LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 6, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1576** by Phelan (Relating to the delivery of certain medical transportation services, including under Medicaid and certain other health and human services programs; imposing a mandatory payment; authorizing an administrative penalty.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time because HHSC does not collect information from private providers regarding their revenues from non-Medicaid payers, nor does HHSC collect cost reports from all governmental ambulance providers. The effect on utilization and cost of services is also unknown.

Fiscal Analysis

The bill would allow regional contracted brokers and managed transportation organizations that contract with the Health and Human Services Commission (HHSC) to subcontract with a transportation network company to provide certain medical transportation services for Medicaid and other health and human services programs. The bill would require Medicaid managed care organizations (MCOs) to arrange for the provision of nonmedical transportation services.

The bill would establish the Texas ambulance response safety net program to provide reimbursement for certain ground ambulance services delivered to Texas Medicaid clients. The program would be administered by HHSC. The program would be funded by quarterly payments, determined by a formula, from ground ambulance service providers. HHSC would be required to set the payment amounts to generate sufficient revenue to cover the agency's administrative expenses related to the program and would be required to update the amount of the payment at least annually.

The bill would also set a maximum collectible amount of revenue for the program based on certain criteria, including that the maximum total payment imposed may not exceed 6% of the net operating revenue of all ground transport emergency medical services providers, and the maximum payment for a provider may not exceed the provider's net patient revenue. The bill would also authorize HHSC to assess a reasonable penalty, not to exceed 15 percent of the quarterly portion of the provider's mandatory payment, for failure to submit the quarterly payment as required. The bill would provide that if a ground ambulance services provider refuses to submit a quarterly portion of a mandatory payment, HHSC may suspend all Medicaid payments to the provider until the provider submits the quarterly portion of the payment and any associated penalties or the provider and HHSC reach a negotiated settlement.

The bill would establish the Texas Ambulance Response Safety Net Trust Fund, to be held by the

Comptroller outside of the treasury and administered by HHSC, to consist of all revenue from payments and penalties specified in the bill and the fund's earnings. The fund would be used for reimbursements and refunds to participating providers and HHSC's administrative expenses. The bill would require that the trust fund may not be used to expand Medicaid eligibility under the Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010.

The bill would require HHSC to establish an enhanced payment model for non-state operated public ambulance providers who provide ground emergency medical transportation services. The bill would prohibit HHSC from using General Revenue to reimburse providers under or to administer the enhanced payment model.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect immediately if it receives a vote of two-thirds in each house. Otherwise, the bill takes effect September 1, 2019.

Methodology

HHSC and the Comptroller of Public Accounts (CPA) indicate that the fiscal impact of the bill cannot be determined. CPA notes that the bill stipulates the maximum annual fee assessed could not exceed six percent of net operating revenue of ground transport emergency medical services providers or the state portion of reimbursement enhancements, both of which are unknown. HHSC also indicates that they do not have enough information to estimate how much revenue would be collected from ground transport emergency medical service providers. According the CPA, HHSC estimates that if all providers were taxed at six percent, program revenue would be greater than $65 million in All Funds annually. It is also unknown whether regional contracted brokers and managed transportation organizations would elect to subcontract for the provisions of services and if they did what the effect on utilization and cost might be. Requiring MCOs to arrange for the provision of nonmedical transportation services would likely require an increase in capitation payments, but an estimated cost is not available. Additionally, it is unknown what effect this provision might have on utilization of services.

HHSC estimated that they would need 23.0 additional FTEs to perform audits of ambulance providers and make technology changes to collect and review cost reports and financial statements. The agency estimates the cost related to these FTEs and technology changes would be approximately $2.6 million in General Revenue Funds and approximately $2.6 million in Federal Funds during the 2020-21 biennium. In future fiscal years, the cost would be approximately $1.2 million in General Revenue and $1.2 million in Federal Funds in each fiscal year.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission

LBB Staff: WP, AKi, EP, MDI, JQ, BH