LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 24, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3891** by Harrison (Relating to the audit of claims and recovery of overpayments by Medicaid recovery audit contractors.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3891, As Introduced : a negative impact of ($2,400,852) through the biennium ending August 31, 2025.

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***
2024	($1,386,124)
2025	($1,014,728)
2026	$10,036,089
2027	$20,261,904
2028	$20,261,767

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings from** ***GR Match For Medicaid*** **758**	**Probable Savings from** ***Federal Funds*** **555**	**Probable (Cost) from** ***GR Match For Medicaid*** **758**	**Probable (Cost) from** ***Federal Funds*** **555**
2024	$0	$0	($1,386,124)	($1,386,124)
2025	$0	$0	($1,014,728)	($1,014,728)
2026	$10,960,950	$16,339,050	($924,861)	($924,861)
2027	$21,921,900	$32,678,100	($1,659,996)	($1,659,996)
2028	$21,921,900	$32,678,100	($1,660,133)	($1,660,133)

Fiscal Year	***Change in Number of State Employees from FY 2023***
2024	3.0
2025	3.0
2026	3.0
2027	3.0
2028	3.0

Fiscal Analysis

The bill would require the Health and Human Services Commission's (HHSC) recovery audit contractor program to include identification of underpayments and overpayments under the Medicaid managed care program. The bill would require HHSC's Office of Inspector General (OIG) to ensure that a recovery audit contractor (RAC) identifies both payments made to a Medicaid managed care organization (MCO), and payments made by a Medicaid MCO that the MCO did not previously identify in an audit and the state did not initiate recovery efforts for. The bill would take effect September 1, 2023.

Methodology

Based on information provided by HHSC, this analysis assumes the bill would result in savings to the state associated with identification and recoupment of Medicaid managed care overpayments. According to HHSC, the bill could result in an estimated $27.3 million in All Funds net savings to Medicaid in fiscal year 2026, and $54.6 million in All Funds net savings in fiscal years 2027 through 2028. The savings stated do not assume any offsetting adjustments to premium tax revenue or to costs to OIG to implement the provisions of the bill, which are noted below.

This analysis assumes the savings would be calculated at a 59.85 percent federal matching rate, resulting in an estimated $11.0 million in General Revenue net savings in fiscal year 2026 and $21.3 million in General Revenue net savings in fiscal year 2027 and 2028.

In addition, analysis assumes the RAC would be entitled to a contingency fee of 12.5 percent of identified recoveries, estimated to total $3.9 million in All Funds in fiscal year 2026 and $7.8 million in All Funds in fiscal years 2027 and 2028.

It is assumed savings would not be realized until mid or late fiscal year 2026 to allow for other required changes, noted below, to occur.

According to HHSC, additional staff would be needed to oversee expansion of the RAC program. This analysis assumes HHSC would need additional Management Analyst V and Project Manager II positions to provide assistance to internal staff and stakeholder groups, and to ensure compliance with federal and state RAC and managed care requirements. Analysis assumes a total of 3.0 full-time-equivalents (FTEs) are needed in fiscal years 2024 through 2028 to implement the provisions of the bill. Personnel related costs, including salaries, travel, and overhead, are estimated to total $0.4 million in All Funds in fiscal year 2024 and $0.4 million in All Funds in fiscal year 2025.

In addition, this analysis assumes that HHSC would require an additional $1.5 million in All Funds in fiscal year 2026 and $2.9 million in All Funds in fiscal years 2027 through 2028 to contract with a third-party vendor to assist with recovery- and collection-related activities, and to assist with RAC managed care appeals. Both functions would be a new cost for HHSC due to expansion of the RAC program into managed care. It is assumed costs would not begin until mid or late fiscal year 2026 to allow for other required changes to technology systems and agency rules to occur.

Technology

The total technology cost is estimated to be $2.4 million in All Funds in fiscal year 2024 and $1.7 million in All Funds in fiscal year 2025. Costs are primarily related to one-time modifications to accommodate the changes to applications required by the bill, including updates to allow for processing of RAC recoveries in managed care, to establish a deconfliction database to prevent recovery efforts of the same payment by both OIG and RAC, and other ongoing personnel costs.

Local Government Impact

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

Source Agencies: 529 Health and Human Services Commission

LBB Staff: JMc, NPe, ER, SB, NV