

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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

IN RE: **HB3388** by Sheffield (Relating to the reimbursement of prescription drugs under Medicaid and the child health plan program.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3388, Conference Committee Report: a negative impact of (\$8,172,748) 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. The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The agency is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	(\$8,172,748)
2022	(\$12,824,106)
2023	(\$13,781,188)
2024	(\$14,814,915)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Tobacco Receipts Match For Chip 8025	Probable Savings/(Cost) from Federal Funds 555	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2020	\$0	\$0	\$0	\$0
2021	(\$8,293,500)	(\$259,883)	(\$13,457,091)	\$285,476
2022	(\$12,992,796)	(\$448,192)	(\$21,809,439)	\$462,661
2023	(\$13,962,467)	(\$481,642)	(\$23,437,110)	\$497,191
2024	(\$15,009,792)	(\$517,770)	(\$25,195,129)	\$534,485

Fiscal Year	Probable Revenue Gain/(Loss) from Foundation School Fund 193
2020	\$0
2021	\$95,159
2022	\$154,221
2023	\$165,730
2024	\$178,162

Fiscal Analysis

The bill would require the Health and Human Services Commission (HHSC) to mandate that MCOs providing services under Medicaid or the Children's Health Insurance Program (CHIP) reimburse retail and specialty pharmacies a minimum of the lesser of the reimbursement amount for the drug in the vendor drug program, including a dispensing fee that is not less than the dispensing fee under the vendor drug program, or the amount claimed by the pharmacy or pharmacist, including the gross amount due or the usual and customary charge to the public for the drug. The bill would also require MCOs to reimburse pharmacies that dispense a prescription drug at a discounted price under Section 340B of the Public Health Service Act not less than the reimbursement amount for the drug under the vendor drug program, including a dispensing fee that is not less than the dispensing fee under the vendor drug program. The Executive Commissioner of HHSC may reduce the minimum dispensing fee by up to 85 cents in certain circumstances after publishing the rule adopting the amount. The bill would require the Executive Commissioner of HHSC to increase a reduced minimum dispensing fee if the Executive Commissioner identifies savings as a result of implementing changes to the preferred drug list to realize potential savings caused by generic drug deflation. The cost estimates discussed below could change significantly depending upon the amount of the actual minimum dispensing fee.

The bill would require HHSC to conduct a study of Texas pharmacies' actual acquisition costs and dispensing cost at least every two years. The bill would take effect March 1, 2020.

Methodology

This analysis assumes implementation on January 1, 2021. Based on estimates provided by HHSC, this analysis assumes caseloads of 2,416,365 in fiscal year 2021, 3,993,270 in fiscal year 2022, 4,067,666 in fiscal year 2023, and 4,144,903 in fiscal year 2024, and pharmacy reimbursement that is 0.8 percent higher than under the current reimbursement model.

The net increased client services cost, including amounts for the Health Insurance Providers Fee, is estimated to be \$22.8 million in All Funds, including \$8.6 million in General Revenue, in fiscal year 2021, increasing to \$36.9 million in All Funds, including \$13.4 million in General Revenue, in fiscal year 2022 and continuing to increase to \$42.6 million in fiscal year 2024, including \$15.5 million in General Revenue.

This analysis assumes that any additional administrative costs to the MCOs or MCO pharmacy benefit managers for changes to the reimbursement methodology or to implement the required dispensing fees could be absorbed with existing resources.

The net increases in client services payments through managed care are assumed to result in an increase to insurance premium tax revenue, estimated as 1.75 percent of the increased managed care expenditures; resulting in assumed increased collections of \$0.4 million in fiscal year 2021, \$0.6 million in fiscal year 2022, and \$0.7 million in fiscal year 2023 and fiscal year 2024. Pursuant to Section 227.001(b), Insurance Code, 25 percent of the revenue is assumed to be deposited to the credit of the Foundation School Fund.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, EP, MDI