

****REVISED****
State Corporation Commission
2016 Fiscal Impact Statement

1. Bill Number: HB702

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: McClellan

3. Committee: Commerce and Labor

4. Title: Health benefit plans; prescription drugs; tiers.

5. Summary: Health benefit plans; prescription drugs; tiers. Prohibits a health carrier offering a health benefit plan that provides coverage for prescription drugs from implementing a formulary that places a prescription drug on the highest cost-sharing tier unless at least one prescription drug that is in the same therapeutic class and is a medically appropriate alternative treatment for a given disease or condition is available at a lower cost-sharing tier under the formulary.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates: No Fiscal Impact on the State Corporation Commission. For the Department of Human Resource Management (DHRM), the fiscal impact estimate is unknown. See Line 8.

8. Fiscal implications: There is no fiscal impact on the State Corporation Commission.

However, according to the Department of Human Resource Management, the fiscal impact of House Bill 702 would range between \$160,000 and \$350,000 depending upon which drugs would be moved to a lower tier. This impact was based on 2015 claims from therapeutic classes that currently do not have a lower tiered alternative. It is not possible to predict which drugs within a therapeutic class would be moved to a lower tier to comply with the provisions of House Bill 702. For the purpose of this estimate, the most commonly utilized medication from each impacted class was lowered to tier 2. Utilization was estimated to increase for those medications lowered to tier 2 by 8.5%. Once these assumptions were factored, the minimum impact was \$160,000. However, if different medications were reclassified than were used in this analysis, or if more than one medication per class were reclassified, the impact could change. The estimated range of fiscal impact of between \$160,000 and \$350,000 attempts to account for these variables.

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance; the Department of Human Resource Management

10. Technical amendment necessary: No

11. Other comments: During the 2011 Session, the Joint Commission on Health Care (JCHC) agreed to conduct a study of specialty tier pricing and the impact on people with chronic conditions, and to look at options to lessen the impact, including statutory limitations on cost-sharing for these drugs. As a result of the study, JCHC members introduced legislation in the 2013 Session which would have allowed certain individuals to pay specialty drug copays in 12 monthly installments. The legislation failed. The 2014 General Assembly enacted legislation requiring at least 30 days' advance notice from carriers for drugs moved during the plan/policy year to a higher cost sharing tier.

Other legislation was introduced in 2014 proposing to (i) cap specialty tier drugs with a set copayment per month; (ii) institute an exception process for non-formulary specialty drugs, which if denied would be eligible for the external review process; and (iii) prohibit a carrier from placing all drug in a given class in a specialty tier. This legislation also failed. In 2015, the identical legislation (Senate Bill 1394) was introduced and ultimately referred to the Health Insurance Reform Commission (HIRC). The HIRC noted that the federal Center for Medicare and Medicaid Services (CMS) is considering implementation of a process to use when reviewing certification of qualified health plans that would examine the tier placement of drugs used to treat certain medical conditions. The HIRC then unanimously recommended that no additional action be taken on Senate Bill 1394. House Bill 702 requires the placement of no prescription drug at the highest cost-sharing tier unless there is at least one prescription drug at the lower cost-sharing tier of the formulary which is a medically appropriate alternative treatment for the condition.

Senate Bill 442 is identical to House Bill 702. On January 28, 2016, House Commerce and Labor Subcommittee #2 recommended laying House Bill 702 on the table.

Date: 01/29/16/V. Tompkins

cc: Secretary of Health and Human Resources