TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 2463 - HB 2539

March 4, 2018

SUMMARY OF BILL: Establishes the *Tennessee Right to Shop Act*.

Requires a carrier offering a health plan in this state to develop and implement a program that provides incentives for enrollees in a health plan who elect to receive a comparable healthcare service that is covered by the plan from providers that charge less than the average allowed amount paid by that carrier to network providers for that comparable healthcare service.

Requires an insurance carrier to make the incentive program available as a component of all health plans offered by the carrier in this state. Prior to offering the program to any enrollee, a carrier must file a description of the program established by the carrier pursuant to this section with the Department of Commerce and Insurance (DCI) in the manner determined by the department.

Requires a carrier to establish an interactive mechanism on its publicly accessible website that enables an enrollee to request and obtain from the carrier information on the payments made by the carrier to network entities or providers for comparable healthcare services, as well as quality data for those providers, to the extent available.

Requires various disclosures for those providing health care services.

Requires the Department of Health (DOH), the Department of Mental Health and Substance Abuse Services (DMHSAS), and any licensing board operating under those departments to assist the commissioner in administering this section.

Requires any non-profit healthcare provider, beginning on January 1, 2019, and on January 1 of each subsequent year, licensed under Title 33, 63, or 68 in this state to disclose to the Commissioner of the DCI what the provider would have paid in taxes for the prior year if the provider were a for-profit entity on the provider's website and provide the information in writing to any person who requests it.

The proposed legislation is effective January 1, 2019.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - $613,000/FY18-19
$1,219,700/FY19-20 and Subsequent Years

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Increase Federal Expenditures – $3,400/FY18-19
$6,800/FY19-20 and Subsequent Years

Increase Local Expenditures – Exceeds $90,000/FY18-19*
Exceeds $180,000/FY19-20 and Subsequent Years*

Other Fiscal Impact – Due to various unknown factors, any impact to providers that are contracted parties who provide services to the Department of Mental Health and Substance Abuse Services cannot be reasonable quantified, but is assumed to be negative.

Assumptions:

- This legislation shall take effect January 1, 2019 and shall apply to all health plans entered into or renewed after January 1, 2019.
- TennCare establishes standard rates for healthcare services provided to its enrollees and pursuant to Tenn. Code Ann. § 71-5-102, budgets for estimated costs through the General Appropriations Act; therefore, any increase in costs experienced by MCOs will not impact such rates and subsequently, state or federal expenditures related to TennCare plans.
- The DCI will be required to review the annual reports provided by carriers and aggregate such data into a report to be sent to the chairs, respectively, of the Commerce and Labor Committee of the Senate and the chair of the Insurance and Banking Committee of the House of Representatives.
- DCI will require one additional Actuarial and Compliance Analyst 2 position.
- The one-time increase in state expenditures associated with the additional position is estimated to be $3,200 ($1,200 + $2,000 office furniture).
- The recurring increase in state expenditures for DCI is estimated to be $72,735 (salary $49,044 + benefits $15,391 + $6,100 administrative cost + network/phone $1,600 + supplies $600) in FY19-20 and subsequent years.
- Due to the January 1, 2019 effective date, the increase in state expenditures for DCI in FY18-19 is estimated to be $39,568 [$3,200 + ($72,735 x 50.0%)].
- According to the Department of Finance and Administration, Benefits Administration, its carriers were consulted to determine any impact that this legislation would have on their operations and any costs that may be shifted to the state.
- Based upon information provided by such carriers, it is reasonably assumed that this legislation could result in increased expenditures for the MCOs that are contractual parties to plans administered by Benefits Administration.
- Benefits Administration consulted with its contracted qualified independent actuary to determine a fiscal impact for the proposed legislation, the recurring increase in state expenditures is estimated to be $2,000,000. Fiscal Review Committee staff is unable to verify the validity of this number.
- It is estimated that 52 percent of members are on the state plan, 39 percent are on the Local Education Plan, and the remaining 9 percent of members are in the Local Government Plan.

- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of $832,000 ($2,000,000 x 52.0% x 80.0%).
- According to Benefits Administration, the state contributes 45 percent of instructional staff premiums (75 percent of Local Education Plan members) and 30 percent of support staff members premiums (25 percent Local Education Plan members) resulting in an increase in state expenditures estimated to be $321,750 [($2,000,000 x 39.0% x 75.0% x 45.0%) + ($2,000,000 x 39.0% x 25.0% x 30.0%)].
- According to Benefits Administration, some state plan members' insurance premiums are funded through federal dollars. It is estimated 0.82 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures estimated to be $6,822 ($832,000 x 0.82%) in FY19-20 and subsequent years. Due to the January 1, 2019 effective date, the increase in federal expenditures in FY18-19 is estimated to be $3,411 ($6,822 x 50.0%).
- The increase in state expenditures for Benefits Administration is estimated to be $1,146,928 ($832,000 + $321,750 - $6,822). Due to the January 1, 2019 effective date, the increase in state expenditures for Benefits Administration in FY18-19 is estimated to be $573,464 ($1,146,928 x 50.0%).
- The total increase in state expenditures as a result of this legislation is estimated to be $613,032 ($39,568 + $573,464) in FY18-19.
- The total increase in state expenditures as a result of this legislation is estimated to be $1,219,663 ($72,735 + $1,146,928) in FY19-20 and subsequent years.
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $180,000 ($2,000,000 x 9.0%).
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total increase in local expenditures is estimated to exceed the $180,000 increase to the state plan. Due to the January 1, 2019 effective date, the increase in local expenditures in FY18-19 is estimated to exceed $90,000 ($180,000 x 50.0%).
- Based on information provided by the Department of Mental Health and Substance Abuse Services (DMHSAS), the proposed legislation applies to all Regional Mental Health Institutes (RMHI) and any increased costs to community providers with which the DMHSAS contracts with will be passed along to the DMHSAS through increases in contract costs.
- Although an exact impact to DMHSAS cannot be reasonably quantified, any impact as a result of this legislation is assumed to be negative.
- Based on information provided by the Department of Health, the proposed legislation can be accommodated within existing resources without an increased appropriation or reduced reversion.

IMPACT TO COMMERCE:

Other Commerce Impact – This legislation is estimated to result in a substantial increase in business expenditures for insurance companies in this state, which may reasonably result in rate increases and subsequently, increased premium collections for such companies; however, any increase in premiums is estimated to be not significant. Notwithstanding any increase in premium collections, insurance companies in this state will experience an increase in business expenditures exceeding $10,000,000 statewide.

Assumptions:

- The Bureau of TennCare contacted one of Tennessee's managed care organizations (MCOs) which utilize a similar commercial product in another state to determine cost estimates of providing this program.
- An increase in one-time costs to the MCO are estimated to be approximately $4,650,000 and include, but not be limited to the following costs: $750,000 for IT construction and implementation costs, $450,000 for portal/website licensing costs, and $100,000 for annual licensing fees, maintenance, etc.
- Recurring costs to the MCO of approximately $300,000 for annual licensing fees and system maintenance, etc.
- The effect upon other private insurance carriers will be dependent upon various unknown factors subjective to the rates and contractual agreements comprising each individual policy of healthcare.
- Any substantial increase in costs to insurers to provide the program required in this legislation will be offset by an increase in premium rates and subsequently, premium payments paid by policyholders.
- Notwithstanding any increase in premium collections, the net impact to such insurers is unknown, but is reasonably estimated to exceed $10,000,000 statewide.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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