TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2076 - SB 2328

February 19, 2024

SUMMARY OF BILL: Reduces, from 18 months to 6 months, the time period in which a health insurance entity may recoup reimbursements to a healthcare provider after the initial claim is paid. Prohibits a health insurance entity from imposing a monetary penalty on a healthcare provider with respect to an overpayment.

Establishes that if a healthcare provider reports an overpayment by a health insurance, then the health insurance entity is prohibited from recouping any additional overpayment amount that is discovered more than 60 days from the date of the provider's report to the health insurance entity that arose from the same claim or claims subject to the report.

Requires a health insurance entity that that intends to recoup a previously paid claim to give the healthcare provider 60 days advance written or electronic notice specifying the basis for the recoupment, including an explanation of the claim and the process by which the healthcare provider may appeal the recoupment. Prohibits payment from being withheld from the healthcare provider until all appeals are exhausted, unless the healthcare provider notifies the health insurance entity that the provider is not appealing the recoupment or withdraws the appeal in accordance with the appeal process provided to the provider.

Increases the penalty which may be imposed by the Commissioner of the Department of Commerce and Insurance (DCI) on a health insurance entity for failing to properly comply with recoupment procedures, from $750 to $1,500, if such amount is less than two times the amount of the claim.

Establishes that the amount of a recoupment must be equal to the difference between the actual amount paid to a provider and the amount that should have been paid as specified in the notice provided to the provider. Prohibits a health insurance entity from basing a recoupment on the extrapolation of other claims from an audit. Establishes that the legislation does not interfere with the requirements of the *Prior Authorization Fairness Act* upon its effective date.

FISCAL IMPACT:

Decrease State Revenue – $4,211,700/FY24-25 and Subsequent Years

Decrease Local Revenue – $748,300/FY24-25 and Subsequent Years

Assumptions:

- Based on information provided by the Department of Commerce and Insurance (DCI), the department can monitor compliance with the proposed legislation utilizing existing personnel and resources.
- Any increase in penalties assessed by DCI is estimated to be not significant.
- The proposed legislation will not impact recoveries made on behalf of TennCare programs.
- Based on information provided by the Division of Benefits Administration, the proposed legislation will significantly impact the operations of the State Group Insurance Program (SGIP).
- Under current law, third-party administrators used by Benefits Administration have up to 18 months from the payment of a claim to seek a recoupment of any overpayment.
- The proposed legislation will reduce the time period in which third-party administrators are able to seek recoupment to a maximum of six months, resulting in a decrease in revenue received from recoupments.
- Based on an analysis by Benefits Administration, the loss of recoupments is estimated to result in a decrease of $4,211,726 in state revenue, and a decrease of $748,266 in local revenue in FY24-25 and subsequent years.

IMPACT TO COMMERCE:

NOT SIGNIFICANT

Assumptions:

- Any decrease in the amount of recouped payments for health insurance companies will be offset by an increase in revenue to healthcare providers. The net impact to commerce will be not significant.
- Any impact to jobs in the state is estimated to be not significant.

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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