

SENATE BILL 367

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 56 and Title 71, relative to health insurance.

WHEREAS, it is the intent of the General Assembly to afford patients the right to choose proton therapy as a covered benefit if their physician determines it will result in the best clinical outcome; and

WHEREAS, it is further the intent of the General Assembly to establish parity among the various methods of delivering radiation therapy and to further research and facilitate the accumulation of proton treatment data; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following new section:

(a) This section shall be known and may be cited as the "Cancer Patient Choice Act."

(b) As used in this section:

(1) "Aggregate amount" means the total amount paid by a health insurer for the applicable CPT code to deliver a biological effective dose;

(2) "Biological effective dose" means the total, prescribed radiation dose delivered in a course of radiation therapy treatments to induce tumor cell death;

(3) "CPT code" means the unique numerical designations established by the American Medical Association for various medical, surgical, and diagnostic services used in billing healthcare services;

(4) "Eligible adult patient" means a patient who is more than eighteen (18) years of age and is prescribed proton therapy for the treatment of cancer in place of IMRT;

(5) "Health insurance coverage" has the same meaning as in § 56-7-109;

(6) "Health insurance entity" has the same meaning as in § 56-7-109;

(7) "Hypofractionated proton therapy protocol" means a cancer treatment protocol that involves the delivery of fewer, larger treatment doses with proton therapy to deliver the same biological effective dose and achieve the same curative effect as x-ray radiation therapy delivered in smaller treatment doses over an extended period of time;

(8) "Intensity modulated radiation therapy" or "IMRT" means a type of conformal radiation therapy that delivers x-ray radiation beams of different intensities from many angles for the treatment of tumors;

(9) "Proton therapy" means the advanced form of radiation therapy that utilizes protons as an alternative radiation delivery method for the treatment of tumors;

(10) "Radiation therapy" means the delivery of a biological effective dose with proton therapy, IMRT, brachytherapy, stereotactic body radiation therapy, three-dimensional (3D) conformal radiation therapy, or other forms of therapy using radiation; and

(11) "Treatment dose" means the amount of radiation delivered in a single treatment or fraction of radiation therapy.

(c) All health insurance coverage that covers IMRT for the delivery of a biological effective dose for a particular indication shall cover the delivery of the same biological effective dose for an eligible adult patient for the same indication by a physician-prescribed hypofractionated proton therapy protocol on the same basis; provided, that the patient is treated as part of a clinical trial or registry. The amount of reimbursement

for the course of a hypofractionated proton therapy protocol shall be calculated pursuant to this section.

(d) For a hypofractionated proton therapy protocol to be covered pursuant to this section, the radiation oncologist prescribing a hypofractionated proton therapy protocol must:

(1) Be board certified or board eligible in the specialty of radiation oncology; and

(2) Determine what the standard course of IMRT for the eligible adult patient's indication would be, if the patient were treated with IMRT instead of a hypofractionated proton therapy protocol to deliver the same biological effective dose.

(e) Reimbursement for a hypofractionated protocol shall be calculated as follows:

(1) The health insurer shall reimburse for the applicable proton therapy CPT code per treatment dose at one hundred thirty percent (130%) of the amount reimbursed by medicare for such CPT code as shown in the then current Tennessee Medicare Physician Fee Schedule published by the medicare administrative contractor;

(2) The health insurer shall reimburse for up to twenty (20) treatment doses;

(3) The aggregate amount for a hypofractionated proton therapy protocol shall not be greater than the aggregate amount for a standard course of IMRT treatment for the same indication, as determined pursuant to subsection (d); and

(4) Any other services or procedures that are billed as part of a course of either proton therapy or IMRT treatment shall be billed at the usual and customary rates pursuant to the applicable CPT codes.

(f) The benefits required by this section are subject to the annual deductible and co-insurance established for radiation therapy and other similar benefits within the policy or contract of insurance; provided, that the annual deductible and co-insurance for any radiation therapy delivery method permitted by this section shall not be greater than the annual deductible and co-insurance established for all other similar benefits within that policy or contract of insurance.

(g) Notwithstanding § 56-7-1005, this section does not apply to:

(1) The medical assistance program under title 71, chapter 5, or any successor program; or

(2) State, local education, and local government group insurance plans offered under title 8, chapter 27.

(h) This section is deleted on July 1, 2019, and is no longer effective on or after that date.

Section 2. This act shall take effect on July 1, 2017, the public welfare requiring it, and shall apply to all contracts entered into or renewed on or after that date.