

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: HB5094

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Hodges

3. Committee: Labor and Commerce

4. Title: Health insurance; certain prescription drugs used for treatment of COVID-19.

5. Summary: Prohibits health insurers from requiring prior authorization for the use of any prescription drug in the treatment of COVID-19 that has received an Emergency Use Authorization from the U.S. Food and Drug Administration for such treatment.

6. Budget Amendment Necessary: No; see Item 8.

7. Fiscal Impact Estimates: Indeterminate; see Item 8.

8. Fiscal Implications:

Any potential impact to the state employee health insurance plan is indeterminate and would depend on the prescription drugs that may receive an Emergency Use Authorization (EUA) from the U.S. Food and Drug Administration (FDA) for COVID-19 treatment and how many prescriptions claims for such drugs would have otherwise been rejected through prior authorization protocols. Currently, there are no such prescription drugs that would be subject to prior authorization protocols under the state health insurance plan, as the only drug that has EUA (Remdesivir) for COVID-19 must be administered intravenously and therefore would be considered a medical benefit as opposed to a prescription benefit and would not be subject to prior authorization restrictions under the plan.

The provisions of this bill are expected to apply to all plans administered by the Department of Medical Assistance Services (DMAS) that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act. These programs are currently required to cover all FDA approved drugs, provided that they are medically necessary and that the manufacturer participates in the federal drug rebate program. As such, the singular requirement to cover prescription drugs for the treatment of COVID-19 is not expected to have a fiscal impact on the Medicaid and children's health insurance programs. However, HB 5094 would also preclude DMAS from implementing any prior authorization criteria on these COVID-19 drugs. Allowing any approved drug to be immediately dispensed without review could lead to increased costs. However, since no prescription drugs have received FDA approval for use in the treatment of COVID-19, the impact of prohibiting prior authorizations cannot be determined.

No fiscal impact is expected on the State Corporation Commission, according to the Commission.

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

10. Technical Amendment Necessary: The bill makes its provisions applicable to all insurers in the Commonwealth by the use of notwithstanding language. As such, it is assumed that all plans administered by the Department of Medical Assistance Services (DMAS) that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act would be subject to its provisions. However, if the intent is to include the DMAS plans, it is recommended that the bill modify “§ 38.2-4319. (Effective until October 1, 2020) Statutory construction and relationship to other laws” of the Code of Virginia to include the specific Code sections added/amended by this bill (§ 38.2-3407.11:6).

11. Other Comments: None.

Date: 8/27/2020