

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 390

As Amended by Senate Committee of the Whole

Brief*

SB 390, as amended, would enact new law to specify insurance coverage provisions for orally administered anti-cancer medications and amend the existing genetic testing law.

Orally Administered Anti-Cancer Medications

The bill would require all individual or group health insurance policies or contracts (including the municipal group-funded pool and the State Employee Health Plan) that provide coverage for prescription drugs, on and after July 1, 2011, to provide coverage for prescribed, orally administered anti-cancer medications used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits. Insurance policies, contracts, or other agreements would be permitted to apply the same deductibles, coinsurance and other limitations as apply to other covered services.

The bill would require that from and after the effective date of the act (publication in statute), the provisions for coverage of orally administered anti-cancer medications apply to the State Employees Health Care Benefits Program. The State Health Care Commission, pursuant to KSA 40-2249a (the law that requires a pilot project in the State Employee Health Plan, commonly referred to as a "test track," for new mandated health insurance coverage for a specified health care benefit or provider of health care services), would be required to submit

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

a report to the Senate President and the House Speaker that indicates the impact the provisions for orally administered anti-cancer medications has had on the State Health Care Benefits Program, including data on the utilization and costs of such coverage. The report also would be required to include a recommendation on whether such coverage should continue for the State Health Care Benefits Program or whether additional utilization and cost data is required. The report must be provided to the legislative representatives on or before March 1, 2011.

Genetic Testing Requirements

The bill also would establish additional restrictions (to those established in current law) on insurance companies that require larger premiums for coverage based on obtaining a genetic test or the results of a genetic test, or that adjust premiums based on obtaining a genetic test or the results of a genetic test.

The bill would specify that the genetic testing provisions in law would apply to group policies and certificates of coverage or individual policies that provide hospital, medical or surgical expense benefits.

Background

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated that regulations to implement the provisions of the federal Genetic Information Nondiscrimination Act of 2008 [PL 110-233] were made public on October 1, 2009. The representative stated that after review of the Act and related regulations, the Department introduced the bill to update Kansas law to include some of the new consumer protections that were part of the federal Act. The representative further stated that voluntary testing may be beneficial for both insureds and the insurance companies and the amendments included in the bill would permit such voluntary

testing to occur while protecting the interests of insureds. There were no other proponents to the bill and no opponents to the bill present at the Committee hearing.

The Senate Committee on Financial Institutions and Insurance recommended amendments to the bill to delete provisions that would have allowed insurance companies to request, but not require, a covered individual or family member to undergo testing (subject to conditions specified in the bill).

The Senate Committee of the Whole recommended an amendment to the bill to include insurance coverage provisions for orally administered anti-cancer medications. Coverage requirements (parity of coverage for orally and intravenously administered anti-cancer medications) were included in 2009 SB 195. However, SB 195 had an earlier date for application in insurance policies (July 1, 2009) and did not have provisions for the “test track” in the State Health Care Benefits Plan and required report to the Legislature.

The fiscal note prepared by the Division of the Budget on the original bill states that the Kansas Insurance Department indicates that policy forms would have to be reviewed and approved to ensure that no discriminatory provisions related to genetic testing were included. However, the agency could do this within current resources.