LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 18, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

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

IN RE: **SB1742** by Menéndez (Relating to physician and health care provider directories for certain health benefit plans.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated. The fiscal implications of the bill cannot be determined at this time for the Health and Human Services Commission relating to utilization review of emergency claims.

The bill would amend the Government Code, Insurance Code, Labor Code, and Occupations Code relating to physician and health care provider directories for certain health benefit plans.

Based on information provided by Texas Department of Insurance (TDI), Employees Retirement System, Teacher Retirement System, Health and Human Services Commission (HHSC), The University of Texas System Administration, Texas A&M University System Administration, State Office of Risk Management, Texas Department of Transportation, Office of Public Insurance Counsel, and Texas Medical Board, this analysis assumes that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would amend provisions relating to the regulation of utilization review, independent review, and peer review for health benefit plan and workers' compensation coverage and to preauthorization of certain medical care and health care services by certain health benefit plan issuers. According to HHSC, utilization review of emergency claims by a physician would result in a significant fiscal impact, but an estimate cannot be determined at this time. In addition, HHSC indicates federal rule addresses preauthorization requirements for managed care organizations that contract to provide for Medicaid and Children's Health Insurance Program (CHIP) services; therefore, it is assumed these provisions would not apply to Medicaid or CHIP and there would be no fiscal impact to HHSC. If the provisions were applied to those programs, HHSC may need to increase managed care premiums to account for the additional administrative burden, which would result in a cost that could be significant.

The bill would amend provisions relating to health benefit plan provider networks. The bill would require TDI to examine an insurer's network used by a preferred provider benefit plan for quality and adequacy at least once every three years. The bill would require TDI to review logs of inaccurate network directories or listings at least once annually and examine compliance. The bill would require TDI to examine the two insurers with the highest percentage of claims that are subject to mediation requests each year to determine the quality and adequacy of networks offered by the insurer.

TDI is required to collect assessments to cover all expenses incurred by the self-directed, semi-independent (SDSI) division to implement the provisions of the bill. TDI is required to deposit the assessments to the local account with the Texas Treasury Safekeeping Trust Company used by the SDSI division of TDI. This analysis assumes that implementation of certain provisions of the bill would be through the Actuarial Office and Financial Examinations SDSI division. As a self-funding, self-leveling division, the Actuarial Office and Financial Examinations division is required to collect revenues sufficient to cover its costs, so that any additional costs incurred in implementing the provisions of the bill would be offset by an equal amount of revenue.

The bill would require TDI to impose an administrative penalty against an insurer that creates an inadequate network through terminations without cause. The administrative penalties would be deposited into the General Revenue-Dedicated TDI Operating Fund 36 and as the number of violations is unknown, the amount of penalty revenue cannot be determined and is excluded from this analysis.

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.

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 with 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.

Local Government Impact

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

Source Agencies: 327 Employees Retirement System, 454 Department of Insurance, 529 Health and Human Services Commission, 710 Texas A&M University System Administrative and General Offices

LBB Staff: WP, CMa, SGr, CP, KFB