

HOUSE BILL 883

By Holsclaw

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 those covered under the State group health insurance program 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 under the State group health insurance program 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 as a new section:

56-7-2369.

(a) This section shall be known and may be cited as the "Proton Therapy Access Act".

(b) As used in this section:

(1) "Aggregate amount" means the total amount paid under the state group insurance program 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 patient" means a patient who is prescribed proton therapy for the treatment of cancer;

(5) "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;

(6) "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;

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

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

(9) "State group insurance program" means health insurance provided under title 8, chapter 27; and

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

(c) The state group insurance program shall cover a physician prescribed hypofractionated proton therapy protocol to deliver a biological effective dose for a particular indication by paying the same aggregate amount as would be paid for the delivery of the same biological effective dose with IMRT for the same indication; provided, that the eligible 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 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) The aggregate amount shall be calculated as the cost of an IMRT treatment dose times the number of IMRT treatments required to deliver the prescribed biological effective dose for the particular indication, as determined by the eligible patient's radiation oncologist pursuant to subsection (d). The IMRT cost per treatment dose for purposes of performing the foregoing calculation shall be the usual and customary amount paid per IMRT treatment dose under the state group insurance program for the particular indication.

(f) The amount that the state group insurance program shall reimburse per treatment dose for hypofractionated proton therapy shall be calculated by dividing the aggregate amount as determined under subsection (e) by the number of treatment doses in the hypofractionated proton therapy protocol. The aggregate amount paid for a hypofractionated proton therapy protocol shall be no greater than the aggregate amount for a standard course of IMRT treatment for the same indication. Any other services or procedures that are billed as part of a course of either hypofractionated proton therapy

or IMRT treatment shall be covered at the usual and customary rates pursuant to the applicable CPT codes.

(g) The benefits required by this section shall be subject to the annual deductible and co-insurance established for radiation therapy and other similar benefits within the policy or contract of insurance. The annual deductible and co-insurance for any radiation therapy delivery method permitted by this section shall be no greater than the annual deductible and co-insurance established for all other similar benefits within that policy or contract of insurance.

SECTION 2. This act shall take effect January 1, 2018, the public welfare requiring it.