Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB 766

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

2. **Patron:** Barker

3. **Committee:** Labor and Commerce

4. **Title:** Health care; explanation of benefits, sensitive health care services

5. **Summary:** The substitute bill requires health carriers and Medicaid managed care organizations to provide an explanation of benefits (EOB) to covered persons or recipients. The measure requires the State Corporation Commission (SCC) to adopt regulations that establish alternative methods of delivery of the explanation of benefits that permit the receipt of an explanation of benefits by an alternative method, provided that such alternative method is in compliance with the provisions of federal regulations regarding the right to request privacy protection for protected health information. The measure requires health carriers and Medicaid managed care organizations to take all reasonable actions to ensure that their internal processes and systems prohibit the identification or description of sensitive health care services in their explanations of benefits. The measure requires a health carrier that requires a covered person to make a request for confidential communications in writing in accordance with federal law to accept the form of the explanation of benefits approved by the Commission. The measure also requires the Commission to define "sensitive health care services." The measure will take effect 90 days after the Commission has adopted the required regulations. The measure is a recommendation of the Joint Commission on Health Care.

6. **Budget Amendment Necessary**: Yes, Item 313.

7. **Fiscal Impact Estimates Are Indeterminate:** See Item 8.

8. **Fiscal Implications:** As the provisions of this bill apply to Virginia's Medicaid program, the Department of Medical Assistance Services (DMAS) assumes that managed care organizations (MCO) would have to provide an EOB for all claims paid on behalf of enrollees. Historically, Medicaid MCOs only send EOBs to Medicaid enrollees when copayments were required. As fewer copays are collected, the number of EOBs have declined significantly. DMAS estimates that 61.4 million claims were paid by MCOs in calendar year 2019, of this number there were likely fewer than 60,000 EOBs sent to Medicaid enrollees.

   It is anticipated that the new requirements in this bill would increase administrative expenses for MCOs, which would then translate into higher capitation rates paid by DMAS. However, a specific fiscal impact cannot be determined at this time as key variables are subject to future regulations that would be adopted by the SCC. For example, it is unknown what

alternative delivery methods would be ultimately allowed or if EOBs are required for pharmacy claims. In addition, the EOB requirement would not go into effect until 90 days after the SCC has adopted regulations, so the date at which the first year of additional costs would begin is also unknown.

Should MCOs be required to provide EOBs on all Medicaid claims (including pharmacy) through traditional mailings, then costs could increase by approximately $43.0 million total funds annually. This is based on an estimate of $0.70 per EOB (for printing and postage) provided by the DMAS actuary. In addition, this bill would require DMAS and MCOs to create alternative access to EOBs and other information for enrollees. Any administrative costs incurred by MCOs to make these changes would also be included in future capitation rates.

No fiscal impact is expected for the State Corporation Commission.

9. **Specific Agency or Political Subdivisions Affected:**
   State Corporation Commission's Bureau of Insurance
   Department of Medical Assistance Services

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None