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SB 119 - Alaska Health Care Consumer's Right to Shop Act

Sectional Analysis

"An Act relating to the practice of pharmacy; relating to notifications to consumers regarding prescription drug pricing; relating to disclosure of health care services and price information; relating to health care insurers; relating to availability of payment information and estimates of out-of-pocket expenses; relating to an incentive program for electing to receive health care services for less than the average price paid; relating to filing and reporting requirements; and providing for an effective date."

Sec. 1, Page 1, Lines 8 – 11

Adds the Alaska Health Care Consumer's Right to Shop Act to the uncodified law of the State of Alaska.

Sec. 2, Page 1, line 12 – Page 2, Line 2

Adds that a pharmacist must disclose retail and cost sharing information when requested.

Sec. 3, Page 2, Line 3 – Page 3, Line 4

Amends AS 08.80.297 by adding new subsections regarding disclosure of prescription drug pricing to consumers.

- b. Pharmacists shall charge the lower of the two prices of a prescription drugs between the retail prices and the consumers cost sharing price, unless otherwise directed by the consumer.
- c. The pharmacist must inform the consumer if the retail price is lower than the consumers cost sharing price.
- d. Pharmacies must post a notice that the consumer may, at the point of sale, request the pharmacists retail price of a prescription.
- e. No contract or agreement may prohibit a pharmacy from complying with this section.
- f. Definitions used in this section.

Sec. 4, Page 3, Lines 5 – 10

AS 08.80.305 is added instructing pharmacists to maintain pricing and sales information for no less than two years.

Sec. 5 and Sec. 6, Page 3, Lines 11 – 24

These two sections amend AS 08.80.460 to exempt violators of this section from the maximum penalty of a class B misdemeanor and includes them in the civil penalties assessed for violation of the section.

Sec. 7, Page 3, Line 25 – Page 4, Line 7

Authorizes the Department of Health and Social Services to collect and analyze data relating to health care services and price information.

Sec. 8, Page 4, Line 8 – Page 7, Line 31

Adds a new section to Title 18 for health care services and price information.

- a. Health care provider shall compile a list annually by procedure code of the top 25 health care services from each of the six category I CPT code sections.
- b. The provider or facility will publish the lists above, by providing it to the department for publishing it on their website, by posting it for public review in the facility or office where the service(s) are performed and by posting it on their website.
- c. The health care provider or facility may include a disclaimer noting the price paid may be higher or lower than listing of service due to unforeseen needs or complications.
- d. The department shall compile the information provided by the provider or facility and post it on the department's website for public view.
- e. If the provider performs less than 25 of the services from each CPT code category, then they will compile a list based upon the total number of services that they provide.
- f. Failing to comply with this section will result in a civil penalty of \$50 per day for each day after March 31st that the facility or provider has failed to provide the information. This civil penalty will not exceed \$2,500 annually. An appeal process is allowed under this section.
- g. Allows the department to disclose to the public that the health care provider or facility is in violation of this section should they choose to pay the maximum penalty in lieu of providing the requested information.

Sec. 18.23.405 Page 5, Line 21 – Page 6, Line 28

This section is added to specify the provider and/or facilities responsibility to provide cost information to patients or potential patients who have health insurance coverage.

- a. Within five business days of request, a provider must give a good faith estimate of the total charges of the healthcare service requested if the total of the charges exceeds \$250.
- b. The estimate of charges must include the network status of the provider under the patient's plan, whether the services of another provider are necessary and if they are, a separate request to that additional provider must be made.
- c. If the patient is uninsured, the health care provider must include information about financial assistance that may be available, as well as the internet website that provides information about standard charges for the type of care the patient is seeking.
- d. The patient may request the information in writing or electronically.
- e. Estimate of charges must represent a good faith effort to provide accurate information, is not legally binding and is not guaranteed due to unforeseen conditions.
- f. This section does not apply to emergency medical conditions.

Sec. 18.23.420 Page 6, Line 29 – Page 7

This section gives definitions of terms.

Sec. 9, Page 8, Line 1 – Page 9, Line 4

Adds healthcare insurance incentive program to the list of items to be included in the director's annual report.

Sec. 10, Page 9, Line 5 – Page 12, Line 19

Adds a new section to AS 21.96. This section establishes new provisions for health care insurance companies to operate in the state of Alaska. This section deals with private health insurance policies not pre-empted by ERISA or any other federal laws.

Sec. 21.96.200 Page 9, Lines 6 – 14

A health care insurer shall establish an interactive online tool so that the covered person may request and obtain information about the amount paid to in network providers by the insurance company for specific health care services and be able to compare prices among network healthcare providers.

Sec. 21.96.205 Page 9, Line 15 – 31

- a. Upon request of a covered person, a health care insurer shall provide within five days a good faith estimate of out of pocket expenses that a covered person will have to pay for a specific covered medically necessary benefit.
- b. This section does not prohibit the health insurance provider from imposing fees for unforeseen services or additional costs that come up but were not covered in the estimate provided in Section (a).
- c. The health care insurer shall disclose that this is an estimate and the actual cost may be different if unforeseen services or costs arise.

Sec. 21.96.210 Page 10 – Page 11, Line 3

- a. The health care insurance company shall set up an incentive plan for a covered person who elect to receive a health care service from a health care provider that charges less than the average in network price paid by the insurer for that service. At a minimum the health care services that apply to this section shall include:
 1. Physical and Occupational Therapy Services
 2. OBGYN Services
 3. Radiology and Medical Imaging Services
 4. Laboratory Services
 5. Infusion Therapy Services
 6. Dental Services
 7. Vision Services
 8. Behavioral Health Services
 9. Inpatient and Outpatient Surgical Procedures: and
 10. Outpatient non-surgical diagnostic tests and procedures
- b. The insurer shall provide to the covered person a cash payment based upon the shared savings that result from the covered person choosing the provider whose price falls below the average cost to the insurance company for that service. For those whose insurance is provided as part of a group plan offered by their employer, the shared savings will be split at least equally between the patient, the employer and the insurance company. For those who secured health care insurance on their own without an employer or some other third party, the cash payment will be calculated with at least 50% of the shared savings going to the policy holder.
- c. The health care insurer will base average price paid to in network providers within a reasonable period of time, but not to exceed one calendar year.

Sec. 21.96.215, Page 11, Lines 4 – 8

The incentive program will be made available as a part of all qualified plans in the state and will notice it at time of initial enrollment or annual renewal.

Sec. 21.96.220, Page 11, Lines 9 – 13

Before offering an incentive program, the health insurance company shall file a description of the program with the Director for approval.

Sec. 21.96.225, Page 11, Lines 14 – 20

If a covered person participates in an incentive program and chooses an out-of-network provider that results in a savings to the health care insurer, the health care insurer will treat the amount paid for the health care service as though it was provided by an in-network provider or facility.

Sec. 21.96.230, Page 11, Lines 21 – 23

The incentive program will not be treated as an administrative expense by the insurer for rate development or rate filing purposes.

Sec. 21.96.235, Page 11, Line 24 – Page 12, Line 9

- a. Provides instruction for the health care insurance company to provide an annual report concerning the incentive program.
- b. Provides instruction for the division of insurance to provide an aggregate report annually to the legislature on health care insurance incentive programs in the state.

Sec. 21.96.300, Page 12, Lines 10 – 19

Establishes definitions for terms in this section.

Sec. 11, Page 12, Lines 20 – 22

Adds Sec. 29.35.142 to the list of home rule powers under AS 29.10.200.

Sec. 12, Page 12, Line 23 – Page 13, Line 5

The authority to regulate the disclosure or reporting of price information for health care services is reserved to the state of Alaska.

Sec. 13, Page 13, Lines 6 – 16

The Department of Administration shall perform an analysis of the possible impacts to the state of Alaska and to the employees under managed plans should the Department adopt the requirements of AS 18.23.400, AS 18.23.405 and AS 21.96.200 – AS 21.96.300.

Sec. 14, Page 13, Lines 17 – 21

Amended language to the uncodified law of the State of Alaska allowing for the Department of Commerce, Community, and Economic Development to adopt regulations necessary to implement this act.

Sec. 15, Page 13, Lines 22 – 27

The Department of Commerce, Community and Economic Development may adopt regulations necessary to implement this Act.

Sec. 16, Page 13, Line 28

Sections 13 and 15 of this Act takes effect immediately.

Sec. 12, Page 14, Line 10

Except for the provision above, the act has an effective date of January 1, 2018.

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