LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 5, 2003

TO: Honorable Dianne White Delisi, Chair, House Committee on State Health Care Expenditures, Select

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB1804** by Delisi (Relating to the operation of the Medicaid vendor drug program, including the adoption of a preferred drug list and the negotiation of supplementa drug rebates.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1804, Committee Report 1st House, Substituted: a positive impact of $16,170,699 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	$5,193,155
2005	$10,977,544
2006	$10,965,314
2007	$10,965,314
2008	$10,965,314

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from *GR MATCH FOR MEDICAID* 758	Probable (Cost) from *GR MATCH FOR MEDICAID* 758	Probable Savings/ (Cost) from *FEDERAL FUNDS* 555	Probable Revenue Gain/(Loss) from *FEDERAL FUNDS* 555
2004	$7,721,755	($6,752,976)	$6,072,903	$6,389,635
2005	$16,077,544	($14,246,056)	$6,429,047	$14,026,025
2006	$16,065,314	($14,239,099)	$5,548,551	$14,050,698
2007	$16,065,314	($14,239,099)	$5,548,551	$14,050,698
2008	$16,065,314	($14,239,099)	$5,548,551	$14,050,698

Fiscal Year	Probable Revenue Gain from *VENDOR DRUG REBATES-MEDICAID* 706
2004	$4,224,376
2005	$9,146,056
2006	$9,139,099
2007	$9,139,099
2008	$9,139,099

Fiscal Analysis

The bill is similar to recommendation HHS 8, "Improve Purchasing of Prescription Drugs" from the Comptroller's e-Texas report, *"Limited Government, Unlimited Opportunity"*.

The bill would require the Health and Human Services Commission (HHSC) to contract with a Pharmacy Benefit Manager (PBM) to establish a preferred drug list and negotiate rebates and discount prices for brand name prescription drugs within Medicaid Vendor Drug Program. If the manufacturer does not agree to rebates or discount prices on the brand name drugs, the PBM would be required to place their products on a list requiring prior authorization in Medicaid. Prior authorization requirements, however, could be circumvented if the prescribing physician communicates that the drug is medically necessary.

The bill differs with *e-Texas* HHS-8 as follows: (1)HIV/AIDS and certain mental health-related drugs and drugs for treating those with cancer and hemophilia are exempted from the preferred drug list,(2) generic drugs are exempted from the preferred drug list, (3) a physician may communicate to a pharmacist that a drug is medically necessary thereby bypassing prior authorization, and (4)current clients with prescriptions that are not on the Preferred Drug List are grand-fathered in until the end of their refills.

Methodology

To estimate the cost and savings associated with the implementation of a preferred drug list, Medicaid Vendor Drug Program expenditures are held at fiscal year 2003 levels, $721,723,593 in General Revenue.

It is assumed that HIV/AIDS and mental health-related drugs comprise approximately 17.2 percent of all Vendor Drug Program drug expenditures. Drugs for treating cancer patients comprise 1.18 percent and drugs for treating hemophilia comprise 1.4 percent. Generic drugs comprise 15 percent.

It is assumed that one-third of current Medicaid clients would have a refill of a medication that was not on the Preferred Drug List for a period of three months in fiscal year 2004.

It is assumed that the program would be implemented by March 1, 2004.

The market shift created through prior authorization is assumed based upon a 25 percent redirection to a 20 percent less expensive drug. The Pharmacy Benefits Manager's ability to direct clients to a less expensive drug was greatly decreased due to the ability of a physician to communicate that a non-preferred drug was medically necessary without going through the prior authorization process. Supplemental rebates are assumed to be negotiated at 2 percent and are calculated after reducing the drug expenditures by the savings due to redirection. In light of the mechanism to circumvent the prior authorization process, it is assumed that drug manufacturers would not as readily enter into supplemental rebates agreements. It is assumed that supplemental rebates would be expended to offset program costs.

It is assumed that the administration of the program would require a Pharmacy Benefit Manager (PBM) to maintain the Preferred Drug List, manage the prior authorization process, perform pharmacy liaison functions, and other administrative tasks. The PBM-associated costs are estimated to be $10 million per year. The mechanism to circumvent the prior authorization process would add an additional responsibility.

Technology

The costs of the Department of Human Services (DHS) MIS automation for the Medicaid Vendor Drug Program are paid through the Health and Human Services Commission interagency contract with DHS and are included in this cost estimate at 1,000 programming hours at $100 per hour and 400 hours of programming changes to PRIMS at $26 per hour for a total cost or $110,400 for fiscal year 2004.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission
LBB Staff: JK, JO, EB, KF, AJ