19316	Mastopexy
19324	Mammoplasty, augmentation; without prosthetic implant
19325	Mammoplasty, augmentation; with prosthetic implant
19330	Removal of mammary implant material
19340	Immediate insertion of breast prosthesis following mastopexy, mastectomy or in reconstruction
19342	Delayed insertion of breast prosthesis following mastopexy, mastectomy or in reconstruction
19350	Nipple/areola reconstruction
19355	Correction of inverted nipples
19357	Breast reconstruction, immediate or delayed, with tissue expander, including subsequent expansion
19361	Breast reconstruction with latissimus dorsi flap, without prosthetic implant
19364	Breast reconstruction with free flap
19366	Breast reconstruction with other technique
19367	Breast reconstruction with transverse rectus abdominis myocutaneous flap (TRAM), single pedicle, including closure of donor site
19368	Breast reconstruction with transverse rectus abdominis myocutaneous flap (TRAM), single pedicle, including closure of donor site; with microvascular anastomosis (supercharging)

CPT Code	Description
19369	Breast reconstruction with transverse rectus abdominis myocutaneous flap (TRAM), double pedicle, including closure of donor site
19380	Revision of reconstructed breast
19396	Preparation of moulage for custom breast implant
19499	Unlisted procedure, breast
19318	Reduction mammoplasty Note: This code is covered only to achieve symmetry of the contralateral breast post-mastectomy.

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HCPCS Code	Description
L8600	Implantable breast prosthesis, silicone or equal
S2066	Breast reconstruction with gluteal artery perforator (GAP) flap, including harvesting of the flap, microvascular transfer, closure of donor site and shaping the flap into a breast, unilateral
S2067	Breast reconstruction of a single breast with "stacked" deep inferior epigastric perforator (DIEP) flap(s) and/or gluteal artery perforator (GAP) flap(s), including harvesting of the flap(s), microvascular transfer, closure of donor site(s) and shaping the flap into a breast, unilateral
S2068	Breast reconstruction with deep inferior epigastric perforator (DIEP) flap or superficial inferior epigastric artery (SIEA) flap, including harvesting of the flap, microvascular transfer, closure of donor site and shaping the flap into a breast, unilateral
S8950	Complex lymphedema therapy, each 15 minutes

ATTACHMENTS

The following attachments apply to participating surgeons located in New York who have discussed referral options with a Member prior to making referrals to, or scheduling services on their behalf with, a non-participating plastic surgeon and non-participating assistant surgeon (if applicable).

Non-Participating Provider Consent Form



Nonpar Provider
Consent Form English

REFERENCES

American Medical Association. Current Procedural Terminology: CPT Professional Edition.

American Medical Association. Healthcare Common Procedure Coding System, Medicare's National Level II Codes: HCPCS.

Federal Mandate: The Women's Health and Cancer Rights Act of 1998. (Reconstructive Breast Surgery). September 9, 2002, Revision Date July 16, 2007.

Hu E, Alderman A.K. Breast Reconstruction. Surgical Clinics of North America. April 2007; 87 (2): 453-67.

Lipa, J.E. Breast Reconstruction with Free Flaps from the Abdominal Donor Site-TRAM, DIEAP, and SIEA Flaps. Clinics in Plastic Surgery. January 1, 2007; 34 (1): 105-21.

N.J. Admin. code § 11:24-1.2

N.J. Admin. code § 11:24A-1.2

N.J. Admin. code § 11:24A-2.3

New Jersey Department of Banking and Insurance Bulletin No. 13-10.

NY Insurance Law sections 3216 (i) (20), 3221(k) (10) and 4303 (x); OGC Op. No. 08-07-18.

Townsend: Sabiston Textbook of Surgery, 17th ed. Surgical Options, "Breast Reconstruction". Copyright 2007, Elsevier, Inc. www.mdconsult.com. Accessed October 18, 2007.

POLICY HISTORY/REVISION INFORMATION

Date	Action/Description
09/01/2018	<ul style="list-style-type: none"> • Added definition of “Adverse Determination” for: <ul style="list-style-type: none"> ○ Connecticut (CT) and New York (NY): A denial, reduction, termination, rescission of coverage, or failure to make payment (in whole or in part) of a benefit <ul style="list-style-type: none"> ▪ Note: Neither the initial or subsequent processing of the claim by Oxford may be considered an Adverse Determination if the denial or failure to make payment (whole or in part) is based solely on a coding determination (i.e., assignment of diagnosis and or CPT/HCPCS or other procedure code) and the provider is a NY hospital ○ New Jersey (NJ): A denial, reduction or termination of, or a failure to make payment (in whole or in part) for, a benefit, including a denial, reduction or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit resulting from application of any utilization review, denial of a request for an In-Network Exception, as well as a failure to cover an item or service for which benefits are otherwise provided because Oxford determine the item or service to be experimental or investigational, cosmetic, dental rather than medical, excluded as a pre-existing condition or because the HMO/carrier has rescinded the coverage • Updated definition of “In-Network Exception” for New Jersey (NJ): A request by a member or provider to obtain medically necessary covered services from an out-of-network provider, with the member's liability limited to network level cost sharing, because the carrier's network does not have providers who are qualified, accessible, and available to perform the medically necessary covered service the member requires • Updated list of applicable HCPCS codes; added S8950 • Updated supporting information to reflect the most current references • Archived previous policy version ADMINISTRATIVE 202.14 T2