

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 367 – HB 523

February 2, 2018

**SUMMARY OF ORIGINAL BILL:** Creates the *Cancer Patient Choice Act*. Requires any health insurance policy which covers intensity modulated radiation therapy (IMRT) for the delivery of a biological effective dose for a particular indication to 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, as defined in the legislation. Excludes from the provisions of this legislation TennCare or any successor program, and any state, local education, or local government group insurance plans. The legislation shall become effective on July 1, 2017; however, the provisions of the legislation shall be deleted on July 1, 2019.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$1,802,400/FY17-18  
\$1,802,400/FY18-19

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for hypofractionated proton therapy treatment being provided by plans that do not currently offer these benefits at the proposed mandated levels. It is estimated that the increase to each individual's total premium will be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) depending on the type of plan.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue – Exceeds \$1,802,400/FY17-18  
\$1,802,400/FY18-19

Increase Business Expenditures – Less than \$1,802,400/FY17-18  
Less than \$1,802,400/FY18-19

**SUMMARY OF AMENDMENTS (006302, 011343):** Amendment 006302 deletes all language after the enacting clause. Requires the state group insurance program to cover a physician prescribed hypofractionated proton therapy to deliver a biological effective dose by paying the same aggregate amount as would be paid for the delivery of the same biological effective dose with IMRT for the same indications, upon the following conditions being

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satisfied: coverage is provided to an eligible patient who is being treated as part of a clinical trial or registry and the radiation oncologist prescribing the hypofractionated proton therapy protocol is board certified or board eligible in the specialty of radiation oncology. If these conditions are met, a course of hypofractionated proton therapy may be provided; however, the aggregate cost to provide such therapy must be equal to the average cost paid by the state for an entire course of IMRT treatment to deliver the same biological effective dose.

Requires that separate aggregate amounts be established for various disease indications, such as breast, prostate, lung, head and neck, and gastrointestinal by reference to the amount paid for a course of IMRT treatment for each indication under the state group insurance program.

Requires that such aggregate amount provided to cover the cost of the course of hypofractionated proton therapy be paid in a single payment. Subjects such coverage to annual deductible and co-insurance payments; however, such payments may not exceed the annual deductible and co-insurance established for all other similar benefits within a policy or contract of insurance. Notwithstanding Tenn. Code Ann. §56-7-1005, the provisions of this legislation shall only apply to the state group insurance program. This legislation shall become effective January 1, 2018.

Amendment 011343 changes the effective date for the bill as amended by 006302 from January 1, 2018, to “upon becoming law”.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **NOT SIGNIFICANT**

**Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111):** Such legislation could result in an increase in the cost of health insurance premiums for hypofractionated proton therapy treatment being provided by the state group insurance plan. It is estimated that the increase in premiums could be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) depending on the type of plan.

Assumptions for the bill as amended:

- This legislation will require coverage of hypofractionated proton therapy for members of the state group insurance program; however, the cost paid by the state cannot exceed the aggregate cost to provide a similar biological dose through IMRT.
- Any cost to provide a course of hypofractionated proton therapy will substitute a course of IMRT, and be cost neutral; therefore, this legislation is estimated to have no significant impact on state or local government expenditures associated with those plans.
- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the legislation. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.

- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration, this legislation will be difficult to implement because the net neutral language provided in the legislation does not take into account that the aggregate cost for a course of IMRT is dependent upon the provider the patient would have used for IMRT because these rates are negotiated between carriers and providers.
- According to the study, “Variation in the Cost of Radiation Therapy Among Medicare Patients with Cancer,” (*Journal of Oncology Practice* 11, no. 5 (September 2015) 403-409.), which analyzed cost data of 55,200 patients from the National Cancer Institute’s SEER program, the average cost increase per patient to provide a standard course of proton therapy relative to a course of IMRT was \$11,000.
- This legislation provides that no deductible or co-insurance payment made by members of the state group insurance plan for hypofractionated proton therapy may exceed such payments made for other similar benefits.
- Dependent on a healthcare professional’s directive to the patient, the election by such providers to submit the patient to a course of hypofractionated proton therapy, in lieu of a course of IMRT, will be considerably more expensive.
- It is assumed that the cost neutrality language in the legislation will incentivize healthcare providers to elect IMRT over hypofractionated proton therapy, as there is no guarantee that the increased cost to provide hypofractionated proton therapy will be reimbursed by the health insurer.
- To the extent that healthcare providers direct patients to hypofractionated proton therapy over IMRT, members of the state group insurance plan will experience an increase in premium payments to cover such increase in costs.

**IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**NOT SIGNIFICANT**

Assumptions for the bill as amended:

- Due to the cost neutrality language in the legislation, the state is only required to pay the cost for a course of hypofractionated proton therapy up to the aggregate amount that would have been incurred in providing a course of IMRT.
- It is assumed that the cost neutrality language in the legislation will incentivize healthcare providers to elect IMRT over hypofractionated proton therapy, as there is no guarantee that the increased cost will be reimbursed by the health insurer.
- Any increase in costs incurred by the insurance company to cover hypofractionated proton therapy for members of the state group insurance plan will result in a corresponding increase in premiums paid by such members.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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