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FISCAL NOTE

Drafting Number: LLS 18-1143 Date: April 18, 2018
Prime Sponsors: Rep. Esgar; Singer; Sen. Jahn Bill Status: House Health, Insurance, and Environment
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Bill Topic: DRUG COVERAGE HEALTH PLAN

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill limits the ability of health insurers to modify coverage for prescription drugs after the start of the year for a health plan. This will minimally increase state agency workload and potentially increase state and local costs for employee health insurance on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill prohibits a health insurer from excluding or limiting drug coverage for an individual if:

- the drug was covered at the time the individual enrolled in the health plan;
a health care provider continues to prescribe the drug for the individual; and
the drug is safe and effective, as determined by the prescribing health care provider.

In addition, a health insurer cannot increase a covered individual's copayment, coinsurance, or deductible for prescription drug benefits during the plan year or set limitations on maximum coverage for prescription drugs. If a health insurer uses a tiered formulary, it cannot move drugs to a disadvantaged tier if the three conditions listed above are met. The bill allows the health insurer to provide coverage for a generic drug or biosimilar product in place of the original drug if such a generic drug or biosimilar product is introduced into the market and it is prescribed by the covered person's provider.

## **State Expenditures**

This bill increases workload and costs in two areas, as described below.

**Department of Regulatory Agencies.** The Division of Insurance in the Department of Regulatory Agencies will have additional workload starting in FY 2018-19 to receive and review consumer complaints and questions regarding drug coverage under health insurance plans. This workload is assumed to be minimal and can be accomplished within existing appropriations.

**State employee insurance.** The bill's prohibition on mid-year changes to prescription drug coverage may contribute to higher health insurance premiums by limiting the ability of an insurer to respond to price increases by drug manufacturers, which may impact costs for state agencies. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this bill is not expected to affect the state's share of employee health insurance premiums until FY 2019-20. Because insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any increase caused by the bill will be addressed through the total compensation analysis included in the annual budget process.

## **Local Government Impact**

If the bill increases the drug costs paid by health insurers, local governments that provide state-regulated health insurance plans to their employees may experience an increase in premiums beginning January 1, 2019.

## **Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

## **State and Local Government Contacts**

Health Care Policy and Financing  
Personnel

Information Technology  
Regulatory Agencies