LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

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

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

IN RE: **SB841** by Averitt (Relating to the child health plan program.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB841, Committee Report 2nd House, Substituted: a negative impact of ($43,150,157) 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	($12,511,928)
2011	($30,638,229)
2012	($32,704,266)
2013	($31,911,359)
2014	($30,717,698)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable (Cost) from *GR Match For Title XXI* 8010	Probable (Cost) from *Premium Co-payments* 3643	Probable (Cost) from *Experience Rebates-CHIP* 8054
2010	($2,121,680)	($10,390,248)	($11,088,890)	($736,253)
2011	($5,207,719)	($25,430,510)	($34,199,036)	($1,935,328)
2012	($5,621,598)	($27,082,668)	($44,091,331)	($2,065,822)
2013	($5,529,777)	($26,381,582)	($43,144,291)	($2,010,753)
2014	($5,392,824)	($25,324,874)	($41,717,761)	($1,927,787)

Fiscal Year	Probable (Cost) from *Vendor Drug Rebates-CHIP* 8070	Probable (Cost) from *Federal Funds* 555	Probable Revenue Gain from *Premium Co-payments* 3643	Probable Revenue Gain from *Experience Rebates-CHIP* 8054
2010	($791,223)	($30,291,545)	$11,088,890	$736,253
2011	($2,071,893)	($75,130,049)	$34,199,036	$1,935,328
2012	($2,210,826)	($80,130,100)	$44,091,331	$2,065,822
2013	($2,151,891)	($78,108,120)	$43,144,291	$2,010,753
2014	($2,063,103)	($75,060,700)	$41,717,761	$1,927,787

Fiscal Year	Probable Revenue Gain from *Vendor Drug Rebates-CHIP* 8070
2010	$791,223
2011	$2,071,893
2012	$2,210,826
2013	$2,151,891
2014	$2,063,103

Fiscal Analysis

Section 1 requires the Health and Human Services Commission (HHSC) to increase income eligibility for CHIP from at or below 200 percent of the federal poverty level (FPL) to at or below 300 percent of FPL. It also increases the threshold at which an assets test may be established from 150 percent of FPL to 250 percent of FPL and increases allowable assets.

Sections 2 and 12 eliminate the review of income during the sixth month of enrollment currently required for families with income above 185 percent of FPL.

Section 3 maintains current cost sharing requirements for enrollees whose net family incomes are at or below 200 percent of FPL. The bill requires enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of FPL to pay a share of the cost through copayments, fees, and a portion of the plan premium. The bill requires the total amount of the share to be paid by enrollees with net family income greater than 200 percent but not greater than 300 percent of FPL to include a portion of the plan premium set at an amount that is approximately equal to 2.5 percent of an enrollee's net family income, to exceed the amount required to be paid by those with net family incomes at or below 200 percent of FPL but not to exceed five percent of an enrollee's net family income, and to increase incrementally as an enrollee's net family income increases. The bill requires HHSC to ensure that the cost paid by enrollees with net family income greater than 200 percent but not greater than 300 percent of FPL progressively increases as the number of children in the enrollee's family provided coverage increases. The bill requires HHSC to develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.

Section 4 provides that the waiting period for enrollment for a child whose net family income is greater than 200 percent but not greater than 300 percent of FPL is 180 days and applies to a child covered by a health benefits plan at any time during the 180 days before the date of application for coverage. It maintains the current waiting period of 90 days for a child whose net family income is at or below 200 percent of FPL.

Section 5 requires the executive commissioner of HHSC to establish a process allowing for the termination of CHIP coverage for an enrollee whose net family income is greater than 200 percent but not greater than 300 percent of FPL if the enrollee does not pay required premiums, including providing for a lock-out period during which a child may not be reenrolled after termination for nonpayment.

Section 6 requires the executive commissioner of HHSC to develop and implement a buy-in option under which children whose net family income exceeds 300 percent of FPL, but does not exceed 400 percent FPL, are eligible to purchase health benefits coverage similar to coverage available under CHIP. The bill would require HHSC to adopt rules governing the option that establish eligibility requirements, including a requirement that a child must lack access to adequate health benefits through an employer-sponsored group health benefits plan; ensure that premiums are set at a level designed to cover the costs of coverage for children participating in the buy-in option and progressively increase as the number of children in the enrollee's family provided coverage increases; ensure that required premiums and costs for coverage are at least equal to the cost to HHSC of otherwise providing CHIP coverage, including dental benefits, to a similar child and include a fee to offset all or part of the cost of prescription drugs, fees to offset administrative costs, and additional deductibles, coinsurance, or other cost-sharing payments; and include an option for an enrollee to pay monthly premiums using direct debits. The bill would require the rules governing the option to provide that a child is only

eligible for coverage under the option if the child was eligible for and enrolled in Medicaid or CHIP, but enrollment was not renewed because, at the time of the eligibility redetermination, the child's net family income exceeded the income eligibility limit. To the extent allowed by federal law, the buy-in option would be required to include provisions designed to discourage crowd-out. The bill would require HHSC to establish point-of-service copayments for the buy-in option that are higher than those required for a child whose net family income is at or below 300 percent FPL. The bill would require HHSC to include a lock-out period for the buy-in option.

Section 7 adds child support payments to the expenses that are deducted from family income for the purpose of determining income eligibility for CHIP.

Section 8 requires HHSC to exclude the value of certain college savings plan assets and benefits for purposes of determining whether a child meets family income and resource requirements for CHIP.

Section 9 requires HHSC to improve the effectiveness of community outreach efforts with respect to the CHIP program.

Section 10 requires HHSC to apply a prospective payment system in providing CHIP coverage for services provided through rural health clinics and federally-qualified health centers.

Section 11 requires HHSC to implement a corrective action plan for the CHIP program if, for three consecutive months less than 90 percent of the applications or eligibility recertifications for the program are accurately processed within the applicable processing time requirements established by state and federal law. The corrective action plan would be required to identify the steps necessary to improve the timeliness of application processing and the accuracy of eligibility determinations and, to the extent possible within the staffing levels authorized by the General Appropriations Act, ensure that CHIP eligibility determinations are accurately made within applicable processing time requirements established by state and federal law. The bill requires HHSC to adopt processes designed to reduce denials of eligibility for CHIP due to information missing from the application. Prior to imposing a denial of eligibility due to missing information, HHSC would be required to meet certain conditions. The bill also requires HHSC to establish telephone call resolution standards and processes for call centers.

Section 12 also eliminates HHSC's authority to establish certain prescription drug limits in CHIP.

Section 13 requires the executive commissioner of HHSC to adopt rules, no later than January 1, 2010, as necessary to implement the buy-in option in section 6.

Section 14 provides that the changes in law made by the bill would apply to an initial determination of eligibility or a recertification of eligibility for CHIP made on or after September 1, 2009.

Section 15 requires state agencies to request any federal waiver or authorization necessary to implement any provisions of the bill and authorizes them to delay implementation until the waivers or authorizations are granted.

Methodology

Sections 1, 2, 3, 4, 7, and 12: It is assumed that it will take three months for the agency to obtain the necessary waivers and authorizations and to perform the required start-up activities to implement the provisions found in these sections. It is assumed that beginning December 1, 2009 clients between 200 and 300 percent of FPL will begin enrolling in CHIP. It is assumed that monthly cost-sharing will be established in the amount of $30 per child for families between 200 and 250 percent of FPL and $40 per child for families between 250 and 300 percent FPL. Due to substantial variation in income and family size, actual monthly cost-sharing amounts could vary substantially resulting in an increase or decrease in the proportion of the program that is funded through Premium Copayments; the level of cost-sharing required could also affect program enrollment. It is assumed that beginning December 1, 2009, income reviews during the sixth month of enrollment will be eliminated, child-support expenses will be excluded from income, the revised assets test will apply only to families with income above 250 percent FPL, and a waiting period of 180 days will apply to certain recipients above 200 percent

of FPL. All other costs and program policies are maintained at the level assumed for children at or below 200 percent of FPL.

Federal law currently caps income eligibility for CHIP at 50 percentage points above the highest limit for children enrolled in Medicaid; in Texas this cap would be 235 percent of FPL. HHSC indicates that the state may be allowed to "disregard" income above 235 percent of FPL. It is assumed that federal matching funds will be available for children above 235 percent FPL, but if the state does not get approval to enroll children above 235 percent FPL additional General Revenue Funds would be required to fund them.

It is estimated that the cumulative impact of the policy changes included in these sections would result in an additional 31,539 average monthly recipient months in fiscal year 2010; 82,903 in fiscal year 2011; 88,494 in fiscal year 2012; 86,135 in fiscal year 2013; and 82,581 in fiscal year 2014. The average cost per recipient month is estimated to be $129.69 in each fiscal year. The additional cost to the program from higher caseloads would be $49.1 million All Funds, including $22.9 million in General Revenue Funds, in fiscal year 2010; $129.0 million All Funds, including $61.2 million in General Revenue Funds, in fiscal year 2011; $137.7 million All Funds, including $65.4 million in General Revenue Funds, in fiscal year 2012; $134.1 million All Funds, including $63.6 million in General Revenue Funds, in fiscal year 2013; and $128.5 million All Funds, including $60.9 million in General Revenue Funds in fiscal year 2014. These General Revenue Funds amounts include expenditure of additional collections of Vendor Drug Rebates for CHIP, Experience Rebates, and Premium Copayments totaling $12.6 million in fiscal year 2010, $34.6 million in fiscal year 2011, $37.1 million in fiscal year 2012, $36.0 million in fiscal year 2013, and $34.4 million in fiscal year 2014.

There would also be additional administrative expenditures associated with the expanded program estimated to be $4.5 million All Funds, including $1.3 million in General Revenue Funds, in fiscal year 2010; $7.2 million All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2011; $7.7 million All Funds, including $2.2 million in General Revenue Funds, in fiscal year 2012; $7.5 million All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2013; and $7.2 million All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2014. These amounts include one-time costs for system changes and policy implementation and ongoing costs for eligibility and enrollment broker services and postage.

The total cost of these sections is estimated to be $53.6 million All Funds, including $24.2 million in General Revenue Funds, in fiscal year 2010 rising to $135.7 million All Funds, including $63.0 million in General Revenue Funds, by fiscal year 2014. It is assumed that CHIP federal matching funds will be available; however, if the state exhausts its capped federal allotment, General Revenue Funds would be required in lieu of assumed Federal Funds.

Section 5: This section would likely reduce the cost of the bill if caseload is reduced due to enrollees failing to pay premiums and being disenrolled from the program and prohibited from reenrolling for a period of time; however, it cannot be determined when or how many enrollees may fail to pay premiums resulting in a lowering of caseload.

Sections 6 and 13: It is assumed that it will take a year for the agency to obtain the necessary waivers and authorizations and to perform required start-up activities. It is assumed that client services will begin September 1, 2010.

It is estimated that the buy-in program would take a year to reach full caseload resulting in 1,663 average monthly recipient months in fiscal year 2011 and 5,173 in fiscal year 2012 and subsequent years. It is assumed that enrollees would pay 100 percent of premiums as well as additional costs, which would limit enrollment resulting in a program that is likely to serve clients with higher health care needs, resulting in an average cost per recipient month that exceeds that of the CHIP program; the average cost per recipient month is assumed to be $181.57 in each fiscal year, but could be substantially different depending on program enrollment. The bill requires that premiums be set at a level that is at least equal to the cost of providing CHIP coverage. It is unlikely federal matching funds would be available for any cost in excess of the premium charged to participants and the difference would need to be funded entirely with General Revenue Funds. The client services cost of the program

is estimated to be $3.6 million in fiscal year 2011 and $11.3 million in fiscal year 2012 and subsequent years. It is assumed that the client services portion of the program will be funded entirely through collection of Premium Copayments. If the premium charged were equal to the assumed cost of the CHIP program ($129.69) rather than the assumed higher cost for buy-in recipients ($181.57), an estimated $1.0 million in General Revenue Funds would be required in fiscal year 2011 and $3.2 million in fiscal year 2012 and beyond; these General Revenue Funds would replace an equal amount of Premium Copayments that are reflected in the table.

Administrative expenditures associated with the buy-in program are estimated to be $1.8 million All Funds, including $0.9 million in General Revenue Funds, in fiscal year 2010; $0.2 million All Funds, including $0.1 million in General Revenue Funds, in fiscal year 2011 and $0.6 million All Funds, including $0.3 million in General Revenue Funds, in fiscal year 2012 and subsequent years. These amounts include one-time costs for system changes and policy implementation and ongoing costs for eligibility and enrollment broker services, postage, and collection of premiums. It is assumed that matching federal funds will be available at the Medicaid administrative 50/50 match.

The total cost of these sections is estimated to be $1.8 million All Funds, including $0.9 million in General Revenue Funds, in fiscal year 2010 rising to $11.9 million All Funds, including $11.6 million in General Revenue Funds, by fiscal year 2014. These General Revenue amounts include expenditure of collected Premium Copayments.

Section 8: It is assumed that the number of persons applying for CHIP who hold such assets would be so small that the fiscal impact to the state would not be significant.

Section 9: HHSC indicates they are currently spending $5.9 million annually on outreach for children's Medicaid and CHIP and $1.0 million annually for application assistance. They assume outreach as described by the bill would require a 50 percent increase in outreach expenditures and a doubling of funding for application assistance. It is assumed that implementation of the plan would begin in fiscal year 2011 at a cost of $4.0 million All Funds, including $1.9 million in General Revenue Funds each year. While these actions may result in an increase in caseload for these programs, and therefore an additional cost to the state for client services, no impact is included in this cost estimate. Although the bill only requires increased outreach for the CHIP program, HHSC indicates the cost would be allocated to both CHIP and children's Medicaid as the outreach and application process for the two programs is integrated and allocation to both CHIP and Medicaid is required by the HHSC cost allocation plan.

Section 10: HHSC indicates this prospective payment system is already required under current federal law.

Section 11: HHSC indicates there would be no significant fiscal impact due to the requirements of this section of the bill.

The total cost of the bill is estimated to be $55.4 million All Funds, including $25.1 million in General Revenue Funds, in fiscal year 2010 increasing to $151.5 million All Funds, including $76.4 million in General Revenue Funds, by fiscal year 2014.

Technology

Technology costs included above total $2.0 million All Funds, including $0.8 million in General Revenue Funds, in fiscal year 2010 for one-time costs associated with system changes.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission

LBB Staff: JOB, CL, JJ, LR