

SENATE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR HUGHES

Introduced: 1/21/20

Referred: Labor and Commerce, Finance

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 average price paid; relating to filing and reporting requirements; relating to**
4 **municipal regulation of disclosure of health care services and price information; and**
5 **providing for an effective date."**

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

7 * **Section 1.** The uncoded 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 18.23.400 is amended by adding a new subsection to read:

12 (o) If a patient who is uninsured requests an estimate under (g) of this section,
13 the health care provider shall

(1) include in the estimate of total charges any financial assistance available to the patient from the health care provider; and

(2) direct the patient or the patient's authorized agent to Internet websites, if available, that provide information about standard charges for the type of health care provider that provides the health care service.

* **Sec. 3.** AS 21.06.110 is amended to read:

Sec. 21.06.110. Director's annual report. As early in each calendar year as is reasonably possible, the director shall prepare and deliver an annual report to the commissioner, who shall notify the legislature that the report is available, showing, with respect to the preceding calendar year,

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

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

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

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

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

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

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

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

(9) the total amount of contributions reported and the total amount of

1 credit claimed under AS 21.96.070;

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

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

8 **(12)** other pertinent information and matters the director considers
9 proper.

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

11 **Sec. 21.96.210. Access to payment information.** A health care insurer shall
12 establish an interactive mechanism for use by a covered person on the publicly
13 accessible Internet website of the health care insurer that allows a covered person to
14 request and obtain from the health care insurer, or a designated third party,
15 information on the payments made by the health care insurer to network health care
16 providers for health care services. The interactive mechanism must allow a covered
17 person seeking information about the cost of a particular health care service to
18 compare prices among network health care providers for the incentive program under
19 AS 21.96.220.

20 **Sec. 21.96.220. Incentive program.** (a) A health care insurer shall develop
21 and implement a program that provides an incentive for a covered person enrolled in a
22 health care insurance plan to elect to receive a health care service that is covered under
23 the health care insurance plan from a health care provider that charges less than the
24 average price paid by the health care insurer for that health care service. At a
25 minimum, a health care insurer shall include the following categories of health care
26 services, and any other categories adopted by the director by regulation, in the health
27 care insurer's incentive program:

- 28 (1) physical and occupational therapy services;
- 29 (2) obstetrical and gynecological services;
- 30 (3) radiology and imaging services;
- 31 (4) laboratory services;

- 1 (5) infusion therapy;
- 2 (6) dental services;
- 3 (7) vision services;
- 4 (8) behavioral health services;
- 5 (9) inpatient or outpatient surgical procedures; and
- 6 (10) outpatient nonsurgical diagnostic tests or procedures.

7 (b) A health care insurer shall provide an incentive as a cash payment to the
8 covered person as provided under this subsection. An incentive may be calculated as a
9 percentage of the difference in price, as a flat dollar amount, or by some other
10 reasonable methodology adopted by regulation. If a covered person receives coverage
11 under a group health insurance policy offered by an employer, an incentive must
12 provide a covered person with at least 33.4 percent of the savings for the health care
13 insurer resulting from the covered person's election to receive a health care service
14 from a health care provider that charges less than the average price paid by the health
15 care insurer for that health care service, and the employer shall receive at least 33.3
16 percent of the savings resulting from the covered person's election. If a covered person
17 receives coverage under a health insurance policy offered in the individual market, an
18 incentive must provide a covered person with at least 50 percent of the savings for the
19 health care insurer resulting from the covered person's election.

20 (c) A health care insurer shall base the average price for a health care service
21 under this section on the average amount paid to in-network health care providers for
22 the health care service within a reasonable period, not to exceed one year.

23 **Sec. 21.96.230. Availability of program; notice.** A health care insurer shall
24 make an incentive program under AS 21.96.220 available as a component of all health
25 care insurance plans offered in this state. Annually, at enrollment or renewal, a health
26 care insurer shall provide notice about the availability of the program to any person
27 covered under a health care insurance plan eligible for the program.

28 **Sec. 21.96.240. Filing requirements.** Before offering an incentive program
29 under AS 21.96.220, a health care insurer shall file a description of the program with
30 the director in the manner determined by the director. The director may review the
31 filing to determine whether the incentive program complies with the requirements of

1 AS 21.96.210 - 21.96.300.

2 **Sec. 21.96.250. Out-of-network health care providers.** If a covered person
3 participates in an incentive program under AS 21.96.220 and elects to receive a health
4 care service listed under AS 21.96.220(a) from an out-of-network health care provider
5 that results in a savings for the health care insurer, the health care insurer shall apply
6 the amount paid for the health care service toward the cost sharing owed by the
7 covered person as specified in the applicable health care insurance plan as if the health
8 care services were provided by an in-network health care provider.

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

12 **Sec. 21.96.270. Reporting requirements.** (a) A health care insurer shall
13 annually file a report with the director relating to an incentive program under
14 AS 21.96.220 for the most recent calendar year that includes

- 15 (1) the total number of incentive program payments;
- 16 (2) information on the use of the incentive program by category of
17 service;
- 18 (3) the total amount of incentive program payments;
- 19 (4) the average amount of each incentive program payment for each
20 category of service;
- 21 (5) the total savings achieved below the average price of the health
22 care service in each category of service; and
- 23 (6) the total number and percentage of covered persons who
24 participated in the incentive program.

25 (b) Annually, by April 1, beginning April 1, 2021, the director shall submit an
26 aggregate report for all health care insurers with the information required under (a) of
27 this section to the chairs of the committee in each house of the legislature with
28 jurisdiction over labor and commerce.

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

- 30 (1) "health care insurance plan" has the meaning given in
31 AS 21.54.500;

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

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

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

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

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

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

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

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

(c) In this section,

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

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

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

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

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

DEPARTMENT OF ADMINISTRATION ANALYSIS; REPORT TO LEGISLATURE. The Department of Administration shall analyze whether the state or employees covered by a group health care insurance policy for a participating governmental unit would benefit if a group health care insurance policy obtained or provided under AS 39.30.090 or 39.30.091 were required to comply with the provisions of AS 21.96.210 - 21.96.300, added by sec. 4 of this Act. The Department of Administration shall complete the analysis and compile the information into a report to the legislature, submit the report to the senate secretary and chief clerk of the house of representatives before January 31, 2021, and notify the legislature that the report is available.

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

3 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
4 Economic Development may adopt regulations necessary to implement this Act. The
5 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
6 effective date of the law implemented by the regulation.

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

8 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2021.