



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 3775 Introduced on January 28, 2021
Author: Robinson
Subject: Insurance
Requestor: House Medical, Military, Public, and Municipal Affairs
RFA Analyst(s): Miller
Impact Date: February 25, 2021

Fiscal Impact Summary

This bill requires any health benefit plan, including the State Benefit Plan, that covers the treatment of stage four advanced, metastatic cancer to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. This coverage must occur without first requiring the insured to fail to respond successively to different drugs or prove a history of failure of such drug or drugs.

This bill will result in no expenditure impact for the Department of Insurance (DOI) as it does not materially or fiscally alter the responsibilities of the agency.

However, the expenditure impact of this bill for the Public Employee Benefit Authority (PEBA) and all state agencies is undetermined. PEBA anticipates that this bill will result in an increase in cost of coverage for prescription drugs as described in the bill, which would likely result in an increase in state agency employer or employee contributions. However, this increase in cost of coverage is unknown. Additionally, the expenditure impact to the General Fund, Federal Funds, and Other Funds will depend on how individual agencies pay for any increased employer contributions. Therefore, this bill will result in an undetermined increase in General Fund, Federal Funds, and Other Funds expenditures.

Based upon our research, most cancer drugs launched between 2009 and 2014 were priced at more than \$100,000 per patient for one year of treatment, or approximately \$8,000 per month. As of 2018, there were launch prices of as much as or more than \$400,000 for a year of treatment. For illustrative purposes, for every 1,000 cases of stage four advanced, metastatic cancer patients that choose to use such a drug at the cost of \$8,000 per month for treatment the resulting results monthly impact to the State Benefit Plan and other insurance plans would be \$8,000,000.

Additionally, this bill is expected to increase insurance premiums and thereby increase General Fund and Other Fund insurance premium tax revenue due to the increased cost of coverage. However, as the increase to premiums is unknown, the increase to the General Fund and Other Funds insurance premium tax revenue is undetermined at this time. DOI is working to provide additional information on the anticipated impact to insurance premiums and thereby the impact

to General Fund and Other Fund insurance premium tax revenue. If additional information becomes available we will update this fiscal impact statement.

Explanation of Fiscal Impact

Updated for Revised Information on February 24, 2021

Introduced on January 28, 2021

State Expenditure

This bill requires any health benefit plan, including the State Benefit Plan, that covers the treatment of stage four advanced, metastatic cancer to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. This coverage must occur without first requiring the insured to fail to response successively to different drugs or prove a history of failure of such drug or drugs.

Currently, a person may be required, for insurance purposes, to try other insured drugs or treatments that must fail prior to receiving other drugs. This bill would allow a person to have insurance cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature

It is unclear whether this clarification of drug coverage within the established insurance coverage for treatment of stage four advanced, metastatic cancer will constitute a newly mandated benefit and therefore, would require a remittance from the State to insurers to cover any additional costs for coverage. However, if it is determined to be a newly mandated benefit that does not fall within one of the ten essential benefits under the Affordable Care Act (ACA), the State may be required to remit the increased cost. DOI is working to provide additional information on the anticipated impact to insurance premiums and thereby the impact to General Fund and Other Fund insurance premium tax revenue. If additional information becomes available we will update this fiscal impact statement.

Under the ACA, the State may be required to pay the cost of private insurers for mandated additional benefits. This determination rests on whether the services required by the bill are considered a new additional benefit or an extension of current benefits. At this time, the answer to these legal questions is unclear. There is no history of a state triggering the reimbursements or precedent for state payments for expanded coverage requirements, and the responsibilities of a state with regard to this component of the ACA have not been established. If State liability is established, then the estimated costs are described below. If litigation is required to resolve this issue, then additional expenses may be incurred.

The Department of Health and Environmental Control's (DHEC) South Carolina Cancer Profile as of March 2020 provides some information on cancer occurrences in the state. According to the profile, as of 2017, there were 27,766 new cases of cancer, which represented approximately 0.55 percent of the state's population, as of 2017. Additionally, the total number of lives lost due

to cancer in 2017 totaled 10,346. RFA has insufficient data at this time to determine what percentage of these new cases would qualify for drug coverage due to this bill.

Additionally, according to an article published on the National Cancer Institute's website "The Imperative of Addressing Cancer Drug Costs and Value", most cancer drugs launches between 2009 and 2014 were priced at more than \$100,000 per patient for one year of treatment, or approximately \$8,000 per month. As of the publication date of this article, 2018, there have been launch prices of as much as or more than \$400,000 for a year of treatment.

For illustrative purposes, for every 1,000 cases of stage four advanced, metastatic cancer patients that choose to drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature at a price of \$8,000 per patient per month results in a monthly cost of \$8,000,000 to insurance plans.

Despite the small number of individuals in the insurance pool, less than 0.55 percent of the state population, the potential cost of coverage for the treatment of stage four advanced, metastatic cancer that is approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature will likely result in an increase in the cost of insurance coverage, and thereby an increase in insurance premiums. The amount of this potential increase is undetermined.

Public Employee Benefits Agency (PEBA). This bill requires the State Benefit Plan to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. PEBA states this bill would affect products in the State Health Plan administered by both its pharmacy benefits contractor (self-administered medication) and its medical benefits contractor (physician-administered medication). Without specifics as to what products and practices the bill seeks to address, PEBA was not able to arrive at a precise fiscal impact. State Health Plan contractor utilization management practices follow National Comprehensive Cancer Network (NCCN) guidelines, so any barrier to access to best care is not evident to PEBA. Pharmacy claims do not contain diagnostic data, as such, PEBA's contractor does not know the cancer stage of the patient until after a review has been completed. PEBA expresses concern that this bill may stop all oncology-related Step Therapy and Authorization reviews. Based upon 2020 data, Oncology-related Step Therapy and Prior Authorizations resulted in \$2.9 M in cost savings, according to PEBA's pharmacy contractor, while adhering to the NCCN guidelines. This number does not include additional costs resulting from review restrictions for physician-administered medication, and also does not take into account changes in prescribing patterns that could come about as a result if this bill is enacted. Therefore, the potential expenditure impact to the State Health Plan and thereby all agencies premium costs is unknown. How each agency's funds it State Health Plan employer contributions will determine the potential expenditure impact to the General Fund and Other Funds.

Department of Insurance (DOI). This bill requires insurers to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. DOI does not anticipate this bill will result in a significant change in the agency's responsibilities. Therefore, this bill will have no expenditure impact for DOI.

State Revenue

This bill requires any health benefit plan, including the State Benefit Plan, that covers the treatment of stage four advanced, metastatic cancer to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. This coverage must occur without first requiring the insured to fail to response successively to different drugs or prove a history of failure of such drug or drugs. RFA anticipates this change in drug coverage may result in an increase in insurance premiums. As discussed above, while the number of stage four metastatic cancer patients relative to the total persons insured may be smaller, the cost of newer cancer drugs can be significant.

DOI is working to determine what impact this bill will have on insurance premiums within the state. If it is determined that this bill will result in an impact to insurance premiums then DOI will provide an actuarial analysis pursuant to §2-7-73. If additional information becomes available we will update this fiscal impact statement.

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 28, 2021

State Expenditure

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Currently, a person may be required, for insurance purposes, to try other insured drugs or treatments that must fail prior to receiving other drugs. This bill would allow a person to have insurance cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature

RFA does not anticipate that this clarification of drug coverage within the established insurance coverage for treatment of stage four advanced, metastatic cancer will constitute a newly

mandated benefit and therefore, will not result in remittance from the State to insurers to cover any additional costs for coverage. However, if it is determined to be a newly mandated benefit that does not fall within one of the ten essential benefits under the Affordable Care Act (ACA), the State may be required to remit the increased cost.

Under the ACA, the State may be required to pay the cost of private insurers for mandated additional benefits. This determination rests on whether the services required by the bill are considered a new additional benefit or an extension of current benefits. At this time, the answer to these legal questions is unclear. There is no history of a state triggering the reimbursements or precedent for state payments for expanded coverage requirements, and the responsibilities of a state with regard to this component of the ACA have not been established. If State liability is established, then the estimated costs are described below. If litigation is required to resolve this issue, then additional expenses may be incurred.

Public Employee Benefits Agency (PEBA). This bill requires the State Benefit Plan to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. PEBA is working to determine what if any expenditure impact this bill will have on the State Benefit Plan. The impact of this bill is pending, contingent upon an additional response from PEBA.

Department of Insurance (DOI). This bill requires insurers to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. DOI does not anticipate this bill will result in a significant change in the agency's responsibilities. Therefore, this bill will have no expenditure impact for DOI.

State Revenue

This bill requires any health benefit plan, including the State Benefit Plan, that covers the treatment of stage four advanced, metastatic cancer to cover any drug approved by the United States Food and Drug Administration that is consistent with best practices for the treatment of stage four advanced metastatic cancer and is supported by peer-reviewed literature. This coverage must occur without first requiring the insured to fail to respond successively to different drugs or prove a history of failure of such drug or drugs. RFA anticipates this change in drug coverage may result in an increase in insurance premiums. While the number of stage four metastatic cancer patients relative to the total persons insured may be smaller, the cost of newer cancer drugs can be significant. DOI is working to determine what, if any, impact this bill will have on insurance premiums within the state. If it is determined that this bill will result in an impact to insurance premiums then DOI will provide an actuarial analysis pursuant to §2-7-73. Therefore, the General Fund and Other Fund revenue impact is pending, contingent upon an additional response from DOI.

Local Expenditure & Revenue

N/A



Frank A. Rainwater, Executive Director