

# State Corporation Commission

## 2016 Fiscal Impact Statement

**1. Bill Number:** HB87

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed  
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

**2. Patron:** Byron

**3. Committee:** Commerce and Labor

**4. Title:** Health Insurance Reform Commission; assessments of legislation.

**5. Summary:** Health Insurance Reform Commission. Clarifies that it is the Centers for Medicare and Medicaid Services (CMS) or other appropriate federal agency that determines whether a proposed mandated health insurance benefit or provider exceeds the scope of the essential health benefits. The existing reference to the Exchange, also known as the federally facilitated Health Insurance Marketplace, is misplaced because the Exchange is a program, administered by CMS, through which health insurance is offered.

**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's Bureau of Insurance; Joint Legislative Audit and Review Commission

**10. Technical amendment necessary:** No

**11. Other comments:** The State Corporation Commission Bureau of Insurance provided the following comments to the patron of House Bill 87:

Proposed federal rules published December 2, 2015, include language that may create a conflict with the provisions of House Bill 87. Among a number of changes in the *Proposed Rules for the 2017 Benefit and Payment Parameters* ("Proposed Rules"), the Center for Medicare and Medicaid Services has proposed that each state will be responsible for identifying state-required benefits that are in addition to that state's Essential Health Benefits (EHBs). For your reference, the specific amendments in the Proposed Rules at 45 CFR §§ 155.170(a)(2) and (3) are copied below:

A ~~State-required~~ benefit ~~enacted~~ required by State action taking place on or before December 31, 2011 is not considered in addition to the essential health benefits an EHB. A benefit required by State action taking place on or after January 1, 2012, other than for purposes of compliance with Federal requirements, is considered in addition to the essential health benefits.

The ~~Exchange shall~~ State will identify which sState-required benefits are in excess of addition to the EHB.

CMS is currently considering comments received from a number of interested parties, including the National Association of Insurance Commissioners (NAIC), which objected to this particular amendment. At this time, however, the extent to which CMS will revise the proposed Rules in consideration of the comments received is unknown. CMS is expected to finalize the Proposed Rules in February/March of 2016.

An additional consideration raised to the patron is the proposed changes to 45 CFR §§ 155.170(a)(2) and (3), which do not specifically identify who or what agency or department within the state will have the responsibility of identifying the benefits that are "in addition to the EHBs." Should the final federal Rules incorporate the changes as proposed, there may be a need to identify legislatively the specific person or department charged with that responsibility in the Commonwealth.

**Date:** 01/13/16/V. Tompkins

cc: Secretary of Commerce and Trade  
Secretary of Health and Human Resources