

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB962 by Uresti (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**

Estimated Two-year Net Impact to General Revenue Related Funds for SB962, As Introduced: a negative impact of (\$324,776) through the biennium ending August 31, 2013.

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	(\$186,215)
2013	(\$138,561)
2014	(\$138,561)
2015	(\$138,561)
2016	(\$138,561)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2011
2012	(\$186,215)	(\$517,416)	1.0
2013	(\$138,561)	(\$138,561)	1.0
2014	(\$138,561)	(\$138,561)	1.0
2015	(\$138,561)	(\$138,561)	1.0
2016	(\$138,561)	(\$138,561)	1.0

Fiscal Analysis

The bill would amend Sections 531.102 (e) and (g) of the Government Code to add language regarding provider notification for payment holds on claims for reimbursement and rights of the provider to request a hearing. The bill would establish time frames for requesting the hearing, and circumstances for and time periods after which the payment hold would be terminated. The bill would direct the executive commissioner to adopt rules implementing the rights for hearing and the provisions related to payment holds. The bill would entitle a provider in a case in which a payment hold was imposed who ultimately prevails in a hearing to payment of all payments held and interest on those payments equal to prime rate plus one percent.

The bill would amend Sections 531.103 (a) and (b) of the Government Code to direct the office of the

inspector general of the Health and Human Services Commission and the office of the attorney general to develop and implement joint written procedures for processing cases of suspected fraud, waste or abuse, including maintaining a chain of custody for any records and for maintaining confidentiality of the records.

The bill would amend Section 32.0291 of the Human Resources Code to align the rules for prepayment review and postpayment holds with the criteria as amended under Section 531.102 (e) of the Government Code. The bill would direct the executive Commissioner of the Health and Human Services Commission to adopt rules governing the conduct of a prepayment review of a claim for reimbursement, including actions for educating providers regarding irregular coding or claims filing, mechanisms by which a specific provider is identified for prepayment review, defining criteria for whether a prepayment review will be imposed, prescribing the days a provider may be placed on prepayment review status, requiring reevaluation of the necessity of continuing a prepayment review, establishing procedures affording due process to a provider under prepayment review, and opportunities for provider education. The bill would also align postpayment hold provisions with requirements and procedures specified under Section 531.102, Government Code.

The bill would direct the executive commissioner to adopt rules added by Section 3 of the act no later than November 1, 2011. The bill would authorize HHSC to request a waiver or authorization and to delay implementation of the provisions of the bill until authorization is granted if HHSC determines that a waiver or authorization from a federal agency is necessary for implementation of the provisions.

The bill would take effect September 1, 2011.

Methodology

For purposes of this analysis, it is assumed that the bill and its rules will be implemented in compliance with the Patient Protection and Affordable Care Act (PPACA) of 2010 and its applicable regulations.

Based on the analysis of HHSC, the agency will need to modify Medicaid claims processing and the Medicaid and CHIP Managed Care systems to accommodate potential changes in provider notification of a prepayment review and in provider payment and interest associated with a terminated payment hold.

HHSC estimates there will be additional claims administrator (TMHP) costs related to changes for pre-payment review and the system technology changes. Claims administrator costs are estimated to be \$585,700 in All Funds and include technology development hours, two additional TMHP operations staff, and one-time hardware and software costs for these staff.

HHSC Office of the Inspector General (OIG) also anticipates the need for an additional 1.0 FTE (attorney IV) and the associated staffing technology costs, for a total estimated cost of \$117,931.

Based on agency estimates, All Funds costs for TMHP and the OIG staffing total \$703,631 in fiscal year 2012 and \$277,122 in fiscal year 2013 and each subsequent year.

Based on the analysis of the Office of the Attorney General, it is assumed any additional work resulting from the enactment of the bill could be reasonably absorbed within current resources.

Technology

The total technology cost for HHSC is estimated as: \$3,818 in FY 2012, \$2,087 in FY 2013, \$2,087 in FY 2014, \$2,087 in FY 2015, and \$2,087 in FY 2016.

FTE-related technology costs include seat management services (PC and telecommunications) and basic data storage under the contract for data center services. The All Funds costs are estimated as \$1,515 in FY 2012, \$1,423 in FY 2013, \$1,423 in FY 2014, \$1,423 in FY 2015, and \$1,423 in FY 2016.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission

LBB Staff: JOB, CL, MB, ES, VJC