



**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.*

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**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 17, 2021

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### **Fiscal Impact Summary**

This fiscal impact of this bill is pending contingent upon additional response from the Department of Insurance (DOI) and Public Employee Benefit Authority (PEBA).

### **Explanation of Fiscal Impact**

#### **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

RFA does not anticipate that this clarification of drug coverage within the established insurance coverage for treatment of state 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 is 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. 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**

N/A

### **Local Revenue**

N/A



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Frank A. Rainwater, Executive Director