

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 20, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1803 by Huffman (Relating to investigations of and payment holds relating to allegations of fraud or abuse and investigations of and hearings on overpayments and other amounts owed by providers in connection with the Medicaid program or other health and human services programs.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1803, As Passed 2nd House: a negative impact of (\$950,531) 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 | (\$389,911) |
| 2015 | (\$560,620) |
| 2016 | (\$541,637) |
| 2017 | (\$541,428) |
| 2018 | (\$541,428) |

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 | (\$389,911) | (\$433,924) | 10.0 |
| 2015 | (\$560,620) | (\$629,069) | 17.0 |
| 2016 | (\$541,637) | (\$599,316) | 17.0 |
| 2017 | (\$541,428) | (\$599,526) | 17.0 |
| 2018 | (\$541,428) | (\$599,526) | 17.0 |

Fiscal Analysis

The bill would amend Chapter 531 of the Government Code to establish the definition of abuse, allegation of fraud, credible allegation of fraud, among other Medicaid fraud-related terms. The bill would require the Health and Human Services Commission (HHSC) through the Office of Inspector General (OIG) to conduct a preliminary investigation of any received complaint of Medicaid fraud or abuse.

The bill would require the OIG to provide certain information to a provider upon imposing a payment hold related to a determination that a credible allegation of fraud exists. The bill would require the OIG to file a request with the State Office of Administrative Hearings (SOAH) upon timely written request from a provider subject to a payment hold for an expedited administrative hearing. The bill would require the OIG and the provider to evenly split the costs of the administrative hearing at SOAH. The bill would authorize the executive commissioner at HHSC and SOAH to jointly adopt rules to require the provider to advance security for the costs before the hearing.

The bill would establish rules for a provider subject to a payment hold to request, and the OIG to schedule, an informal resolution meeting. The bill would require the OIG to employ a medical director, who is a licensed physician, and a dental director, who is a licensed dentist, to review investigative findings. The bill would require the OIG in consultation with the state's Medicaid fraud control unit to adopt rules regarding fraud and abuse investigations, training requirements, and criteria for determining when good cause exists to not impose a full payment hold.

The bill would establish rules for preliminary investigations of allegations of fraud or abuse, requiring a report. The bill would require the OIG to discontinue a payment hold if the Medicaid fraud control unit or other law enforcement agency declines to accept the Medicaid fraud referral from the OIG, unless it is authorized under other federal or state authority. The bill would require the OIG to request a certification from the Medicaid fraud control unit and other law enforcement agencies that a fraud referral is still under investigation and warrants a continued payment hold. The bill would require the OIG to post on its website a description and video explaining the process and procedures used to determine a payment hold.

The bill would establish rules and procedures for informal resolution of proposed recoupment of overpayments or debt, including notice to the provider, time frames for a provider to request an informal resolution, and the requirement that the state and the provider split the cost of an administrative hearing, and rules regarding certain appeals.

Methodology

Total costs for implementing the provisions of the bill in fiscal years 2014-15 are estimated to be \$950,532 in General Revenue and \$2,013,524 in All Funds.

HHSC anticipates needing in total an additional 10.0 FTEs in fiscal years 2014 and 17.0 FTEs in fiscal years 2015-2018. The OIG is currently in the process of hiring a physician, so there is no new fiscal impact for implementing the medical director provision of the bill. However, the OIG anticipates needing to hire 1.0 licensed dentist for the dental director position.

The OIG currently employs 6.0 investigators who could be allocated toward the requirements of the bill; however, OIG estimates needing an additional 14.0 investigators, 1.0 investigator supervisor and 1.0 manager related to the preliminary investigations of allegations of fraud or

abuse. The OIG assumes 1,840 allegations per year with a workload of 84 preliminary investigations per investigator per year.

Assuming a ramp up in the hiring of the OIG investigators, salary, benefits, and non-salary (including travel) employee All Funds costs for all FTEs are estimated to be \$823,835 in fiscal year 2014, \$1,189,689 in fiscal year 2015, and \$1,140,954 in each subsequent year.

SOAH indicates the bill could impact the number of cases referred to SOAH. However, SOAH costs are assumed to be covered by payments from HHSC and providers; therefore, there is no significant impact assumed. The Office of Court Administration indicates any additional work resulting from the enactment of the bill could be accomplished within existing resources.

Technology

FTE-related technology costs include seat management services (PC and telecommunications) and data center services. Technology costs are \$18,615 in fiscal year 2014, \$24,540 in fiscal year 2015, and \$19,567 in each subsequent year.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission, 212 Office of Court Administration, Texas Judicial Council, 360 State Office of Administrative Hearings, 503 Texas Medical Board, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 520 Board of Examiners of Psychologists

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