

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

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

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

IN RE: HB2938 by Truitt (Relating to the conduct of investigations, prepayment reviews, and payment holds in cases of suspected fraud, waste, or abuse in the provision of health and human services.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 531.102(e) and (g), Government Code, relating to the imposition of payment holds and pre-payment review actions involving Medicaid providers. The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules, in consultation with the state's Medicaid fraud control unit, regarding holds on payment and pre-payment reviews.

A provider in a case in which a payment hold was imposed who ultimately prevails in a hearing or, if the case is appealed, on appeal, or with respect to whom the Office of Inspector General determines that prima facie evidence of fraud, waste, or abuse was not presented during an informal resolution process, would be entitled to prompt payment of all payments held and interest on those payments at a rate equal to the prime rate, as published in The Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday, plus one percent.

It is likely that General Revenue would be needed for these interest payments, as federal matching funds may not be available for state penalty payments. However, HHSC anticipates incurring little or no interest costs because it does not impose payment holds very often or for very long. It anticipates no more than 20 per year, of which none would last longer than 60 days absent the provider's agreement. Additionally, the State Office of Administrative Hearings states that it could absorb any additional costs within existing resources. Therefore, the bill would not have a significant fiscal impact.

The bill would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 320 Texas Workforce Commission, 360 State Office of Administrative Hearings, 529 Health and Human Services Commission

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