State Corporation Commission
2017 Fiscal Impact Statement

1. **Bill Number:** HB2267

   House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Filler-Corn

3. **Committee:** Commerce and Labor

4. **Title:** Health benefit plans; coverage for hormonal contraceptives.

5. **Summary:** Health benefit plans; coverage for hormonal contraceptives. Requires any health benefit plan that is amended, renewed, or delivered on or after January 1, 2017, that provides coverage for hormonal contraceptives to cover up to a 12-month supply of hormonal contraceptives when dispensed or furnished at one time for a covered person by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies. Such a plan is prohibited, in the absence of clinical contraindications, from imposing utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply. The measure does not require a provider to prescribe, furnish, or dispense 12 months of self-administered hormonal contraceptives at one time. The measure also provides that it shall not be construed to exclude coverage for hormonal contraceptives as prescribed by a provider for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

6. **Budget amendment necessary:** No

7. **Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission

8. **Fiscal implications:** None on the State Corporation Commission

9. **Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

10. **Technical amendment necessary:** No

11. Other comments: The State Corporation Commission Bureau of Insurance offered the patron the following comments on House Bill 2267:

- The definition of "provider" is a broader definition than normally found in Title 38.2 to describe providers for health benefit plans offered by health carriers, and encompasses persons and entities that would not normally dispense prescription contraceptives. Therefore, the Bureau recommended that the patron consider striking the definition on lines 51-67 and inserting the following definition of "provider:"

> *'Provider' means a facility, physician or other type of health care practitioner licensed, accredited, certified or authorized by statute to deliver or furnish health care items or services.*

- The effective date provided in the proposed legislation indicates a retroactive effective date: January 1, 2017. In order for carriers to be able to fully comply with this bill's provisions, the Bureau suggested a future date as the effective date on line 68.

- The Bureau advised the patron that House Bill 2267 appears to require coverage for hormonal contraceptives dispensed by nonparticipating providers or pharmacies, or at locations that do not participate in the provider network of a managed care health insurance plan. If the patron's intent of the bill is only to require coverage for the 12-month supply of hormonal contraceptives when dispensed by a participating provider, pharmacy or location, the Bureau suggested adding a new Subsection F:

> *F. Nothing in this section shall be construed to require a health carrier to cover hormonal contraceptives provided by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies, that does not participate in the health carrier's provider network, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.*

During the 2016 session, two bills were introduced requiring health carriers to pay for a 12-month supply of prescription contraceptives. Senate Bill 404 required Medicaid to reimburse for a 12-month supply of any prescribed drug or device approved by the FDA as a contraceptive. That bill was amended to be identical to House Bill 592 that required coverage for a 12-month supply of generic prescription oral contraceptives for plans that cover generic prescription oral contraceptives. The provisions did not apply to the state employee health plan. Senate Bill 404 was passed by indefinitely in the Senate Education and Health Committee, and HouseBill592 was left in House Commerce and Labor. Several states have implemented laws requiring that a one-year supply of prescription contraceptives be provided through their Medicaid programs. Additionally, several states added this requirement to private insurance as well.

House Bill 2267 does not address cost-sharing for the 12-month supply. However, under Virginia Code § 38.2-3442, coverage for preventive care services from in-network providers, including coverage for each FDA-approved contraceptive method for women, must be provided with no cost-sharing for non-grandfathered health benefit plans. If not available in-network, these services must be covered out-of-network at no cost sharing. Religious employer entities and grandfathered plans whose coverage does not include coverage of hormonal contraceptives would not be required to cover the 12-month supply under this section. Additionally, a grandfathered plan is able to apply cost-sharing to the 12-month supply.

Date: 01/25/17/V. Tompkins