

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

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

IN RE: HB2453 by Davis, Sarah (Relating to the operation and administration of Medicaid, including the Medicaid managed care program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2453, As Introduced: a negative impact of (\$11,658,253) through the biennium ending August 31, 2021.

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
2020	(\$7,064,016)
2021	(\$4,594,237)
2022	(\$4,420,236)
2023	(\$4,359,236)
2024	(\$4,420,236)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/(Cost) from <i>GR Match For Title XXI</i> 8010	Probable Savings/(Cost) from <i>GR Match for Food Stamp Admin</i> 8014
2020	(\$178,168)	(\$6,448,845)	(\$18,140)	(\$418,863)
2021	(\$128,720)	(\$4,134,301)	(\$14,684)	(\$316,532)
2022	(\$128,720)	(\$3,960,300)	(\$14,684)	(\$316,532)
2023	(\$128,720)	(\$3,899,300)	(\$14,684)	(\$316,532)
2024	(\$128,720)	(\$3,960,300)	(\$14,684)	(\$316,532)

Fiscal Year	Probable Savings/(Cost) from Federal Funds 555
2020	(\$7,994,859)
2021	(\$5,332,534)
2022	(\$5,158,535)
2023	(\$5,097,535)
2024	(\$5,158,535)

Fiscal Year	Change in Number of State Employees from FY 2019
2020	64.6
2021	64.6
2022	64.6
2023	64.6
2024	64.6

Fiscal Analysis

The bill would require the Health and Human Services Commission (HHSC) to establish an Office of Ombudsman for Medicaid providers within the Office of Inspector General (OIG) to support Medicaid providers in resolving disputes, complaints, or other issues, between the provider and HHSC or a managed care organization (MCO). The bill would require the OIG to assess administrative penalties against an MCO for a rule violation that results in a provider dispute or complaint in an amount that is sufficient to deter future violations.

The bill would require the Executive Commissioner of HHSC to adopt fair hearing rules that provide a Medicaid recipient with the right to an in-person hearing.

The bill would require HHSC to adopt and implement policies that encourage the use of electronic transactions in Medicaid.

The bill would require HHSC to ensure that MCOs are not using prior authorization (PA) to negatively impact client's access to care and requires HHSC to conduct reviews of MCO prior authorization data, policies, and practices.

The bill would require HHSC to ensure that an MCO care coordinator under the STAR Kids managed care program offers a recipient's parent or legally authorized representative the opportunity to review the recipient's completed care needs assessment before the MCO uses the assessment to determine the services provided to the recipient and an opportunity to dispute the assessment. The bill would also require HHSC, in consultation with stakeholders, to redesign the care needs assessment used in the STAR Kids program.

The bill would require HHSC to periodically evaluate whether to continue the STAR Kids Managed Care Advisory Committee, to annually identify and study areas of MCO services for which HHSC needs additional information, and to amend the contract for the external quality review organization (EQRO) to compare MCO rates of inquiries, complaints, appeals, denials, fair hearing requests, and other related information using monthly MCO self-reported data.

The bill would require the contract between an MCO and HHSC to include a requirement that the

MCO pay liquidated damages for each failure to comply with requirements to make payment to a provider for health care services timely and requires an MCO to automatically continue to provide services at a pre-reduction or pre-denial level of services to a recipient who is appealing the reduction or denial.

The bill would require HHSC to develop a data-sharing platform that enables the electronic viewing of data and access data analysis related to performance measures.

The bill would require HHSC to use automated data validation and calculation tools to determine network adequacy, and to establish provider network adequacy standards for personal care attendants and providers of long-term services and supports who travel to a recipient.

The bill would require HHSC to use its master provider file to validate an MCO's provider network directory.

The bill would require HHSC to improve its internal contract amendment process, create a summary of contract provisions to assist MCOs in complying with those provisions, and to annually assess contract deliverables.

The bill would require HHSC to create procedures by which recipient appeals related to a reduction in or denial of health care services may be appealed to an independent third-party arbiter.

The bill would require HHSC to create a list of health care services and prescription drugs for which an MCO must grant extended prior authorization periods or amounts.

The bill would require HHSC to collect accurate data from MCOs to oversee MCO performance and to determine contract risks, improve the Medicaid managed care grievance-tracking system's reporting capabilities and standardize data reporting among divisions within HHSC. The bill would also require HHSC to change the methodology for calculating potentially preventable admissions and readmissions to exclude hospitalizations in which an MCO did not adequately coordinate the patient's care.

The bill would require HHSC to evaluate Quality Based Initiatives and makes HHSC's medical director responsible for convening periodic meetings with Medicaid health care providers to analyze and evaluate all Medicaid managed care and health care provider quality-based programs.

The bill would take effect September 1, 2019.

Methodology

This analysis assumes that HHSC would require 12.0 additional FTEs to establish the office of ombudsman for Medicaid providers within the OIG including 1.0 Manager V, 1.0 Manager II, 1.0 Program Specialist IV, 1.0 Data Analyst III, 2.0 Investigator VI and 6.0 Program Specialist V. This analysis assumes the cost of the additional FTEs, including salary and benefits, would be \$1,459,076 in each fiscal year of the 2020-21 biennium. Potential revenue from additional penalties assessed by the OIG against MCOs for a rule violation that results in a provider dispute cannot be determined at this time.

Based on estimates provided by HHSC, this analysis assumes that HHSC would require 5.0 additional FTEs including 2.0 Hearings Officer II and 3.0 Hearings Officer III to implement the provisions of the bill related to providing recipients with the right to an in-person hearing. This

analysis assumes the cost of the additional FTEs including salary and benefits, would be \$589,981 in fiscal year 2020 and \$546,711 in fiscal year 2021.

Costs related to increasing the use of electronic transactions could result in cost savings to the state, but the amount of the cost savings cannot be determined at this time. This analysis assumes costs for changes related to claims administrator systems for fee-for-service would cost \$200,000 in fiscal year 2020.

Based on estimates provided by HHSC, this analysis assumes that HHSC would require 36.6 FTEs to implement provisions of the bill related to additional utilization review, vendor drug, and medical benefits policy to review timeliness and outcomes of MCO prior authorization. This analysis assumes the cost of the additional FTEs, including salary and benefits, would be \$4,541,976 in fiscal year 2020 and \$4,271,448 in fiscal year 2021.

Based on estimates provided by HHSC, this analysis assumes the total cost impact to the EQRO would be \$552,000 in fiscal year 2020 and \$430,000 in fiscal year 2021 to implement provisions of the bill related to requirements for the EQRO contract, evaluation of MCO's quality monitoring program, and requirements for the EQRO to periodically evaluate and report to HHSC regarding network adequacy.

HHSC indicates that provisions of the bill requiring an MCO to automatically continue to provide services at the pre-reduction or pre-denial level of services to a recipient who is appealing the reduction or denial could have a significant cost impact. The cost impact cannot be determined at this time.

This analysis assumes that costs related to establishing a searchable database for prior authorization and data storage requirements would cost \$1,700,000 in fiscal year 2020 and \$500,000 in fiscal year 2021.

This analysis assumes that HHSC would need 0.25 Data Analyst FTEs to support data analysis using the data-sharing platform required by the bill at a cost, including salaries and benefits, of \$36,700 in fiscal year 2020 and \$34,853 in fiscal year 2021.

Based on estimates provided by HHSC, this analysis assumes that automated data validation and calculation tools required by the bill would cost \$3,000,000 in fiscal year 2020 and \$500,000 in fiscal year 2021.

Based on estimates provided by HHSC, this analysis assumes that additional costs for the Enrollment Broker contractor related to provisions of the bill expanding the scope of review of MCO provider network directories would total \$279,800 in fiscal year 2020 and \$98,800 in fiscal year 2021.

This analysis assumes that HHSC will require 1.0 Contract Specialist V to support the development of the contract summary compliance framework, provide staff technical assistance, and work on contract automation processes at a cost, including salary and benefits, of \$118,982 in fiscal year 2020 and \$111,594 in fiscal year 2021.

Based on estimates provided by HHSC, this analysis assumes that the costs for a third-party arbiter would total \$979,524 in each fiscal year of the 2020-21 biennium based on an assumed \$800 per case for review. Related costs for one-time modifications to TIERS and other IT applications are estimated to total \$442,400 in fiscal year 2020.

HHSC indicates that there may be cost impacts of extending prior authorizations for services that otherwise would not be extended if found to be not medically necessary. The cost impact cannot be determined at this time. This analysis assumes that HHSC would require 4.0 FTEs, including 1.0 Nurse IV, 2.0 Program Specialist V, and 1.0 Program Specialist VI to manage the development of lists of services, conditions, and prescription drugs which would require MCOs to grant an extended authorization. This analysis assumes that the costs for these additional FTEs, including salaries and benefits, would be \$451,175 in fiscal year 2020 and \$421,623 in fiscal year 2021.

This analysis assumes that HHSC would require 1.8 FTEs, including 0.3 Data Analyst V, 1.0 Financial Analyst III, and 0.5 Program Specialist V to coordinate complaints, data processing, and reporting with the OIG, establish metrics related to care coordination, and support the review of MCO financial data. This analysis assumes the cost for the additional FTEs, including salaries and benefits, would be \$209,130 in fiscal year 2020 and \$198,048 in fiscal year 2021.

This analysis assumes that HHSC would require 1.0 Program Specialist V at a cost, including salary and benefits, of \$106,605 in fiscal year 2021 and \$99,217 in fiscal year 2021, to support quality-based program review with Medicaid providers.

This analysis assumes that HHSC would require 3.0 Program Specialist III FTEs to assist in collecting and analyzing data related to several provisions of the bill. This analysis assumes the cost for the additional FTEs, including salaries and benefits, would be \$304,625 in fiscal year 2020 and \$275,862 in fiscal year 2021.

Based on estimates provided by HHSC, this analysis assumes one-time costs of \$50,000 for modifications to TIERS and auxiliary technology services.

According to the Department of Family and Protective Services (DFPS) there would be no fiscal impact to DFPS as a result of the bill.

Technology

Technology costs related to the provisions of the bill are anticipated to be \$6,605,653 in fiscal year 2020 and \$376,770 in fiscal year 2021.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: WP, AKi, EP, MDI, AN