

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 31, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1218 by Howard, Donna (Relating to programs to exchange certain health information between the Health and Human Services Commission and certain health care entities and facilities.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1218, Conference Committee Report: a negative impact of (\$2,916,000) through the biennium ending August 31, 2011.

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
2010	(\$1,666,000)
2011	(\$1,250,000)
2012	(\$1,250,000)
2013	(\$1,250,000)
2014	(\$1,250,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Federal Funds</i> 555
2010	(\$1,666,000)	(\$2,498,000)
2011	(\$1,250,000)	(\$1,250,000)
2012	(\$1,250,000)	(\$1,250,000)
2013	(\$1,250,000)	(\$1,250,000)
2014	(\$1,250,000)	(\$1,250,000)

Fiscal Analysis

Section 1 adds Subchapter V, Health Information Exchange Systems, to Chapter 531, Government Code.

Added Section 531.902 requires the Health and Human Services Commission (HHSC) to establish an electronic health information exchange pilot project in at least one urban area of the state with the participation of at least two local or regional health information exchanges. The bill would require, at a minimum, the exchange of a patient's medication history between HHSC and the selected health information exchanges under the pilot project. If determined that there would be no significant cost to

the state, HHSC would be required to apply for and actively pursue any waiver from the Centers for Medicare and Medicaid Services (CMS) that may be necessary for the pilot project and to actively pursue a waiver to use an electronic alternative to the requirement for handwritten certification of certain drugs under federal statute. The pilot may include additional health care information either at inception or in a subsequent expansion. The agency could accept gifts, grants and donations for the pilot project.

Added Sections 531.903-531.911 requires HHSC to develop an electronic health information exchange system to be implemented in stages and in accordance with federal Medicaid Information Technology Architecture requirements. This section also requires HHSC to establish the Electronic Health Information Exchange System Advisory Committee and to ensure health information technology used in CHIP or Medicaid by HHSC or any entity acting on their behalf conforms to nationally recognized standards.

Added Section 531.912 requires the executive commissioner of HHSC, if feasible, to establish a quality of care health information exchange with nursing facilities that choose to participate in a program designed to improve the quality of care and services provided to Medicaid recipients. The program could provide incentive payments to encourage participation, if funds are specifically appropriated for that purpose. The bill would allow the executive commissioner to contract for data collection, data analysis, and technical support.

Added Section 531.913 would require the executive commissioner of HHSC to adopt rules for identifying potentially preventable readmissions of Medicaid recipients and would require HHSC to exchange data with hospitals on present-on-admission (POA) indicators. HHSC would be required to establish a health information exchange program to exchange confidential information with each hospital in the state regarding the hospitals performance with respect to potentially preventable readmissions. Hospitals would be required to distribute the information received from HHSC to health care providers providing services at the hospital.

Section 2 requires HHSC to ensure that any health information technology used in CHIP conforms to standards required under federal law.

Section 3 makes any information exchanged under Section 531.912, Government Code as added by the bill inadmissible as evidence in a civil action.

Section 4 requires HHSC to ensure that any health information technology used in Medicaid conforms to standards required under federal law.

Section 5 requires HHSC to implement the health information exchange pilot program required by Section 531.902, Government Code as added by the bill as soon as feasible after September 1, 2009 but no later than the 60th day after the effective date of the bill.

Section 6 requires HHSC, by January 1, 2011, to assess the benefits of the health information exchange pilot program required by Section 531.902, Government Code as added by the bill and to report findings to certain legislative committees.

Section 7 requires the executive commissioner of HHSC to adopt rules to implement the health information exchanges required by the bill and to appoint the members of the Electronic Health Information Exchange System Advisory Committee.

Section 8 requires a state agency to request any necessary federal waiver or authorization and authorizes delayed implementation of any provision requiring a waiver or authorization until obtained.

Methodology

Section 531.902: HHSC indicates that the two pilot areas of the state would likely be central Texas and south central Texas. Information would likely be used primarily by the local or regional entity to assist in providing health care to their patients. HHSC assumes that costs related to amending the TMHP (Medicaid claims) contract and the vendor drug contract, as well as contracted costs for pilot

assessment, can be absorbed within existing resources.

Sections 531.903-531.911: It is assumed that any cost associated with developing and implementing electronic medical records and e-prescribing in Medicaid and CHIP can be absorbed within existing resources because HHSC has already implemented or begun to implement many of the provisions.

Section 531.912: HHSC assumes payment adjustments would be accomplished within existing client services costs, with some adjustments resulting in an increase in payment and some in a decrease in payment; however, the bill would only allow HHSC to make incentive payments if funding is specifically appropriated for that purpose, which could limit the agency's ability to use existing client services appropriations as assumed here. HHSC indicates DADS would contract for data collection, analysis, and technical support at an annual cost of \$2.5 million, which would qualify for 50 percent federal participation.

Section 531.913: It is assumed that in order to collect POA data for Medicaid hospitalizations, HHSC would incur a one-time cost of \$1,664,000 for system development, hardware, and software in fiscal year 2010; the system will be fully operational in fiscal year 2011. HHSC assumes the Medicaid claims administrator would design and administer the POA reporting system. HHSC would be required to provide confidential reports to each hospital and the agency indicates this can be accomplished within existing resources.

Sections 2-8 are assumed to have no significant fiscal impact.

Technology

A one-time cost of \$1,664,000 for system development, hardware, and software to collect POA data is included in fiscal year 2010.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission, 539 Aging and Disability Services,
Department of

LBB Staff: JOB, CL, LR