COMMITTEE AMENDMENT ADOPTED

March 30, 2010

**S. 613**

Introduced by Senator Hayes

S. Printed 3/30/10--S. [SEC 3/31/10 1:58 PM]

Read the first time March 25, 2009.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑732 SO AS TO REQUIRE HEALTH INSURANCE COVERAGE, INCLUDING COVERAGE UNDER THE STATE HEALTH PLAN, FOR AN INSURED WHO PARTICIPATES IN AN APPROVED CANCER CLINICAL TRIAL.

Amend Title To Conform

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

SECTION 1. Subarticle 1, Article 5, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑732. (A) As used in this section:

(1) ‘Approved cancer clinical trial’ means a scientific study of a new therapy for the treatment of cancer in human beings that meets the requirements set forth in subsection (D) and consists of a scientific plan of treatment that includes specified goals, a rationale and background for the plan, criteria for patient selection, specific directions for administering therapy and monitoring patients, a definition of quantitative measures for determining treatment response, and methods for documenting and treating adverse reactions.

(2) ‘Insurer’ means an insurance company, a health maintenance organization, and any other entity providing health insurance coverage, as defined in Section 38‑71‑670(6) and Section 38‑71‑840(14), which is licensed to engage in the business of insurance in this State and which is subject to state insurance regulation.

(3) ‘Health maintenance organization’ means an organization as defined in Section 38‑33‑20(8).

(4) ‘Health insurance plan’ means an individual health plan, a group health plan, or a health benefit plan, including the State Health Plan, that is delivered, issued for delivery, or renewed in this State and provides health insurance coverage.

(5) ‘Routine patient care costs’ means a physician fee, laboratory expense, or other expense associated with the hospitalization, administration of treatment, and evaluation of a patient during the course of treatment that are consistent with usual and customary patterns and standards of care incurred when an enrollee, subscriber, or insured receives medical care associated with an approved cancer clinical trial, and that would be covered if these items and services were provided other than in connection with an approved cancer clinical trial.

(6) ‘State Health Plan’ means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1.

(B)(1) A health insurance plan must provide coverage for a covered person who has had coverage under the plan for routine patient care costs incurred for cancer treatment and the covered person is referred for participation in an approved cancer clinical trial. The referral must be made by two physicians who specialize in oncology and the cancer treatment must be given pursuant to an approved cancer clinical trial that meets the criteria set forth in subsection (D).

(2) With regard to a health insurance plan, an insurer may not refuse to renew or refuse to reissue or otherwise terminate or restrict coverage on a covered person solely because he has entered an approved cancer clinical trial.

(C) The coverage required pursuant to subsection (B) must not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to a covered person than the dollar limits, deductibles, or coinsurance provisions that apply to routine patient care costs incurred for cancer treatment generally under the health insurance plan. However, the coverage required pursuant to subsection (B) may be subject to other general exclusions and limitations of the health insurance plan.

(D) Routine patient care costs for cancer treatment given pursuant to an approved cancer clinical trial must be covered pursuant to this section if all of the following requirements are met:

(1) The treatment is provided with therapeutic intent and is provided pursuant to an approved cancer clinical trial that has been authorized or approved by one of the following:

(a) the National Institutes of Health;

(b) the United States Food and Drug Administration;

(c) the United States Department of Defense; or

(d) the United States Department of Veterans Affairs.

(2) The proposed treatment has been reviewed and approved by the applicable qualified institutional review board.

(3) The available clinical or preclinical data indicate that the treatment that will be provided pursuant to the approved cancer clinical trial will be at least as effective as the standard therapy and is anticipated to constitute an improvement in therapeutic effectiveness for the treatment of the disease in question.”

SECTION 2. This act takes effect December 31, 2010, and applies to health insurance plans, as defined in Section 38‑71‑732 of the 1976 Code, as added by Section 1 of this act, issued, renewed, delivered, or entered into on or after this act’s effective date.

‑‑‑‑XX‑‑‑‑