LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 15, 2019

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

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

IN RE: **SB1050** by Hughes (Relating to the creation and operation of a health care quality provider participation program; authorizing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1050, As Introduced: an impact of $0 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	$0
2021	$0
2022	$0
2023	$0
2024	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *New Quality Provider Participation Program Trust Fund*	Probable Revenue Gain/(Loss) from *New Quality Provider Participation Program Trust Fund*	Probable Savings/(Cost) from *Federal Funds* 555
2020	$0	$0	$0
2021	($409,007,305)	$409,007,305	($644,996,402)
2022	($463,731,082)	$463,731,082	($730,195,348)
2023	($535,240,439)	$535,240,439	($841,527,610)
2024	($631,360,866)	$631,360,866	($991,176,620)

Fiscal Analysis

The bill would require the Health and Human Services Commission (HHSC) to establish a quality

payer participation program for convalescent and nursing facilities licensed under Health and Safety Code, Chapter 242 (with certain exceptions). The quality provider participation payment would be calculated as the product of an amount established by the executive commissioner of HHSC and a facility's non-Medicare resident days. The amount established by the executive commissioner could not exceed the amount sufficient to produce annual revenues from all facilities not exceeding the maximum amount allowable under certain federal requirements. The bill would limit the amount of administrative penalties that could be collected related to the reinvestment allowance.

The bill would establish the quality provider participation program trust fund as a trust fund to be held by the comptroller outside of the state treasury and administered by HHSC as trustee. The bill would require HHSC to deposit any quality provider participation payments collected to the trust fund. HHSC would be authorized to use money in the trust fund and corresponding federal matching funds to pay any HHSC cost to develop and administer systems for managing the quality provider participation payment and reimburse the Medicaid share of the payment as an allowable cost in the Medicaid daily rate. The bill would require HHSC to allocate 50 percent of the remaining funds to increase reimbursement rates to nursing facilities that participate in the state Medicaid program and demonstrate historical expenditures for capital improvements, renovations, or other enhancements to create a more home-like environment, wages and benefits, or other direct care services. The other 50 percent of remaining funds would be distributed to facilities in the following order of importance: performance under the Centers for Medicare and Medicaid Services (CMS) five-star quality rating system; increases in direct care staffing and revenue enhancements program funding for facilities participating in HHSC's Quality Incentive Payment Program to the maximum level allowed to the facilities as of Sep 1, 2019; additional quality payments for unique long-term care needs such as for Alzheimer's, dementia, obesity, and other conditions identified by HHSC. Before September 1, 2020, 100 percent of remaining funds would be distributed to nursing facilities participating in the state Medicaid program. HHSC would be required to devise a formula to increase Medicaid reimbursement rates in consultation with the advisory committee established by the bill. The bill would require HHSC to distribute any unearned money to all qualified nursing facilities in proportion to the amount each facility earned.

The bill would require HHSC to establish an advisory committee to make recommendations to the agency before the adoption of a rule, policy, or procedure related to the quality provider participation program by January 1, 2020.

The subchapter, as added by the bill, would expire August 31, 2029. HHSC would be required to seek any necessary federal waiver or authorization to implement the provisions of the bill and would be authorized to delay implementation until such waiver or authorization was received. HHSC would be prohibited from imposing a quality provider participation payment until a Medicaid state plan amendment to increase Medicaid rates for certain long-term-care facilities is approved. The bill would require HHSC to retroactively reimburse facilities beginning on the date the state plan amendment was approved, but only for the period for which the quality provider participation payment was imposed and collected. HHSC would be required to discontinue the payment if they reduced Medicaid reimbursement rates below the sum of the rates in effect on September 1, 2019 and the rates that increased due to funds from the quality provider participation program trust fund and federal matching funds.

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 within or outside of the Treasury, or create a dedicated revenue source. 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 upon receiving a two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2019.

Methodology

According to HHSC, assuming a quality provider participation payment based on six percent of gross revenue would yield an estimated $409.0 million in fiscal year 2021, $463.7 million in fiscal year 2022, $535.2 million in fiscal year 2023, and $631.4 million in fiscal year 2024. It is assumed the payment would not be collected in fiscal year 2020 due to time needed to establish the trust fund and receive any necessary federal approval to implement the provisions of the bill. It is assumed that any amount used to reimburse Medicaid costs associated with paying the fee would be deposited back into the trust fund and that is part of the total estimated revenue to the trust fund.

The bill could affect managed care organizations who would be involved in making payments, but any changes to capitation rates and increases to client services costs cannot be determined at this time.

Local Government Impact

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

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

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