**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑297 SO AS TO ENACT THE “CANCER TREATMENT FAIRNESS ACT OF 2010”, TO REQUIRE INDIVIDUAL AND GROUP HEALTH PLANS AND HEALTH INSURERS TO PROVIDE COVERAGE FOR PRESCRIBED, ORALLY ADMINISTERED CHEMOTHERAPY ON A BASIS NO LESS FAVORABLE THAN COVERAGE OFFERED FOR INTRAVENOUSLY ADMINISTERED OR INJECTED CHEMOTHERAPY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑297. (A) This section may be cited as the ‘Cancer Treatment Fairness Act of 2010’.

(B) For purposes of this section:

(1) ‘Chemotherapy’ means drugs and biologics that kill cancer cells directly, including, but not limited to, antineoplastics, biologic response modifiers, hormone therapy, and monoclonal antibodies, which are used to:

(a) cure a specific cancer;

(b) control tumor growth when cure is not possible;

(c) shrink tumors before surgery or radiation therapy; or

(d) destroy microscopic cancer cells that may be present after the known tumor is removed by surgery to prevent a possible cancer reoccurrence.

(2) ‘Group health plan’ means an employee welfare plan, as defined in Section 1 of the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 29 U.S.C. Section 1002(1)), to the extent that the plan provides medical care and includes items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or other means.

(3) ‘Health insurance coverage’ means benefits provided by a health insurer under a policy regulated pursuant to this chapter.

(4) ‘Health insurer’ means a person that provides one or more health benefit policies in this State, including an insurer, a hospital and medical services corporation, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, or another person providing a plan of health insurance coverage subject to the provisions of this chapter.

(5) ‘Individual health plan’ means a policy offering health insurance coverage offered to individuals other than in connection with a group health plan.

(6) ‘Patient out of pocket costs’ means costs borne by an insured patient, in addition to premiums, including, but not limited to, deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

(7) ‘Policy’ means a written contract of insurance or written agreement for or effecting insurance, or the certificate of one of these, by whatever name called, and includes all clauses, riders, endorsement, and papers which are a part of them.

(C)(1) A patient’s out of pocket costs related to coverage for orally administered chemotherapy must be on a basis no less favorable than coverage provided for intravenously administered or injected chemotherapy under the policy.

(2) A health insurer does not achieve compliance with this section by imposing an increase in patient out of pocket costs with respect to intravenously administered or injected chemotherapy agents covered under the policy on the effective date of this section.

(D) Nothing in this section applies to accident‑only, specified disease, hospital indemnity, disability income, or other limited benefit health insurance policies, either group or individual, where benefits are paid directly to the policyholder.”

SECTION 2. This act takes effect upon approval by the Governor.

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