LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1922** by Schwertner (Relating to prescription drug benefits in the Medicaid managed care program.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time. Legislation is anticipated to have a negative fiscal impact to state funds, including a loss of drug rebate revenue, but the amount is unknown at this time.

The bill would permit managed care organizations (MCOs), providing prescription drug benefits in the Medicaid program, to negotiate and collect prescription drug rebates from labelers and manufacturers. The bill would require MCOs to grant exceptions for certain step therapy protocol requests. The bill would require MCOs to provide 90-day coverage for prescription drugs prescribed to recipients before enrollment or transfer into the managed care plan. The bill would require the establishment of an electronic process to transfer patient prescription drug information across MCOs. The bill would authorize the Health and Human Services Commission (HHSC) to require the submission of and to review certain information related to drug rebates. The bill would require MCOs to post preferred drug lists on the internet and maintain a searchable database related to their preferred drug list. The bill would prohibit MCOs from requiring prior authorizations or step therapy protocols for certain prescription drugs. HHSC would be required to conduct an initial study by September 1, 2018 to determine the prescription drug classes for which prior authorizations or step therapy protocols are prohibited and conduct a new study every ten years thereafter. MCOs would be required to ensure that prescription drugs prescribed before prior authorizations or step therapy protocols were established are not subject to those requirements until at least 90 days after the prior authorization or step therapy protocol was established. MCOs would be required to establish a procedure for prior authorizations and step therapy protocols to ensure compliance with federal law. The bill would establish new requirements for MCOs related to national drug codes.

According to HHSC, MCOs would only be permitted to collect supplemental rebates. If the MCOs did collect supplemental rebates, there would be a reduction to supplemental rebate revenue collected by the state, which would be offset by a reduction to managed care premiums. It is uncertain if those amounts would be equal. Additionally, it is not known if all MCOs would participate and the degree to which the state would no longer collect supplemental rebate revenue (an estimated $85.2 million in fiscal year 2018), therefore the net fiscal impact cannot be determined. Provisions of the bill related to step therapy, continuity of coverage, and prior authorization would likely shift utilization of prescription drugs on the preferred drug list (PDL) to non-preferred prescription drugs. Prescription drugs on the PDL generally represent the best financial option for the MCO and likely have a lower net cost, due to a combination of price and higher supplemental rebates offered by the manufacturer. Therefore, the shift to non-preferred drugs would likely reduce supplemental rebate revenue and increase prescription drug expenditures. To the extent that these changes, and any increased administrative requirements, are accounted for when HHSC establishes premiums for MCOs beginning in fiscal year 2019, the provisions of the bill would be expected to have a negative fiscal impact to the state. Due to uncertainties related to the number of recipients that would shift to non-preferred drugs and the pricing methodology for PDL prescription drugs, as well as the possibility that there could be offsetting savings if the provisions of the bill result in improved care, no cost estimate can be made.

It is assumed the cost of the initial study to determine drug classes for which prior authorizations are prohibited can be absorbed within HHSC's existing resources.

Additionally, the bill states that current practices related to the prescription drug formulary would continue for fiscal year 2018 and all provisions of the bill, excluding the study requirement, would only take effect beginning in fiscal year 2019. Therefore, HHSC will not incur significant costs in fiscal year 2018.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission

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