

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 18, 2013

TO: Honorable Richard Peña Raymond, Chair, House Committee On Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1536 by Guerra (Relating to a Medicaid provider's right to an administrative hearing on an action taken by the office of inspector general for the Health and Human Services Commission to recover overpayments under the Medicaid program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1536, As Introduced: a negative impact of (\$3,911,241) through the biennium ending August 31, 2015.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$1,913,221)
2015	(\$1,998,020)
2016	(\$1,998,004)
2017	(\$1,998,004)
2018	(\$1,998,004)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2013
2014	(\$1,913,221)	(\$1,913,221)	28.3
2015	(\$1,998,020)	(\$1,998,020)	28.3
2016	(\$1,998,004)	(\$1,998,004)	28.3
2017	(\$1,998,004)	(\$1,998,004)	28.3
2018	(\$1,998,004)	(\$1,998,004)	28.3

Fiscal Analysis

The bill would authorize a hearing at the State Office of Administrative Hearings (SOAH) for a Medicaid provider contesting a decision by the Health and Human Services Commission (HHSC) Office of Inspector General to recover an overpayment made to the provider in the Medicaid program.

The bill would also authorize a provider to appeal an order by SOAH to repay an amount greater than \$50,000 by filing a petition for judicial review in a district court of Travis County. Per the provisions of the bill, the appeal would be a new trial.

Methodology

Based on the analysis of HHSC and SOAH, it is estimated that there would be between 55 and 60 cases appealed to SOAH. Based on the estimated cost per case of \$13,193, the cost to HHSC for these cases would be \$725,615 in All Funds in fiscal year 2014, and \$791,580 in All Funds in each subsequent fiscal year.

Based on HHSC and SOAH analysis, it is assumed that 25 percent of the cases brought to SOAH will be settled. HHSC Office of Inspector General (OIG) assumes the remaining cases will be won on behalf of the state at SOAH, and therefore appealed to the district courts. Based on cost assumptions of \$18,000 per case for expert witness hourly fees and \$14,000 per case for exhibits, depositions, and witness transportation, the total estimated cost for district court cases would be \$1,320,000 in fiscal year 2014 and \$1,440,000 in each subsequent fiscal year.

Based on HHSC estimates of additional staffing needs to provide pre-trial briefs and legal motions to SOAH and to perform and document additional investigative work needed to meet the burden of proof required for trial at SOAH or a district court, HHSC anticipates needing an additional 23.3 full time equivalents (FTE) each fiscal year. The total cost for salaries and benefits each fiscal year would be \$1,737,528 in All Funds. This estimate assumes all associated costs at OIG would be matched with Medicaid Federal Funds at the fifty percent administrative matching level.

SOAH anticipates needing 5.0 additional FTEs: 1.0 Administrative Assistant, 2.0 Administrative Law Judges, and 2.0 Master Administrative Law Judges. The cost for the additional FTEs would be \$448,656 in salaries each fiscal year and \$165,937 in benefits and other operating expenses in fiscal year 2014 and \$146,437 in each subsequent year. SOAH bills its costs to respective agencies involved in the case. Thus the costs for the additional FTEs and workload are assumed in the costs to HHSC included in the table above.

Technology

Based on the analysis of HHSC, total technology costs are estimated to be \$43,298 in fiscal year 2014 and \$26,932 in fiscal year 2015, and \$26,899 in each subsequent fiscal year for seat management services.

Local Government Impact

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

Source Agencies: 360 State Office of Administrative Hearings, 529 Health and Human Services Commission

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