LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 25, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB8** by Nelson (Relating to the provision and delivery of certain health and human services in this state, including the provision of those services through the Medicaid program and the prevention of fraud, waste, and abuse in that program and other programs.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB8, Conference Committee Report: a positive impact of $14,382,324 through the biennium ending August 31, 2015.

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	$298,266
2015	$14,084,058
2016	$14,117,204
2017	$14,191,850
2018	$14,272,849

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Federal Funds* 555	Probable Revenue Gain from *Vendor Drug Rebates-Sup Rebates* 8081	Probable (Cost) from *Vendor Drug Rebates-Sup Rebates* 8081
2014	$298,266	$378,679	$69,483,249	($69,483,249)
2015	$14,084,058	$15,889,945	$73,866,820	($73,866,820)
2016	$14,117,204	$16,021,211	$73,866,820	($73,866,820)
2017	$14,191,850	$16,124,972	$73,866,820	($73,866,820)
2018	$14,272,849	$16,237,566	$73,866,820	($73,866,820)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	14.1
2015	(293.0)
2016	(293.0)
2017	(293.0)
2018	(293.0)

Fiscal Analysis

The bill would amend the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to establish a data analysis unit within the commission to improve contract management, detect data trends, and identify anomalies in the provision of Medicaid and Children's Health Insurance Program (CHIP) services and contracts.

The bill would establish rules prohibiting certain unsolicited personal contact through direct marketing by providers participating in Medicaid or CHIP. The bill would authorize HHSC to review and provide authorization of provider-proposed marketing activities and adopt rules that exempt certain marketing activities from the prohibition.

The bill would require HHSC to enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Texas Department of Public Safety to obtain motor vehicle and driver's license information of a provider of medical transportation services.

The bill would require HHSC to review the prior authorization and utilization review processes within the fee for service delivery model and to monitor Medicaid managed care organizations to ensure the organizations are using prior authorization and utilization review processes.

The bill would require HHSC OIG to employ and commission up to five peace officers for assisting in the investigation of an alleged criminal offense involving a patient at a state hospital. The bill would establish that the peace officers employed by the OIG are administratively attached to the Department of Public Safety.

The bill would require HHSC to provide Medicaid medical transportation services through a managed transportation delivery model using managed transportation organizations and providers that operate under a capitated rate, assume financial responsibility under a full-risk model, operate a call center, use fixed routes when applicable, and agree to provide certain data. The bill would authorize HHSC to contract with transportation service area providers in certain areas to execute appropriate interlocal agreements. The bill would authorize HHSC to delay the managed care delivery model in areas of the state operating a full-risk transportation broker model, but would require HHSC to begin the delivery model in all other areas no later than September 1, 2014, with certain exemptions.

The bill would amend Section 533.005 (a-1), Government Code, which sets an expiration date for the requirement that managed care organizations (MCOs) and pharmacy benefit managers exclusively employ the state's vendor drug program formulary, preferred drug list, and prior authorization requirements and procedures for the prescription drug benefit in the Medicaid Program; the bill would change the expiration date from August 31, 2013 to August 31, 2018.

The bill would amend the Health and Safety Code as it relates to the licensing and regulation of emergency medical services providers by the Department of State Health Services (DSHS) and establish certain licensing requirements. The bill would exempt emergency medical services providers directly operated by a governmental entity from certain requirements. The bill would require DSHS to submit a report no later than December 1 of even numbered years to the Governor and the legislature on license and regulatory actions on emergency medical service providers. Additionally, the bill would place a moratorium on the issuance of a new emergency medical services provider license for the period beginning on September 1, 2013 and ending on August 31, 2014.

The bill would direct HHSC to require a Medicaid health benefit plan to exchange prior authorization requests electronically with a prescription drug prescribing provider in the Medicaid program who initiates a request electronically.

The bill would require HHSC, DSHS, and the Texas Medical Board to conduct a thorough review of and solicit stakeholder review regarding laws and policies related to the use of non-emergent services provided by ambulance providers, licensure of non-emergent transportation providers, and laws and policies related to the delegation of services to qualified emergency medical services personnel and physician assessments of patients' needs for ambulatory transfer or transport in order to make recommendations in a report to the legislature to reduce incidence and opportunities for fraud, waste, and abuse therein, and to amend related policies.

The bill would require HHSC to conduct a study on the feasibility of developing and implementing a standard prior authorization form.

The bill would require the Office of the Inspector General (OIG) at HHSC to review the manner in which the OIG investigates fraud, waste, and abuse in the supplemental nutrition assistance program (SNAP) and submit a report to the Legislature on strategies for addressing fraud, waste, and abuse.

Methodology

HHSC estimates that establishing a data analysis unit and performing its functions would require 9.1 additional FTEs. Total salary costs in each year would be $435,177. Benefit costs would be $130,020 each year. Computing, seat management, data, and tele-com costs would total $16,942 in fiscal year 2014 and $10,465 each subsequent year.

To comply with the provisions of the bill, it is assumed HHSC OIG will hire 5.0 peace officers. Total salary, benefits, operating, and travel expenses would be $396,406 in All Funds in fiscal year 2014, and $361,595 in All Funds in fiscal year 2015 and each subsequent year.

HHSC assumes implementation of a statewide full-risk broker model. The full-broker model was implemented in Houston/Beaumont and Dallas/Ft. Worth in March 2012. It is assumed that clients currently receiving services through a fee-for-service model will transfer to a full-risk broker model beginning in fiscal year 2015, an estimated 2,161,650 average monthly clients each fiscal year. HHSC estimates a 7 percent savings from the transition to a full-risk broker model. Applied to an estimated average monthly cost per fee-for-service recipient of $5.58, savings are estimated to be $10.1 million All Funds, including $4.2 million in General Revenue Funds, in each fiscal year beginning with fiscal year 2015.

HHSC also assumes a staffing reduction beginning in fiscal year 2015 related to implementation of the statewide full-risk broker model. The reduction of 307.1 FTEs is assumed to result in a savings to the state of $18.8 million in All Funds each year. This reduction includes $10.5 million in salary savings, $5.2 million in other operating costs, and $3.1 million in benefits.

Changing the expiration date in Section 533.005 (a-1), Government Code, would continue the requirement that MCOs and pharmacy benefit managers utilize the state's vendor drug program formulary, preferred drug list, and prior authorization requirements and procedures through fiscal year 2018. The formulary and the preferred drug list are the basis for the collection of supplemental drug rebates in the Medicaid program. Under current law, this requirement would expire at the end of fiscal year 2013 and the Health and Human Services Commission (HHSC) would no longer collect supplemental rebate revenue if the Medicaid MCOs were allowed to implement their own formularies and other requirements related to outpatient pharmacy benefits; the extent to which the loss of supplemental rebates would be offset by other savings achieved by the MCOs and incorporated into the capitation rates is not known and the full fiscal impact cannot be determined. Extending the expiration date would continue the practice of HHSC collecting supplemental drug rebates, which would continue to be used to support the Medicaid program, through fiscal year 2018. As such, implementing the provisions of the bill would result in increased collection and expenditure of Vendor Drug Rebates - Supplemental Rebates estimated to be $69,483,249 in fiscal year 2014 and $73,866,820 in fiscal years 2015 through 2018 and there would be no expected change to capitation rates for outpatient pharmacy benefits in Medicaid managed care during that period.

HHSC is currently implementing policy changes that will reduce costs associated with non-emergency ambulance transportation. HHSC anticipates realizing a 5% reduction on current non-emergency transfer and transport claims, resulting in a savings of $1.6 million in All Funds in fiscal year 2014, $1.9 million in All Funds in fiscal year 2015, $2.1 million in All Funds in fiscal year 2016, $2.3 million in All Funds in fiscal year 2017, and $2.5 million in All Funds in fiscal year 2015.

Based on the analysis of HHSC, DSHS, the Texas Medical Board, the Office of Court Administration, the Office of the Attorney General, and the Department of Public Safety, it is assumed that all other provisions of the bill can be implemented by utilizing existing agency resources. Based on the analysis provided by DSHS and the Comptroller of Public Accounts (CPA), the moratorium on new licenses for emergency medical services providers will result in a decrease in revenue, but this loss in revenue could reasonably be absorbed by DSHS.

There would be additional fiscal impact not included in the tables for enterprise support services. The cost is assumed to be small and could be absorbed by the agency.

Technology

Technology costs included above total $26,250 in All Funds in fiscal year 2014 and $16,220 in All Funds for each subsequent year.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board, 529 Health and Human Services Commission, 537 State Health Services, Department of, 608 Department of Motor Vehicles

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