

SENATE BILL NO. 10

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 1/21/09

Referred: Health and Social Services, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring health care insurers to provide insurance coverage for medical care**
2 **received by a patient during certain approved clinical trials designed to test and**
3 **improve prevention, diagnosis, treatment, or palliation of cancer; directing the**
4 **Department of Health and Social Services to provide Medicaid services to persons who**
5 **participate in those clinical trials; relating to experimental procedures under a state**
6 **plan offered by the Comprehensive Health Insurance Association; and providing for an**
7 **effective date."**

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

9 *** Section 1.** AS 21.42 is amended by adding a new section to read:

10 **Sec. 21.42.410. Coverage for clinical trials related to cancer.** (a) A health
11 care insurer that offers, issues for delivery, delivers, or renews a health care insurance
12 plan in the state shall cover routine patient care costs incurred by a patient enrolled in
13 an approved clinical trial related to cancer. The coverage provided must include the

1 costs of prevention, diagnosis, treatment, and palliative care of cancer. The health care
 2 insurer is required to provide coverage under this section only if the patient's treating
 3 physician determines that

4 (1) there is no clearly superior noninvestigational treatment alternative;
 5 and

6 (2) available clinical or preclinical data provide a reasonable
 7 expectation that the treatment provided in the clinical trial will be at least as
 8 efficacious as any noninvestigational alternative.

9 (b) The coverage to be provided under (a) of this section must include
 10 leukemia, lymphoma, and bone marrow stem cell disorders.

11 (c) The coverage required by this section is subject to the standard policy
 12 provisions applicable to other benefits, including deductible or copayment provisions.

13 (d) This section does not apply to a fraternal benefit society.

14 (e) In this section,

15 (1) "approved clinical trial related to cancer" means a scientific study
 16 using human subjects designed to test and improve prevention, diagnosis, treatment, or
 17 palliative care of cancer, or the safety and effectiveness of a drug, device, or procedure
 18 used in the treatment of cancer if the study is approved by

19 (A) an institutional review board that complies with 45 CFR
 20 Part 46; and

21 (B) one or more of the following:

22 (i) the United States Department of Health and Human
 23 Services, National Institutes of Health, or its institutes or centers;

24 (ii) the United States Department of Health and Human
 25 Services, United States Food and Drug Administration;

26 (iii) the United States Department of Defense;

27 (iv) the United States Department of Veterans' Affairs;

28 or

29 (v) a nongovernmental research entity abiding by
 30 current National Institute of Health guidelines;

31 (2) "routine patient care costs"

1 (A) means the costs incurred for medical care for an approved
 2 clinical trial related to cancer that would otherwise be covered under a health
 3 care insurance plan if the medical care was not in connection with an approved
 4 clinical trial related to cancer, including transportation for the patient that is
 5 primarily for and essential to the medical care;

6 (B) does not include the cost for

7 (i) a drug or device that is associated with the clinical
 8 trial that has not been approved by the United States Food and Drug
 9 Administration;

10 (ii) housing, companion expenses, or other nonclinical
 11 expenses associated with the clinical trial;

12 (iii) an item or service provided solely to satisfy data
 13 collection and analysis and not used in the clinical management of the
 14 patient;

15 (iv) an item or service excluded from coverage under
 16 the patient's health care insurance plan; and

17 (v) an item or service paid for or customarily paid for
 18 through grants or other funding.

19 * **Sec. 2.** AS 21.55.140(a) is amended to read:

20 (a) A state plan may not provide benefits for charges for the following:

21 (1) care for an injury or disease either

22 (A) arising out of and in the course of an employment subject
 23 to a workers' compensation or similar law or where the benefit is available to
 24 be provided under a workers' compensation policy or equivalent self-insurance
 25 to a sole proprietor, business partner, or corporation officer; or

26 (B) to the extent benefits are payable without regard to fault
 27 under a coverage statutorily required to be contained in a motor vehicle or
 28 other liability insurance policy or equivalent self-insurance;

29 (2) treatment for cosmetic purposes other than surgery for the prompt
 30 repair of an accidental injury sustained while covered or for replacement of an
 31 anatomic structure removed during treatment of tumors;

- 1 (3) travel, other than transportation covered under AS 21.55.110(17);
- 2 (4) private room accommodations to the extent it is in excess of the
- 3 institution's most common charge for a semiprivate room;
- 4 (5) services or articles to the extent that the charge exceeds the
- 5 reasonable charge in the locality for the service;
- 6 (6) services or articles that are determined not to be medically
- 7 necessary, except for the fabrication or placement of the prosthesis as specified in
- 8 AS 21.55.110(12) and (2) of this subsection;
- 9 (7) services or articles that are not within the scope of the license or
- 10 certificate of the institution or individual rendering the services or articles;
- 11 (8) services or articles furnished, paid for, or reimbursed directly by or
- 12 under any law of a government, except as otherwise provided in this chapter;
- 13 (9) services or articles for custodial care or designed primarily to assist
- 14 an individual in the activities of daily living;
- 15 (10) service charges that would not have been made if no insurance
- 16 existed or that the covered individual is not legally obligated to pay;
- 17 (11) eyeglasses, contact lenses, or hearing aids or the fitting of them;
- 18 (12) dental care not specifically covered by this chapter;
- 19 (13) services of a registered nurse who ordinarily resides in the
- 20 covered individual's home, or who is a member of the covered individual's family or
- 21 the family of the covered individual's spouse;
- 22 (14) experimental procedures, except during an approved clinical
- 23 trial related to cancer; in this paragraph, "approved clinical trial related to
- 24 cancer" has the meaning given in AS 21.42.410; and
- 25 (15) services and supplies for which the patient was not charged.

26 * **Sec. 3.** AS 47.07.030 is amended by adding a new subsection to read:

27 (e) The department shall provide the services set out in (a) and (b) of this

28 section to an eligible person, notwithstanding the person's participation in an approved

29 clinical trial related to cancer. In this subsection, "approved clinical trial related to

30 cancer" has the meaning given in AS 21.42.410.

31 * **Sec. 4.** This Act takes effect January 1, 2010.