LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 25, 2019

TO: Honorable Eddie Lucio III, Chair, House Committee on Insurance

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

IN RE: **HB3933** by Martinez Fischer (Relating to consumer protections against billing and limitations on information reported by consumer reporting agencies.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3933, As Introduced: a negative impact of ($523,173) 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	($310,774)
2021	($212,399)
2022	($212,399)
2023	($212,399)
2024	($212,399)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *Insurance Maint Tax Fees* 8042	Probable (Cost) from *Insurance Maint Tax Fees* 8042	Probable (Cost) from *General Revenue Fund* 1	Change in Number of State Employees from FY 2019
2020	$1,140,642	($1,140,642)	($310,774)	20.0
2021	$1,106,642	($1,106,642)	($212,399)	20.0
2022	$1,106,642	($1,106,642)	($212,399)	20.0
2023	$1,106,642	($1,106,642)	($212,399)	20.0
2024	$1,106,642	($1,106,642)	($212,399)	20.0

Fiscal Analysis

This bill would amend the Business and Commerce Code and Insurance Code relating to consumer protections against billing and limitations on information reported by consumer reporting agencies.

Section 2.03 of the bill would allow a managed care plan that is a self-funded or self-insured employee welfare benefit plan established under the Employee Retirement Income Security Act of 1974 (ERISA) to elect on an annual basis into consumer protections against out-of-network billing and claim dispute resolution with the Texas Department of Insurance (TDI) and State Office of Administrative Hearings (SOAH).

Sections 2.07 and 2.08 of the bill would require the Employees Retirement System (ERS) and Teachers Retirement System (TRS) to provide out-of-network emergency care coverage for participants and pay for emergency care performed by an out-of-network provider.

Section 3.02 of the bill would expand the insurance plans eligible for claim dispute resolution and mediation for out-of-network health benefit claims to a health maintenance organization operating under Insurance Code, Chapter 843, and exclusive provider benefit plans.

Section 3.03 of the bill would change the initiator of a mediation request for the settlement of an out-of-network health benefit claim from the enrollee to a facility-based provider, emergency care provider, health benefit plan issuer, or administrator.

The bill applies only to a health care or medical service or supply provided on or after the effective date of the bill. The bill would take effect on September 1, 2019.

Methodology

Based on information provided by TDI, the agency anticipates approximately 22,000 additional mediation requests each fiscal year. This analysis assumes the significant increase in mediation requests would be due to insurers initiating additional requests and the expansion of plans eligible for mediation. To respond to the increased workload, TDI anticipates the need for 17.0 additional full-time equivalent (FTE) positions per fiscal year for a total five-year impact of $5,567,210 from General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees.

TDI estimates that the 17.0 FTEs would require recurring costs to General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees of $790,552 in salaries, $11,858 in payroll contribution costs, and $264,282 in related support and benefit costs each fiscal year. Additional program costs include one-time costs of $25,500 for workstations, computers, and related software, and $8,500 for telecommunication licenses. Additional program costs include recurring costs of $10,200 for consumable supplies, $4,250 for training, and $25,500 for other related technology operating expenses.

Due to the self-leveling nature of the TDI operating fund, this analysis assumes that TDI would adjust the assessment of the maintenance tax to account for any additional costs resulting from the implementation of the bill.

Based on information provided by SOAH, the agency anticipates approximately 4,400 additional mediation requests each fiscal year. This analysis assumes that approximately 20 percent of all out-of-network disputes submitted to TDI are referred to SOAH for formal mediation. To respond to the increased workload, SOAH anticipates the need for 3.0 additional FTE positions per fiscal year for a total five-year impact of $1,160,370 from the General Revenue Fund.

SOAH estimates that the 3.0 FTEs would require recurring costs to General Revenue of $138,072 in salaries, $2,071 in payroll contribution costs, and $46,157 in related support and benefit costs each fiscal year. Additional program costs include one-time costs of $18,375 for workstations and computers, and $80,000 for referral tracking software. Additional program costs include recurring costs of $21,500 for software licenses and maintenance and $4,599 for other related operating expenses.

The fiscal implications of the bill relating to the uncertainty of the number of ERISA plans that would elect to mediation cannot be determined at this time. Thus, this analysis assumes that no ERISA plans would opt into mediation and no significant fiscal implication to the State is anticipated. Depending on the number of ERISA plans that opt into mediation, the additional fiscal implication to the State could be significant for TDI and SOAH.

Based on information provided by TRS, Health and Human Services Commission, Texas Medical Board, The University of Texas System Administration, and Texas A&M University System Administration, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

While ERS assumes that costs regarding system changes and communications can be absorbed within existing resources, the agency is not able to estimate the bill's potential fiscal implications due to the uncertainty of how many claims could be affected and result in additional mediation requests.

Technology

This analysis estimates a total one-time technology cost of $150,000 in fiscal year 2020 and a total recurring cost of $47,000 each fiscal year thereafter required to implement the provisions of the bill.

TDI estimates one-time technology costs of $8,500 for computers and $8,500 for telecommunication licenses in fiscal year 2020; and recurring costs of $17,000 for document management subscriptions and $8,500 for telecommunication licenses each fiscal year.

SOAH estimates one-time technology costs of $80,000 for referral tracking software and $6,000 for computers in fiscal year 2020; and recurring costs of $21,500 for software licenses and maintenance each fiscal year.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 327 Employees Retirement System, 360 State Office of Administrative Hearings, 454 Department of Insurance, 466 Office of Consumer Credit Commissioner, 503 Texas Medical Board, 529 Health and Human Services Commission, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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