

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 23, 2009**

**TO:** Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

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

**IN RE: HB2030** by Zerwas (Relating to the Medicaid Drug Utilization Review Program and prescription drug use under the Medicaid program.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would implement recommendations in the report, "Strengthen the Texas Medicaid Drug Utilization Review Program to Promote Safety and Contain Spending," in the Legislative Budget Board *Government Effectiveness and Efficiency Report* submitted to the Eighty-first Texas Legislature, 2009.

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to increase the number and type of retrospective drug use reviews performed each year under the Medicaid Drug Utilization Review (DUR) program. HHSC is required to include a detailed description of Medicaid DUR program activities and cost savings estimates for retrospective and prospective reviews in the program's federally required annual report and to post the annual report on its website. HHSC is required to monitor and analyze Medicaid prescription drug use and expenditure patterns and post certain data on its website.

The bill prohibits Medicaid DUR board members from having a contractual relationship, ownership interest, or other conflict of interest with a pharmaceutical manufacturer or labeler or with an entity engaged by HHSC to assist with administering the Medicaid DUR program. HHSC is allowed to adopt rules that identify prohibited relationships or require the Medicaid DUR board to develop a conflict of interest policy.

This bill would take effect September 1, 2009.

Implementing strategies to strengthen the Medicaid DUR program has the potential to improve the quality of pharmaceutical care and contain Medicaid prescription drug spending. HHSC currently contracts with an entity to perform retrospective drug use reviews. Per HHSC's contract with this entity, HHSC is guaranteed cost savings equal to twice the amount paid to the contracted entity for each retrospective drug use review performed. As a result, the implementation of additional retrospective drug use reviews would be cost neutral. It is assumed that any cost to implement the provisions of the bill related to the annual report and the conflict of interest provision for the Medicaid DUR board would be minimal and can be absorbed within available resources.

Based on HHSC's analysis, the bill could result in the release of confidential information related to supplemental rebates in the Medicaid Vendor Drug program that would diminish the agency's position when negotiating supplemental rebates. As a result, the bill could result in a significant fiscal impact to HHSC in the form of rebate revenue reductions in the Medicaid Vendor Drug Program. According to HHSC, the agency does not have the information necessary to quantify the amount of reduced rebate revenue.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission

**LBB Staff:** JOB, CL, JI, DM