

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 10, 2009

TO: Honorable Patrick M. Rose, Chair, House Committee on Human Services

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

IN RE: HB4552 by Naishtat (Relating to certain Medicaid waiver programs.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4552, Committee Report 1st House, Substituted: a negative impact of (\$2,400,000) 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	(\$1,200,000)
2011	(\$1,200,000)
2012	(\$1,200,000)
2013	(\$1,200,000)
2014	(\$1,200,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$1,200,000)
2011	(\$1,200,000)
2012	(\$1,200,000)
2013	(\$1,200,000)
2014	(\$1,200,000)

Fiscal Analysis

The bill would amend Human Resources Code Sections 35.0521 and 32.058.

Sec 32.0521

(a) The department shall apply for a waiver under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)) to provide the state with the flexibility to provide medical assistance services outside the scope, amount, or duration of nonwaiver services available to medically fragile individuals who are at least 21 years of age and who require a hospital level of care under the medical assistance program.

Sec 32.058

(a) Making "medical assistance waiver program" refer to any waiver program under 42 USC sec.

1396n(c) (a 1915(c) waiver program) other than Texas Home Living at the Department of Aging and Disability Services (DADS).

(c) Allows General Revenue to be used to provide waiver services if the cost exceeds the individual cost limit, for persons who were receiving services above the cost limit on September 1, 2005, applies notwithstanding section 32.024(e), which says the department may not authorize the provision of Medicaid services unless federal matching funds are available to pay the cost of the services.

(c-1) allows the use of General Revenue Funds to pay for services if the projected annual cost of care exceeds a waiver program's individual cost limit, federal financial participation is not available to pay for such services, the department determines the person's health and safety cannot be protected within the individual cost limit, and there is no other available living arrangement in which the person's health and safety can be protected, as evidenced by an assessment conducted by clinical staff of Health and Human Services Commission (HHSC) or DADS and supporting documentation including medical and service records.

(c-2) Provides the department must comply with the federal cost-effectiveness requirements for waiver programs, including cost neutrality in the aggregate under 42 USC sec. 1396n(c)(2)(D).

(c-3) Requires the department to employ utilization management and utilization review practices to ensure the appropriate scope and level of services and compliance with federal cost-effectiveness requirements.

(c-4) Provides this section does not establish an entitlement to services or to General Revenue Funding for services.

(g) HHSC may adopt rules to implement the entire section.

Methodology

The fiscal note assumes a cost of \$1.2 million per fiscal year. Should a Federal waiver be approved a portion of the \$1.2 million in General Revenue cost in a fiscal year could be offset by federal funds. DADS had estimated the cost of services for individuals who met the criteria identified above to be a range from \$1.2 to \$3.6 million in General Revenue Funds per year.

Local Government Impact

No 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, PP, ML