

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** SB172-H1

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

2. **Patron:** Favola

3. **Committee:** Appropriations

4. **Title:** Health insurance; payment to out-of-network providers.

5. **Summary:** Provides that when a covered person receives covered emergency services from an out-of-network health care provider or receives out-of-network services at an in-network facility, the covered person is not required to pay the out-of-network provider any amount other than the applicable cost-sharing requirement. The measure also establishes a standard for calculating the health carrier's required payment to the out-of-network provider of the services. If such provider determines that the amount to be paid by the health carrier does not comply with the applicable requirements, the measure requires the provider and the health carrier to make a good faith effort to reach a resolution on the appropriate amount of the reimbursement and, if a resolution is not reached, authorizes either party to request the State Corporation Commission to review the disputed reimbursement amount and determine if the amount complies with applicable requirements. The measure provides that such provisions do not apply to an entity that provides or administers self-insured or self-funded plans; however, such entities may elect to be subject such provisions. The measure requires health carriers to make reports to the Bureau of Insurance and directs the Bureau to provide reports to certain committees of the General Assembly. The measure requires the nonprofit data services organization contracting with the Department of Health to operate the All-Payer Claims Database to convene an advisory work group to make recommendations for a methodology to be used for identifying codes for comparable emergency services and statistical adjustments to account for outlier payment amounts for each health planning region to be used for the market-based value calculation and submit its recommendations to the Commissioner of the Bureau of Insurance no later than December 31, 2020.

6. **Budget Amendment Necessary:** Indeterminate – see Item 8.

7. **Fiscal Impact Estimates:** Indeterminate – see Item 8.

8. **Fiscal Implications:** The fiscal impact the proposed legislation may have to the state health insurance plans is indeterminate at this time. According to the Department of Human Resource Management's actuary, Aon, the number of emergency services provided by out-of-network providers varies each year; however, the number of emergency services provided by out-of-network providers is expected to remain low compared to the total number of state health insurance claims.

Detailed data is not currently available that would allow for an estimation of the difference between the “market-based value,” as defined in the bill, and the rates currently paid to out-of-network providers for emergency services and services provided at in-network facilities by the state health insurance plan. The market-based value is based on a weighted average of payments from Medicare and the unweighted average of payments made from each commercial health carrier and it is currently unknown how resulting values would compare to payments currently made by the state health insurance plan to out-of-network providers. It is also unknown how any potential differences between such amounts may impact providers’ decisions regarding network participation or negotiations.

The proposed legislation is not expected to have a fiscal impact for the Department of Medical Assistance Services or Medicaid.

The proposed legislation may have a minimal fiscal impact for the Virginia Department of Health (VDH); however, the agency expects to absorb any costs needed to implement the proposed legislation within its current operating budget. Any costs for VDH would be associated with the administrative expenses incurred by the nonprofit organization responsible for maintaining the All-Payer Claims Database.

The State Corporation Commission expects to absorb any additional costs needed to implement the proposed legislation within its current operating budget.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission, Department of Human Resource Management, Department of Medical Assistance Services, and Virginia Department of Health.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to House Bill 1251-S1 (Torian).