LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 16, 2013

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2359** by Bonnen, Greg (Relating to the disclosure of health care compensation and a limitation on the range of compensation to different health care providers performing the same service.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2359, As Introduced: a negative impact of ($59,773,359) through the biennium ending August 31, 2015.

Additionally, certain agencies estimate significant but indeterminate costs from implementing provisions of the bill.

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
2014	$0
2015	($59,773,359)
2016	($64,255,759)
2017	($68,753,972)
2018	($73,222,623)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *GR Dedicated Accounts* 994	Probable Savings/(Cost) from *Other Special State Funds* 998	Probable Savings/(Cost) from *State Highway Fund* 6
2014	$0	$0	$0	$0
2015	($59,773,359)	($2,290,736)	($361,072)	($10,317,193)
2016	($64,255,759)	($2,462,519)	($388,149)	($11,090,878)
2017	($68,753,972)	($2,634,907)	($415,321)	($11,867,293)
2018	($73,222,623)	($2,806,162)	($442,315)	($12,638,606)

Fiscal Year	Probable Savings/(Cost) from *Federal Funds* 555	Probable Savings/(Cost) from *Local Funds*
2014	$0	$0
2015	($11,246,510)	($2,956,130)
2016	($12,089,885)	($3,177,810)
2017	($12,936,235)	($3,400,272)
2018	($13,777,023)	($3,621,272)

Fiscal Analysis

The bill would amend the Insurance Code by adding Chapter 1470 to require disclosure of payment method and compensation methodology by health plan issuers to providers the range of compensation paid to other providers for performing the same service. The bill would also limit the amount of compensation which can be paid to a health care provider by a health benefit plan or health care contractor to no less than 75 percent of what is paid to another provider for the same service.

The payment method and compensation disclosures required under changes made by the bill apply only to a health care contract that is entered into or renewed on or after January 1, 2014. The bill takes effect September 1, 2013.

Methodology

The estimated cost to comply with the provisions of the bill would be $86.9 million in All Funds in fiscal year 2015, and would range from $93.5 million to $106.5 million in All Funds per year in subsequent fiscal years. These costs are associated with the Employees Retirement System (ERS).

ERS indicates that the changes made by the bill would narrow the range of reimbursement rates among health care providers, increasing reimbursement rates and increasing plan costs. Currently, provider reimbursement rates vary based on factors that include geographic location, specialty, and type of facility. Based on data from the HealthSelect plan and average contract rates, the agency estimates that multiple market segments would require an increase in compensation ranging from 4 to 17 percent. The agency anticipates that additional plan costs associated with the specific contract terms may also be incurred.

The Health and Human Services Commission (HHSC) indicates there would be significant cost from implementing the provision of the bill that would prohibit a health plan from paying a provider less than 75 percent of the maximum amount paid to a similar provider for the same service. Medicaid and CHIP reimbursements are generally more than 25 percent below the commercial or Medicare reimbursement rates; implementing this requirement would significantly raise costs in the respective programs or prevent health plans from operating in both the Medicaid and Medicare/commercial markets. HHSC does not have enough information regarding current managed care provider reimbursement rates or the corresponding reimbursements in the commercial/Medicare markets to make appropriate assumptions about the estimated fiscal impact.

HHSC estimates the cost associated with implementing the provision of the bill that requires each health care contract to include a disclosure form regarding payment, compensation, and any rate adjustment terms to be $12.4 million in All Funds in fiscal year 2015, $13.0 million in All Funds in fiscal year 2016, $13.3 million in All Funds in fiscal year 2017 and $13.6 million in All Funds in fiscal year 2018, but the portion of the cost that cannot be estimated is assumed to be significantly higher than this fiscal impact. HHSC assumes the bill only applies to Medicaid managed care programs; to implement the same provisions in Medicaid fee-for-service and CHIP would require additional statutory amendments. In addition, HHSC assumes the bill does not impact Medicaid managed care pharmacy contracts as â€œfee schedulesâ€ and â€œprocedure codesâ€ do not apply to pharmacy benefits. Should the bill apply to Medicaid managed care pharmacy contracts, HHSC anticipates there would be significant cost for a significant increased burden due to the number of drug codes and the frequency of drug cost changes.

Several additional agencies indicated costs related to increased claims costs and network contract pricing. The Teacher Retirement System indicates an indeterminate cost based on increased claim costs as a result of changes made by the bill. Based on the information provided by the University of Texas System, it is estimated that annual costs to its health plan would increase by $67.5 million to $99.2 million per fiscal year. Based on the information provided by the Texas A&M University System Administration, it is estimated that annual costs to its health plan would increase by $20.8 million per fiscal year.

Based on information provided by the Texas Department of Insurance (TDI), the bill would result in an increase in form filings; however, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing staff and resources. Also, based on information provided by TDI, this analysis assumes that implementation of the bill would result in a revenue gain of $2,650 in General Revenue-Dedicated Texas Department of Insurance Fund 36 from additional form filings. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

Local Government Impact

According to information provided by TRS, the impact to school districts cannot be estimated.

The Texas Association of Counties (TAC) believes that the provisions of the bill would tend to increase reimbursement rates to providers which would result in increased insurance costs for counties; however, TAC is unable to estimate the extent of the increased costs at this time.

There would be an indeterminate fiscal impact to public hospitals that operate health plans; however, the amounts would vary depending on the number of plans and the amount of the reimbursement rates.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 529 Health and Human Services Commission, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, AG, JI, JJO, ES, EMo, TP, JW, TG