

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

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

**May 22, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

**IN RE: HB2256** by Hancock (Relating to mediation of out-of-network health benefit claim disputes concerning enrollees, facility-based physicians, and certain health benefit plans; imposing an administrative penalty.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2256, Committee Report 2nd House, Substituted: a negative impact of (\$10,404,266) 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	(\$5,111,923)
2011	(\$5,292,343)
2012	(\$5,412,624)
2013	(\$5,593,045)
2014	(\$5,833,606)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>State Highway Fund</i> 6	Probable (Cost) from <i>Federal Funds</i> 555
2010	\$121,520	(\$5,233,443)	(\$1,164,222)	(\$1,143,132)
2011	\$86,760	(\$5,379,103)	(\$1,205,312)	(\$1,183,478)
2012	\$86,760	(\$5,499,384)	(\$1,232,705)	(\$1,210,375)
2013	\$86,760	(\$5,679,805)	(\$1,273,795)	(\$1,250,721)
2014	\$86,760	(\$5,920,366)	(\$1,328,582)	(\$1,304,515)

Fiscal Year	Probable (Cost) from <i>GR Dedicated Accounts</i> 994	Probable (Cost) from <i>Other Special State Funds</i> 998	Change in Number of State Employees from FY 2009
2010	(\$211,737)	(\$22,387)	1.5
2011	(\$219,210)	(\$23,177)	1.5
2012	(\$224,192)	(\$23,704)	1.5
2013	(\$231,665)	(\$24,494)	1.5
2014	(\$241,629)	(\$25,547)	1.5

## **Fiscal Analysis**

The bill would amend the Insurance Code to require an out-of-network claim dispute resolution process through mediation. The bill would require the State Office of Administrative Hearings (SOAH) to appoint the mediator from a group of qualified mediators or the parties may agree to use a non-SOAH mediator and pay for the outside mediator's fees. The bill would provide that if the mediation is not successful, the case would be referred to SOAH. The bill would require the administrator of the plan and the physician to reimburse the mediator or SOAH for any expenses. The bill would allow an enrollee in a health benefit plan that participated in mediation to file a complaint with the Texas Medical Board (TMB) against the facility-based physician for improper billing or file a complaint with the Texas Department of Insurance (TDI) for unfair claim settlement.

The bill would require that information regarding the mediation to be reported to TMB and TDI and that information could be result in an administrative penalty. Additionally, the bill would require TMB and TDI to maintain a database of public information regarding these disputes. The bill amends the network adequacy standards regarding methods used to compute out-of-network reimbursements and the effect of the computation on the out-of-network expenses of an enrollee. The bill would require health care facilities to provide enrollees disclosures of physicians and billing practices. The bill would require TMB, SOAH, and TDI to adopt rules to implement the provisions of the bill.

The bill would only apply to health benefit claims filed on or after the effective date of the bill. The bill would take effect immediately if it receives a two-thirds vote in both houses. If the bill does not receive the necessary vote for immediate effect, the bill would take effect September 1, 2009.

## **Methodology**

Based on actuarial analysis provided by the Employee Retirement System, the bill would result in increased administrative costs due to the mediation process and increased claim payments as a result of mediation. The costs are anticipated to be \$8,500,000 in fiscal year 2010 and \$8,800,000 in fiscal year 2011. Additionally, the higher cost would require higher contributions from all employers and the members.

Based on the analysis provided by TMB, implementation of the bill would require 1.5 full-time-equivalent positions (FTEs) to investigate complaints regarding the disputes and support the complaint process. The 1.5 FTEs would cost \$61,881 in salaries and wages with associated benefits costs of \$17,679, and travel costs of \$7,200 for each fiscal year of 2010-2014. Additional one-time expenses in fiscal year 2010 would be \$34,760. Since the agency is required to cover its cost of operation, this analysis assumes that any costs realized by TMB from implementing the provisions of the bill would be covered with additional fee increases.

Based on the analysis provided by SOAH, implementation of the bill would result in additional costs which would be offset by revenue received from the administrator of the health plan and the physician. Any costs associated with the implementation of the bill are anticipated to be absorbed within existing resources.

Based on the analysis provided by TDI, any costs associated with the bill could be absorbed within existing agency resources.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 327 Employees Retirement System, 360 State Office of Administrative Hearings, 454 Department of Insurance, 503 Texas Medical Board

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