

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**May 7, 2013**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **SB1803** by Huffman (Relating to the office of inspector general of the Health and Human Services Commission.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1803, As Engrossed: a negative impact of (\$313,496) 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	(\$160,066)
2015	(\$153,430)
2016	(\$241,467)
2017	(\$235,349)
2018	(\$235,349)

**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	(\$160,066)	(\$227,879)	5.0
2015	(\$153,430)	(\$213,628)	5.0
2016	(\$241,467)	(\$335,652)	7.1
2017	(\$235,349)	(\$327,149)	7.1
2018	(\$235,349)	(\$327,149)	7.1

**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 and the provider to evenly split the costs of the administrative hearing at the State Office of Administrative Hearings (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 to adopt rules regarding fraud and abuse investigations.

The bill would establish rules for preliminary investigations of allegations of fraud or abuse. 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 at the Office of the Attorney General 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 overpayments, 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. The bill would authorize a provider to appeal an administrative hearing order to judicial review in a district court in Travis County. The bill would require HHSC to employ a person independent of the OIG to attend the informal resolution meetings as a neutral third-party observer, and to report on the proceedings and outcome to the executive commissioner.

## **Methodology**

Total costs for implementing the provisions of the bill in fiscal years 2014-15 are estimated to be \$313,497 in General Revenue and \$755,003 in All Funds.

SOAH anticipates needing an additional 2.0 administrative law judges in order to hear an estimated 60 new overpayment recovery cases. Because the bill requires providers and the OIG to split the cost of the administrative hearings, it is assumed the increased costs for the full-time equivalent (FTEs) will be covered. The OIG anticipates that savings the office gains by splitting the cost of hearings related to holds on payments could be utilized to cover any increased costs for the new cases requested related to overpayments; therefore there is no significant fiscal impact related to this provision of the bill.

HHSC anticipates needing an additional 3.0 FTEs in fiscal years 2014 and 2015 and 5.1 FTEs in fiscal years 2016-2018. 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 a licensed dentist for the dental director position.

HHSC estimates there will be 293 informal resolution meetings in fiscal year 2014, 410 in fiscal year 2015, and 620 in each subsequent year. HHSC assumes 2.0 FTEs would be needed for every

300-400 cases and would need 2.0 FTEs in fiscal years 2014-15 and 4.1 FTEs in each subsequent year to serve as the neutral third-party observer. Salary, benefits, and non-salary employee All Funds costs are estimated to be \$387,945 in fiscal year 2014, \$367,058 in fiscal year 2015, \$577,119 in fiscal year 2016, and \$562,498 in each subsequent year.

### **Technology**

FTE-related technology costs include seat management services (PC and telecommunications) and data center services. Technology costs are \$5,584 in fiscal year 2014, \$3,453 in fiscal year 2015, \$7,362 in fiscal year 2016, and \$5,870 each subsequent year.

### **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, 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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