

SENATE AMENDMENTS
2nd Printing

By: Noble

H.B. No. 142

A BILL TO BE ENTITLED

AN ACT

relating to the administration, authority, and duties of the Health and Human Services Commission's office of inspector general.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 544.0106, Government Code, as effective April 1, 2025, is amended to read as follows:

Sec. 544.0106. PROCUREMENT OF ~~[CONTRACT FOR]~~ REVIEW ~~[OF INVESTIGATIVE FINDINGS]~~ BY QUALIFIED EXPERT ON BEHALF OF OFFICE OF INSPECTOR GENERAL. A qualified expert retained by the commission on behalf of the office of inspector general is considered an expert witness for purposes of Section 2151.005 ~~[(a) If the commission does not receive any responsive bids under Chapter 2155 on a competitive solicitation for the services of a qualified expert to review investigative findings under Section 544.0104 or 544.0105 and the number of contracts to be awarded under this subsection is not otherwise limited, the commission may negotiate with and award a contract for the services to a qualified expert on the basis of:~~

~~[(1) the contractor's agreement to a set fee, either as a range or lump-sum amount, and~~

~~[(2) the contractor's affirmation and the office of inspector general's verification that the contractor possesses the necessary occupational licenses and experience].~~

~~[(b) Notwithstanding Sections 2155.083 and 2261.051, a contract awarded under Subsection (a) is not subject to competitive~~

~~advertising and proposal evaluation requirements.]~~

SECTION 2. Subchapter C, Chapter 544, Government Code, as effective April 1, 2025, is amended by adding Section 544.0115 to read as follows:

Sec. 544.0115. PERMITTED DISCLOSURE OF CERTAIN INFORMATION. For purposes of performing the duties of the office of inspector general under this subchapter, the office may disclose information obtained in the course of conducting the office's administrative oversight activities to:

(1) a federal, state, or local governmental entity, including:

(A) a federal agency or an agency of this state or another state;

(B) the criminal, civil, or administrative department, division, bureau, or other entity with enforcement or prosecutorial authority of:

(i) this state;

(ii) the United States;

(iii) another state; or

(iv) a local governmental entity of this state or another state; and

(C) a political subdivision of this state; or

(2) a person authorized by the office to receive the information.

SECTION 3. Section 544.0153(b), Government Code, as effective April 1, 2025, is amended to read as follows:

(b) Except as required by federal law, to ~~[To]~~ determine a

1 health care professional's eligibility to participate as a Medicaid
2 provider, the office of inspector general may not conduct a
3 fingerprint-based criminal history record information check of a
4 health care professional who the office has confirmed under
5 Subsection (a) is licensed and in good standing. This subsection
6 does not prohibit the office from conducting a criminal history
7 record information check of a provider that is required or
8 appropriate for other reasons, including for conducting an
9 investigation of fraud, waste, or abuse.

10 SECTION 4. Section 544.0202(b), Government Code, as
11 effective April 1, 2025, is amended to read as follows:

12 (b) The commission shall:

13 (1) aggressively publicize successful fraud
14 prosecutions and fraud-prevention programs through all available
15 means, including the use of statewide press releases; and

16 (2) ensure that the commission or a health and human
17 services agency maintains and promotes an appropriate
18 communications system [~~a toll-free telephone hotline~~] for
19 reporting suspected fraud in programs the commission or a health
20 and human services agency administers.

21 SECTION 5. The following provisions of the Government Code
22 are repealed:

23 (1) Section 544.0201; and

24 (2) Section 544.0252(a).

25 SECTION 6. If before implementing any provision of this Act
26 a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

H.B. No. 142

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 7. This Act takes effect September 1, 2025.

ADOPTED

MAY 08 2025

Latey Spaw
Secretary of the Senate

By: Chris Perry

H.B. No. 142

Substitute the following for H.B. No. 142:

By: Chris Perry

C.S.H.B. No. 142

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the Health and Human Services Commission's office of
3 inspector general, the review of certain Medicaid claims, and the
4 recovery of certain overpayments under Medicaid.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 544.0106, Government Code, is amended to
7 read as follows:

8 Sec. 544.0106. PROCUREMENT OF ~~[CONTRACT FOR REVIEW OF~~
9 ~~INVESTIGATIVE FINDINGS BY]~~ QUALIFIED EXPERT ON BEHALF OF OFFICE OF
10 INSPECTOR GENERAL. A qualified expert retained by the commission
11 on behalf of the office of inspector general is considered an expert
12 witness for purposes of Section 2151.005 [(a) If the commission
13 ~~does not receive any responsive bids under Chapter 2155 on a~~
14 ~~competitive solicitation for the services of a qualified expert to~~
15 ~~review investigative findings under Section 544.0104 or 544.0105~~
16 ~~and the number of contracts to be awarded under this subsection is~~
17 ~~not otherwise limited, the commission may negotiate with and award~~
18 ~~a contract for the services to a qualified expert on the basis of:~~

19 ~~[(1) the contractor's agreement to a set fee, either as~~
20 ~~a range or lump sum amount; and~~

21 ~~[(2) the contractor's affirmation and the office of~~
22 ~~inspector general's verification that the contractor possesses the~~
23 ~~necessary occupational licenses and experience].~~

24 ~~[(b) Notwithstanding Sections 2155.083 and 2261.051, a~~

1 ~~contract awarded under Subsection (a) is not subject to competitive~~
2 ~~advertising and proposal evaluation requirements.]~~

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4 amended by adding Section 544.0115 to read as follows:

5 Sec. 544.0115. PERMITTED DISCLOSURE OF CERTAIN
6 INFORMATION. For purposes of performing the duties of the office of
7 inspector general under this subchapter, the office may disclose
8 information obtained in the course of conducting the office's
9 administrative oversight activities to:

10 (1) a federal, state, or local governmental entity,
11 including:

12 (A) a federal agency or an agency of this state or
13 another state;

14 (B) the criminal, civil, or administrative
15 department, division, bureau, or other entity with enforcement or
16 prosecutorial authority of:

17 (i) this state;

18 (ii) the United States;

19 (iii) another state; or

20 (iv) a local governmental entity of this
21 state or another state; and

22 (C) a political subdivision of this state; or

23 (2) a person authorized by the office to receive the
24 information.

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4 health care professional who the office has confirmed under
5 Subsection (a) is licensed and in good standing. This subsection
6 does not prohibit the office from conducting a criminal history
7 record information check of a provider that is required or
8 appropriate for other reasons, including for conducting an
9 investigation of fraud, waste, or abuse.

10 SECTION 4. Section 544.0202(b), Government Code, is amended
11 to read as follows:

12 (b) The commission shall:

13 (1) aggressively publicize successful fraud
14 prosecutions and fraud-prevention programs through all available
15 means, including the use of statewide press releases; and

16 (2) ensure that the commission or a health and human
17 services agency maintains and promotes an appropriate
18 communications system [~~a toll-free telephone hotline~~] for
19 reporting suspected fraud in programs the commission or a health
20 and human services agency administers.

21 SECTION 5. Section 544.0504, Government Code, is amended to
22 read as follows:

23 Sec. 544.0504. RECOVERY AUDIT CONTRACTORS. (a) To the
24 extent required under Section 1902(a)(42), Social Security Act (42
25 U.S.C. Section 1396a(a)(42)), the commission shall establish a
26 program under which the commission contracts with one or more
27 recovery audit contractors to:

1 (1) identify Medicaid underpayments and overpayments,
2 including underpayments and overpayments under the Medicaid
3 managed care program; and
4 (2) recover the overpayments.
5 (b) An overpayment under Subsection (a)(2) may be recovered
6 from either the provider or the managed care organization.
7 (c) A recovery audit contractor may not:
8 (1) initiate a review of a claim unless:
9 (A) the office of inspector general or the
10 office's designee:
11 (i) determines that the review would be
12 cost-effective; and
13 (ii) approves the review; and
14 (B) at least one year has elapsed since the date
15 the claim was received; or
16 (2) initiate a recovery effort on a claim if a managed
17 care organization has notified the office of inspector general that
18 the organization is auditing the claim.
19 (d) On request by a recovery audit contractor or the office
20 of inspector general, a managed care organization or provider who
21 is the subject of a review conducted under this section shall submit
22 to the contractor or office all information necessary to perform
23 the review not later than the date specified in the request. All
24 information and materials obtained under this section are
25 confidential under Section 544.0259(e).
26 (e) The executive commissioner by rule shall adopt a process
27 for appeals related to overpayments identified by a recovery audit

1 contractor under this section.

2 (f) The commission may contract with a third party to
3 administer Subsection (b) or the appeals process adopted under
4 Subsection (e).

5 (g) The executive commissioner, in consultation with the
6 office of inspector general, may adopt rules necessary to implement
7 this section.

8 SECTION 6. The following provisions of the Government Code
9 are repealed:

10 (1) Section 544.0201; and

11 (2) Section 544.0252(a).

12 SECTION 7. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 8. The Health and Human Services Commission is
19 required to implement a provision of this Act only if the
20 legislature appropriates money specifically for that purpose. If
21 the legislature does not appropriate money specifically for that
22 purpose, the commission may, but is not required to, implement a
23 provision of this Act using other money available to the commission
24 for that purpose.

25 SECTION 9. This Act takes effect September 1, 2025.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 8, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB142** by Noble (Relating to the Health and Human Services Commission's office of inspector general, the review of certain Medicaid claims, and the recovery of certain overpayments under Medicaid.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB142, As Passed 2nd House: a positive impact of \$4,060,855 through the biennium ending August 31, 2027.

The Texas Health and Human Services Commission (HHSC) is required to implement the provisions of the bill 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 the bill using other appropriations available for that purpose.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2026	(\$3,152,842)
2027	\$7,213,697
2028	\$18,532,794
2029	\$32,088,644
2030	\$32,087,792

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings from <i>GR Match For Medicaid</i> 758	Probable Savings from <i>Federal Funds</i> 555	Probable (Cost) from <i>GR Match For Medicaid</i> 758	Probable (Cost) from <i>Federal Funds</i> 555
2026	\$0	\$0	(\$3,152,842)	(\$3,152,841)
2027	\$11,729,341	\$17,469,914	(\$4,515,644)	(\$6,699,383)
2028	\$21,326,074	\$31,763,480	(\$2,793,280)	(\$6,763,715)
2029	\$35,543,457	\$52,939,134	(\$3,454,813)	(\$10,072,203)
2030	\$35,544,260	\$52,940,331	(\$3,456,468)	(\$10,073,858)

<i>Fiscal Year</i>	<i>Probable (Cost) from Medicaid Subrogation Receipts 8044</i>	<i>Change in Number of State Employees from FY 2025</i>
2026	\$0	3.2
2027	(\$1,466,167)	17.7
2028	(\$2,665,759)	17.7
2029	(\$4,442,932)	17.7
2030	(\$4,442,932)	17.7

Fiscal Analysis

The bill makes changes to the administration and duties of the Texas Health and Human Services Commission's (HHSC) Office of Inspector General (OIG), including the process for retainment of qualified expert witnesses, the disclosure of information to other entities during investigations, the prohibition of certain criminal history background checks, and reviews of certain Medicaid overpayments and underpayments. The bill would require that the Recovery Audit Contractor program (RAC) identify underpayments and overpayments within the Medicaid managed care program, extending beyond the current reviews of Fee-for-Service (FFS) payments. The bill would require OIG to ensure that a RAC initiates recovery efforts for overpayments from either the provider or the managed care organization (MCO) involved in the overpayments. Under the bill, RACs may not initiate a review of a claim unless OIG or its designee determines that the review would be cost-effective and approves the review, and at least one year must have passed since the date the claim was received. RACs also may not initiate a review if an MCO has notified the OIG that the MCO is auditing the claim already. The bill would require the HHSC executive commissioner to adopt a process for appeals related to overpayments, and the executive commissioner may work with the OIG to adopt rules to implement the bill. The bill clarifies that HHSC is only required to implement the bill if the legislature appropriates funds for this purpose; otherwise, HHSC may implement using other funds but is not required to.

Methodology

This analysis assumes an overall positive impact to GR for the FY 2026-27 biennium because the net savings that are assumed in FY 2027 (due to Medicaid recoveries) are greater than the costs assumed in FY 2026.

Personnel Costs

Based on information provided by HHSC, this analysis assumes that the agency will require additional staff resources to implement provisions of the bill, including attorneys, contract specialists, management analysts, nurses, physicians, program specialists, and project managers. The analysis assumes an additional 3.2 full-time equivalents (FTEs) in the first year of implementation (FY 2026) and 17.7 FTEs thereafter. Attorneys will be involved in resolving contractual disputes that may arise between providers and MCOs, and contract specialists will be involved in resolving additional provider complaints and providing technical assistance to the RAC, OIG, and the RAC appeals contractor. Management analysts will support compliance with federal and state RAC policies and guide RAC activities in managed care. Nurses and physicians will provide technical assistance to the RAC appeals contractor. Project managers will provide additional coordination for RAC activities in managed care. Personnel related costs are estimated to total \$505,683 in All Funds in FY 2026 and \$2,890,008 in All Funds in FY 2027.

Additional Non-Staff Costs

The agency expects to incur additional costs related to its RAC appeals contractor in FY 2029 (\$281,304 in All Funds) and FY 2030 (\$281,304 in All Funds). In addition, the agency will incur one-time costs for recovery collections in FY 2026 (\$800,000 in All Funds) and FY 2027 (\$300,000 in All Funds). The agency assumes there will be additional ongoing costs related to recovery collections in FY 2027 through FY 2030 (\$475,200 in All Funds in FY 2027, \$864,000 in FY 2028, \$1,440,000 in FY 2029, and \$1,440,000 in FY 2030). Recovery collections activities will involve procuring a third-party vendor to establish provider accounts receivables, to receive payments from providers, and to communicate collection activities and status with providers.

The agency also assumes additional ongoing costs for second level appeals (\$381,580 in FY 2027, \$693,782 in FY 2028, \$1,156,304 in FY 2029, and \$1,156,304 in FY 2030).

The additional non-staff costs above are assumed at a 50% GR, 50% administrative federal Medicaid matching rate.

Recoveries and Contingency Fees

The agency also assumes there will be significant recovered Medicaid revenue to the state as a result of the audits of overpayments in managed care. The analysis assumes that by FY 2029, the recoveries could reach approximately \$88.48 million/year. This figure is based on FY 2024 data on overpayments in the Fee-for-Service (FFS) system, and an assumption that there are 1.5 times more providers in managed care as there are in FFS. The estimate assumes a per-claim recovery rate of approximately \$5,276, based on averages in FFS, and an assumption of 22,537 claims per year for managed care. The agency assumes that various constraints will bring total recoveries down by 25% from that potential. The agency assumes that recoveries would therefore total \$29,199,255 in FY 2027, \$53,089,554 in FY 2028, \$88,482,591 in FY 2029, and \$88,484,591 in FY 2030.

Out of these recovered funds, the agency must pay a contingency fee of 12.5% to the RAC contractor (this is allocated as a cost to Other Fund 8044 in the tables above). The agency estimates these fees to be \$3,649,906 in FY 2027, \$6,636,194 in FY 2028, \$11,060,323 in FY 2029, and \$11,060,323 in FY 2030. Therefore, when recoveries are reduced by these fees, the resulting savings to the state would be the following: \$25,549,349 in FY 2027; \$46,453,360 in FY 2028; \$77,422,268 in FY 2029; and \$77,424,268 in FY 2030. This analysis assumes that savings from Medicaid recoveries would be allocated to GR and federal funds methods of finance using the standard Medicaid FMAP match rate (59.84% federal match in FY 2026, 59.83% federal match assumed in FY 2027-2030). Therefore, some funds would reflect savings to GR Match for Medicaid, and other funds would reflect savings to Federal Funds.

It is assumed that any other costs related to the bill could be absorbed using existing resources.

Technology

The agency assumes that the primary technology cost associated with the bill would be incurred by procuring a deconfliction database to ensure against the potential for duplicate recovery efforts for the same case. This analysis assumes one-time costs for the database (\$5,000,000 in All Funds in FY 2026 and \$3,711,000 in All Funds in FY 2027), as well as ongoing costs for the database operations (\$1,273,500 in All Funds in each of FYs 2027-2030).

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, SD, NPe, ER, NT, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 2, 2025

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB142** by Noble (Relating to the Health and Human Services Commission ’s office of inspector general, the review of certain Medicaid claims, and the recovery of certain overpayments under Medicaid.), **Committee Report 2nd House, Substituted**

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Recoveries and Contingency Fees

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Local Government Impact

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Source Agencies: 529 Health and Human Services Commission

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 2, 2025

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB142 by Noble (Relating to the administration, authority, and duties of the Health and Human Services Commission's office of inspector general.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

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Source Agencies: 529 Health and Human Services Commission

LBB Staff: JMc, NPe, NT, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 25, 2025

TO: Honorable Lacey Hull, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB142** by Noble (Relating to the administration, authority, and duties of the Health and Human Services Commission's office of inspector general.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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Local Government Impact

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Source Agencies: 529 Health and Human Services Commission

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 9, 2025

TO: Honorable Lacey Hull, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB142 by Noble (Relating to the administration, authority, and duties of the Health and Human Services Commission's office of inspector general.), **As Introduced**

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