

32-LS0247I
Marx
9/27/21

CS FOR SENATE BILL NO. 41(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR HUGHES

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to health care insurers; relating to availability of payment information;**
2 **relating to an incentive program for electing to receive health care services for less than**
3 **the median of the contract rates recognized by an insurer; relating to filing and**
4 **reporting requirements; relating to municipal regulation of disclosure of health care**
5 **services and price information; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Alaska Health Care Consumer's Right
10 to Shop Act.

11 * **Sec. 2.** AS 21.06.110 is amended to read:

12 **Sec. 21.06.110. Director's annual report.** As early in each calendar year as is
13 reasonably possible, the director shall prepare and deliver an annual report to the

1 commissioner, who shall notify the legislature that the report is available, showing,
2 with respect to the preceding calendar year,

3 (1) a list of the authorized insurers transacting insurance in this state,
4 with a summary of their financial statement as the director considers appropriate;

5 (2) the name of each insurer whose certificate of authority was
6 surrendered, suspended, or revoked during the year and the cause of surrender,
7 suspension, or revocation;

8 (3) the name of each insurer authorized to do business in this state
9 against which delinquency or similar proceedings were instituted and, if against an
10 insurer domiciled in this state, a concise statement of the facts with respect to each
11 proceeding and its present status;

12 (4) a statement in regard to examination of rating organizations,
13 advisory organizations, joint underwriters, and joint reinsurers as required by
14 AS 21.39.120;

15 (5) the **receipts** [RECEIPT] and expenses of the division for the year;

16 (6) recommendations of the director as to amendments or
17 supplementation of laws affecting insurance or the office of **the** director;

18 (7) statistical information regarding health insurance, including the
19 number of individual and group policies sold or terminated in the state; this paragraph
20 does not authorize the director to require an insurer to release proprietary information;

21 (8) the annual percentage of health claims paid in the state that **meet**
22 [MEETS] the requirements of AS 21.36.495(a) and (d);

23 (9) the total amount of contributions reported and the total amount of
24 credit claimed under AS 21.96.070;

25 (10) the total number of public comments received and the director's
26 efforts, to the extent allowable by law, to improve or maintain public access to
27 information on individual health insurance rate filings before they become effective;
28 [AND]

29 (11) **the most recent incentive program report compiled under**
30 **AS 21.96.270; and**

31 **(12)** other pertinent information and matters the director considers

1 proper.

2 * **Sec. 3.** AS 21.36.100 is amended to read:

3 **Sec. 21.36.100. Rebates.** Except as provided in AS 21.96.220 or otherwise
4 expressly provided by law, a person may not knowingly permit or offer to make or
5 make a contract of life insurance, life annuity or health insurance, or agreement under
6 the contract other than as plainly expressed in the contract, or pay, allow, give or offer
7 to pay, allow, or give, directly or indirectly, as inducement to the insurance, or
8 annuity, a rebate of premiums payable on the contract, or a special favor or advantage
9 in the dividends or other benefits, or paid employment or contract for services of any
10 kind, or any valuable consideration or inducement whatever not specified in the
11 contract; or directly or indirectly give, sell, purchase or offer to agree to give, sell,
12 purchase, or allow as inducement to the insurance or annuity or in connection
13 therewith, whether or not to be specified in the policy or contract, an agreement of any
14 form or nature promising returns, profits, stocks, bonds, or other securities, or interest
15 present or contingent in the contract or as measured by the contract, of an insurance
16 company or other corporation, association, or partnership, or dividends or profits
17 accrued or to accrue under the contract; or offer, promise, or give anything of value
18 that is not specified in the contract.

19 * **Sec. 4.** AS 21.96 is amended by adding new sections to read:

20 **Article 2. Health Care Insurance Policy Incentive Program.**

21 **Sec. 21.96.210. Access to payment information.** A health care insurer that
22 offers a health care insurance policy in the group or individual market shall provide
23 comprehensive comparison guidance by telephone and make available on the Internet
24 website of the insurer a price comparison tool that, to the extent practicable, allows an
25 individual enrolled in or covered under a health care insurance policy to compare the
26 amount of cost sharing that the individual would be responsible for paying under the
27 policy for a specific item or service provided in the same policy year and geographic
28 region by each provider participating in the policy. At a minimum, the health care
29 insurer shall comply with 42 U.S.C. 300gg-114.

30 **Sec. 21.96.220. Incentive program.** (a) A health care insurer that offers a
31 health care insurance policy in the group or individual market shall develop and

1 implement a program that provides a monetary incentive for a covered person enrolled
2 in a health care insurance policy to elect to receive a covered health care service under
3 the health care insurance policy from a health care provider that charges less than the
4 median contracted rate recognized by the health care insurer for that health care
5 service.

6 (b) A health care insurer that offers a health care insurance policy in the group
7 or individual market shall provide an incentive payment to a covered person as
8 provided in this subsection. An incentive may be calculated as a percentage of the
9 difference in price as a flat dollar amount or by another reasonable methodology
10 adopted by the director by regulation. A health care insurer is not required to provide
11 an incentive payment to a covered person if the cost saved by the health care insurer is
12 \$200 or less.

13 (c) If a covered person receives coverage under a group health care insurance
14 policy offered by an employer, a health care insurer shall provide the covered person
15 with an incentive of at least 33.4 percent of the costs saved by the health care insurer
16 resulting from the covered person's election to receive a health care service from a
17 health care provider that charges less than the median of the contracted rates
18 recognized by the health care insurer for that health care service. The health care
19 insurer shall provide the employer with at least 33.3 percent of the costs saved by the
20 health care insurer resulting from the covered person's election.

21 (d) If a covered person receives coverage under a health care insurance policy
22 offered in the individual market, a health care insurer shall provide the covered person
23 with an incentive of at least 50 percent of the costs saved by the health care insurer
24 resulting from the covered person's election.

25 (e) An incentive payment to a covered person under this section is not a
26 violation of AS 21.36.100.

27 **Sec. 21.96.230. Availability of program; notice.** A health care insurer that
28 offers a health care insurance policy in the group or individual market shall make an
29 incentive program under AS 21.96.220 available as a component of a health care
30 insurance policy offered in this state. Annually, at enrollment or renewal, a health care
31 insurer shall provide notice about the availability of the program to a person covered

1 under a health care insurance policy eligible for the program.

2 **Sec. 21.96.240. Filing requirements.** Before offering an incentive program
3 under AS 21.96.220, a health care insurer that offers a health care insurance policy in
4 the group or individual market shall file a description of the program with the director
5 in the manner determined by the director. The director may review the filing to
6 determine whether the incentive program complies with the requirements of
7 AS 21.96.210 - 21.96.300.

8 **Sec. 21.96.250. Out-of-network health care providers.** If a covered person
9 participates in an incentive program under AS 21.96.220 and elects to receive a health
10 care service under AS 21.96.220(a) from an out-of-network health care provider that
11 results in a savings for the health care insurer, the health care insurer shall apply the
12 amount paid for the health care service toward the cost sharing owed by the covered
13 person as specified in the applicable health care insurance policy as if the health care
14 services were provided by an in-network health care provider.

15 **Sec. 21.96.260. Classification as administrative expense.** An incentive
16 payment made under AS 21.96.220 is not an administrative expense of the health care
17 insurer for rate development or rate filing purposes.

18 **Sec. 21.96.270. Reporting requirements.** (a) A health care insurer shall, at the
19 request of the director, annually provide information to the director relating to an
20 incentive program under AS 21.96.220 for the most recent calendar year that includes

- 21 (1) the total number of incentive payments;
22 (2) information on the use of the incentive program by category of
23 service;
24 (3) the total amount of incentive payments;
25 (4) the average amount of each incentive payment for each category of
26 service;
27 (5) the total savings achieved below the average price of the health
28 care service in each category of service; and
29 (6) the total number and percentage of covered persons who
30 participated in the incentive program.

31 (b) The director shall include the information provided under this section in

1 the director's annual report under AS 21.06.110 and shall submit the annual report to
2 the chairs of the committee in each house of the legislature with jurisdiction over labor
3 and commerce.

4 **Sec. 21.96.280. Applicability.** (a) Except as provided in (b) of this section,
5 AS 21.96.210 - 21.96.300 apply to a health care insurance policy or contract but do
6 not apply to excepted benefits.

7 (b) AS 21.96.210 - 21.96.300 apply to excepted benefits provided under a
8 dental insurance policy or a vision insurance policy.

9 (c) In this section, "excepted benefits" has the meaning given in AS 21.54.160.

10 **Sec. 21.96.300. Definitions.** In AS 21.96.210 - 21.96.300,

11 (1) "health care insurance" has the meaning given in AS 21.12.050;

12 (2) "health care insurer" has the meaning given in AS 21.54.500;

13 (3) "health care provider" has the meaning given in AS 18.23.400(n);

14 (4) "health care service" has the meaning given in AS 18.23.400(n);

15 (5) "policy" has the meaning given in AS 21.97.900.

16 * **Sec. 5.** AS 29.10.200 is amended by adding a new paragraph to read:

17 (68) AS 29.35.142 (disclosure and reporting of health care services and
18 price information).

19 * **Sec. 6.** AS 29.35 is amended by adding a new section to read:

20 **Sec. 29.35.142. Regulation of disclosure and reporting of health care**
21 **services and price information.** (a) The authority to regulate the disclosure or
22 reporting of price information for health care services by health care providers, health
23 care facilities, or health care insurers is reserved to the state, and, except as
24 specifically provided by statute, a municipality may not enact or enforce an ordinance
25 regulating the disclosure or reporting of price information for health care services by
26 health care providers, health care facilities, or health care insurers.

27 (b) This section applies to home rule and general law municipalities.

28 (c) In this section,

29 (1) "health care facility" has the meaning given in AS 18.23.400(n);

30 (2) "health care insurer" has the meaning given in AS 21.54.500;

31 (3) "health care provider" has the meaning given in AS 18.23.400(n);

1 (4) "health care service" has the meaning given in AS 18.23.400(n).

2 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DEPARTMENT OF ADMINISTRATION ANALYSIS; REPORT TO
5 LEGISLATURE. The Department of Administration shall analyze whether the state or
6 employees covered by a group health care insurance policy for a participating governmental
7 unit would benefit if a group health care insurance policy obtained or provided under
8 AS 39.30.090 or 39.30.091 were required to comply with the provisions of AS 21.96.210 -
9 21.96.300, added by sec. 4 of this Act. The Department of Administration shall complete the
10 analysis and compile the information into a report to the legislature, submit the report to the
11 senate secretary and chief clerk of the house of representatives before January 31, 2023, and
12 notify the legislature that the report is available.

13 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION: REGULATIONS. The director of the division of insurance may adopt
16 regulations necessary to implement this Act. The regulations take effect under AS 44.62
17 (Administrative Procedure Act), but not before the effective date of the law implemented by
18 the regulation.

19 * **Sec. 9.** Sections 7 and 8 of this Act take effect immediately under AS 01.10.070(c).

20 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2023.