LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 15, 2011

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: **SB23** by Nelson (Relating to the administration of and efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB23, Committee Report 2nd House, Substituted: a positive impact of $426,241,957 through the biennium ending August 31, 2013.

This positive impact only reflects certain provisions of the bill. There are a number of provisions in the bill, particularly in SECTION 3, that could have a substantial cost and other provisions that could result in a savings, but the amounts cannot be determined at this time.

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
2012	$115,733,793
2013	$310,508,164
2014	$317,807,567
2015	$318,737,769
2016	$319,581,750

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Vendor Drug Rebates-Medicaid* 706	Probable Savings/(Cost) from *GR Dedicated Accounts* 994	Probable Savings/(Cost) from *Federal Funds* 555
2012	$115,733,793	$4,984,006	$466,345	$129,113,407
2013	$243,165,289	$27,072,352	$477,712	$326,101,523
2014	$244,872,270	$26,947,883	$477,712	$327,187,793
2015	$245,802,472	$26,947,883	$477,712	$328,407,724
2016	$246,646,453	$26,947,883	$477,712	$329,503,171

Fiscal Year	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Savings/ (Cost) from *Other Special State Funds* 998	Probable Revenue (Loss) from *Vendor Drug Rebates-Medicaid* 706	Probable Revenue Gain from *General Revenue Fund* 1
2012	$3,083,819	$16,003	($4,984,006)	$0
2013	$3,158,986	$16,393	($27,072,352)	$50,507,156
2014	$3,158,986	$16,393	($26,947,883)	$54,701,473
2015	$3,158,986	$16,393	($26,947,883)	$54,701,473
2016	$3,158,986	$16,393	($26,947,883)	$54,701,473

Fiscal Year	Probable Revenue Gain from *Foundation School Fund* 193	Change in Number of State Employees from FY 2011
2012	$0	(36.0)
2013	$16,835,719	(36.0)
2014	$18,233,824	(36.0)
2015	$18,233,824	(36.0)
2016	$18,233,824	(36.0)

Fiscal Analysis

SECTION 1 of the bill would eliminate the Texas health opportunity pool as a beneficiary of revenue from the fee imposed on certain sexually oriented businesses. The Comptroller of Public Accounts would be required to collect the fee until a court, in a final judgment upheld on appeal or no longer subject to appeal, finds the enabling statute or its predecessor to be unconstitutional. Allowable uses of the Sexual Assault Program Fund would be expanded; any entity that received an appropriation from the fund would be required to provide annual reports to the Legislative Budget Board (LBB).

SECTION 2 of the bill would authorize the Health and Human Services Commission (HHSC) to develop an objective assessment process for acute nursing services in the Medicaid fee-for-service and primary care case management delivery models and to take actions to implement the process within the STAR and STAR+Plus Medicaid managed care programs. If the process for acute nursing services was implemented, the commission would be authorized to implement the process for therapy services if determined to be feasible and beneficial.

SECTION 3 of the bill would repeal the prohibition on providing Medicaid using a health maintenance organization (HMO) in Cameron, Hidalgo, and Maverick counties. Managed care organizations (MCOs) operating in the South Texas service delivery area (SDA) would be required to maintain a medical director within the SDA. HHSC would be required to ensure all children residing in the same household be allowed to enroll in the same health plan, to evaluate certain Medicaid STAR+Plus services, and to ensure that MCOs promote development of patient-centered medical homes. The bill would direct extra consideration for certain organizations in the awarding of managed care contracts and establish new requirements of MCO contracts. Outpatient pharmacy benefits would be added to Medicaid managed care contracts, subject to certain restrictions. HHSC would also be required, to the extent possible, to ensure that MCOs provide payment incentives to certain providers and to provide a single portal through which providers in any MCO network may submit claims. Additional limitations would be placed on Medicaid recipients' ability to change managed care plans. The bill would amend requirements of MCOs related to submission of information for fraud control. The bill would apply existing sanctions and penalties for submission of improper claims in the vendor drug program to network pharmacy providers enrolled through MCOs or their subcontractors. HHSC would be required to submit a report to the legislature related to development of patient-centered medical homes for Medicaid recipients.

SECTION 4 of the bill would abolish the State Kids Insurance Program (SKIP) and allow children previously enrolled in that program to enroll in the Children’s Health Insurance Program (CHIP). HHSC would be required to establish a process to ensure automatic enrollment of eligible children in CHIP and to modify administrative procedures to ensure children maintain continuous coverage.

SECTION 5 of the bill would eliminate existing requirements related to electronic fingerprint- or photo-imaging of recipients of assistance under the Temporary Assistance for Needy Families (TANF) program or Supplemental Nutrition Assistance Program (SNAP), and would require HHSC to implement a program to use appropriate technology to confirm the identity of recipients. The bill would prohibit the commission from conducting an annual review of Medicaid claims until the prior year's annual review was complete, absent an allegation of fraud, waste, or abuse.

SECTION 6 of the bill would modify the licensing requirements for convalescent and nursing homes to make licenses renewable every three years instead of every two years and would require a system under which licenses expire on staggered dates, including provisions for prorated licensing fees. The bill would delay the date upon which automated external defibrillators are required in convalescent and nursing facilities from September 1, 2012 to September 1, 2014.

SECTION 7 of the bill would require additional initiatives for streamlining certain aspects of Section 1915(c) waiver programs. The Department of Aging and Disability Services (DADS) and HHSC would be required to jointly explore the development of uniform licensing and contracting standards related to these waiver programs and DADS would be required to perform utilization review of services in all Section 1915(c) waiver programs.

SECTION 8 of the bill would exempt certain facilities funded by the Department of State Health Services (DSHS) from assisted living facility licensing requirements under Chapter 247, Health and Safety Code. Inspections of assisted living facilities would be authorized once during an 18-month period instead of annually.

SECTION 9 of the bill would require HHSC to determine the cost neutrality of certain telemonitoring programs and strategies and to implement certain cost neutral telemonitoring programs in Medicaid.

SECTION 10 of the bill would require HHSC to conduct a study to evaluate the cost-effectiveness of physician incentive programs implemented by HMOs participating in Medicaid and designed to reduce hospital emergency room use for non-emergent conditions. HHSC would be required to establish a physician incentive program in the Medicaid program, including only those components identified as cost-effective in the study of incentive programs implemented by HMOs.

SECTION 11 of the bill would authorize HHSC, if cost-effective, to contract to use certain Medicaid billing coordination tools to process claims for services and to expand the scope of persons about whom certain information is collected in Medicaid to include recipients of services provided through other health and human services benefits programs.

SECTION 12 of the bill would authorize HHSC to include disproportionate share hospital (DSH) funds, upper payment limit (UPL) supplemental payments, or both in the health opportunity pool (HOP) trust fund waiver and to include certain other funds; current statute authorizes DSH and UPL to be included, but not one or the other. Use of the HOP trust fund for the financing of construction, improvement, or renovation of a building or land would be prohibited unless approved by HHSC.

SECTION 13 of the bill would require HHSC to prepare a written report regarding individuals who receive long-term-care services in nursing facilities under the Medicaid program.

SECTION 14 of the bill would direct state agencies to request any necessary federal waiver or authorization to implement any provision in the bill and would authorize delaying implementation until the waiver or authorization is granted.

Methodology

SECTION 1 is assumed to have no fiscal impact. Fees are currently being deposited to a suspense account and not to the Sexual Assault Program Fund or any other fund; it is assumed that collections will continue to be made and deposited to the suspense account. Expanding the allowable uses of the fund would have no fiscal impact.

SECTION 2 would authorize HHSC to implement the recommendation in the report "Implement an

Objective Client Assessment Process for Acute Nursing Services in the Texas Medicaid Program" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. It is assumed that the process would be implemented with related administrative costs of $0.9 million in All Funds in fiscal year 2012 increasing each fiscal year to $2.1 million in All Funds in fiscal year 2016. It is assumed that the assessment process will be implemented by September 1, 2012 with client services savings estimated to be $2.7 million in All Funds in fiscal year 2013 increasing each fiscal year to $9.7 million in All Funds in fiscal year 2016. No costs or savings are assumed from implementing an objective assessment process for therapy services, which the bill requires only be considered after implementation of the process for acute nursing services, estimated to occur in fiscal year 2013; if determined feasible and beneficial, it is unlikely the process could be implemented prior to fiscal year 2014, and as such no costs or savings would be expected during the fiscal 2012-13 biennium.

SECTION 3 would implement a recommendation in the report "Repeal the Prohibition of Health Maintenance Organizations in Medicaid in South Texas" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. There would be no direct fiscal impact from repealing the prohibition; however, it is assumed that repealing the prohibition would result in HHSC implementing an HMO model of care throughout south Texas, including the three counties where it is currently prohibited. According to HHSC, implementation of both the STAR and STAR+Plus delivery models could be expected in March of 2012, resulting in a net savings of $235.8 million in fiscal year 2012 and $456.9 million in fiscal year 2013 and subsequent years; these savings include client services and administrative savings. Expanding managed care would also result in an increase to premium tax revenue; HHSC estimates additional premium tax revenue of $40.7 million beginning in fiscal year 2013. It is assumed that prescription drugs could be included in Medicaid managed care plans by March 1, 2012. Administrative costs associated with implementation are estimated to be $0.7 million in All Funds in fiscal year 2012, $0.8 million in All Funds in fiscal year 2013, and $0.6 million in fiscal year 2014 forward; these costs include those associated with 1.0 full-time equivalent in each fiscal year. Including prescription drug coverage in Medicaid managed care plans is estimated to save $16.1 million in All Funds in fiscal year 2012 and $137.8 million in All Funds in fiscal year 2013 and subsequent fiscal years. These savings would be offset by a loss of vendor drug rebate revenue estimated to be $5.0 million in fiscal year 2012, $27.1 million in fiscal year 2013, and $27.0 million in fiscal year 2014 and subsequent fiscal years. It is assumed that HHSC would continue to collect the vendor drug rebates, but that there would be some loss of rebates due to reduced utilization. Paying for prescription drugs through premiums to MCOs is assumed to result in increased premium tax revenue collections estimated to be $26.6 million in fiscal year 2013 and $32.2 million in fiscal year 2014 and subsequent fiscal years. HHSC estimates a one-time cost to establish a claims submission portal of $2.8 million in All Funds in fiscal year 2012 and ongoing costs for the portal of $1.2 million in All Funds beginning in fiscal year 2013. The fiscal impact of other provisions in SECTION 3 of the bill cannot be determined at this time. Additional requirements to be included in MCO contracts could have a substantial impact to administrative and client services costs included in managed care premiums statewide, potentially increasing expenditures; in particular, requiring that MCOs demonstrate that services will be accessible to recipients through their network to the same extent that health care services would be available under a fee-for-service or primary care case management model could impede the MCOs ability to achieve savings by managing the care of their enrollees.

SECTION 4: Abolishing the SKIP program and enrolling eligible children in CHIP is estimated to have a net savings of $2.9 million in All Funds in fiscal year 2012 and $3.0 million in All Funds in fiscal year 2013 and subsequent fiscal years; estimated savings to General Revenue Funds ($13.0 million in fiscal year 2012, $13.2 million in fiscal year 2013 and subsequent fiscal years) are higher due to the federal matching rate for CHIP, which results in a smaller proportion of funding from General Revenue Funds in CHIP than in SKIP. There would likely be additional administrative costs due to the requirement that HHSC auto-enroll children moving from SKIP to CHIP; those costs cannot be estimated at this time.

SECTION 5: The commission estimates savings of $3.0 million in fiscal year 2012 and $3.3 million in fiscal year 2013 and subsequent fiscal years. A one-time cost for system modifications to the Texas Integrated Eligibility Redesign System (TIERS) of $0.1 million in All Funds is assumed in fiscal year 2012. HHSC indicates TIERS provides an alternative means of identifying duplicate participation,

including electronic verifications of identity and other personal information. HHSC estimates elimination of the fingerprint-imaging requirement would reduce time spent by staff on processing eligibility, resulting in a reduction of 37.0 full-time equivalents in each fiscal year. Additional savings would be realized through elimination of a contract for fingerprint-imaging. Provisions related to annual reviews of Medicaid claims are assumed to have no significant fiscal impact.

SECTION 6: There could be a savings from reducing the frequency of licensing for convalescent and nursing homes; this savings would likely be at least partially offset by a reduction in revenue from licensing fees. The amount of any savings or revenue loss cannot be estimated at this time.

SECTION 7: Provisions related to streamlining, licensing, contracting, and utilization review in Section 1915(c) waivers are assumed to have no significant fiscal impact. DADS began performing utilization review in waivers during fiscal year 2011; no additional savings from utilization review are anticipated as a result of requirements in the bill.

SECTION 8: According to DSHS, no significant fiscal impact is anticipated from the exemption. There could be a savings from reducing the frequency of inspections of assisted living facilities; the amount cannot be estimated at this time.

SECTION 9 of the bill would implement a recommendation in the report "Increase the Use of Telemonitoring in the Texas Medicaid Program to Improve Patient Outcomes" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. According to HHSC, the provisions could be implemented with existing resources.

SECTION 10 of the bill would implement recommendations in the report "Reduce the Need for Emergency Room Utilization in the Medicaid Program" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. It is assumed that the cost to evaluate the existing physician incentive programs could be absorbed within existing resources. HHSC is directed to include only cost-effective components in the physician incentive program implemented in Medicaid; it is assumed that the cost of the program would be offset by savings from reduced non-emergent use of the emergency room.

SECTION 11 of the bill is assumed to have no significant fiscal impact because the expanded use of billing coordination and information collection would only occur if cost-effective.

SECTION 12 of the bill could result in a revenue gain to the HOP trust fund, which is outside the treasury, but the amount of the gain cannot be determined at this time. It is unknown whether HHSC would deposit DSH funds, UPL payments, or both into the HOP trust fund to reimburse providers for uncompensated health care costs, enhance and maintain provider infrastructure, and provide a premium assistance program as required by statute.

SECTION 13: It is assumed any cost to prepare the report would not be significant and could be absorbed within the available resources of HHSC.

Technology

One-time costs associated with systems changes related to SECTIONs 2, 3, and 5 are estimated to total $3.8 million in All Funds, including $0.5 million in General Revenue Funds, in fiscal year 2012.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 327 Employees Retirement System, 529 Health and Human Services Commission

LBB Staff: JOB, KK, MB, LR, NB