SUBJECT: Creating a pilot program for Medicaid fraud reduction

COMMITTEE: Select Committee on State Health Care Expenditures — committee substitute recommended

VOTE: 7 ayes — Delisi, Gutierrez, Crownover, Deshotel, Harper-Brown, Miller, Uresti

0 nays

4 absent — Berman, Capelo, Truitt, Wohlgemuth

WITNESSES: On — Will Counihan, Texas Comptroller of Public Accounts

BACKGROUND: Medicaid, the state-federal medical assistance program for the poor, elderly, and disabled, uses Medicaid cards to identify eligible people. When a Medicaid card is presented to a provider, the information is collected in the same manner as for any other insurance — the card is photocopied and the identifying numbers are copied into the patient's record.

DIGEST: CSHB 3204 would direct the Health and Human Services Commission (HHSC) to develop and implement a Medicaid fraud reduction pilot program in the service areas containing Harris and Dallas counties. The program would use a computer-managed system that captures biometric identification, such as a fingerprint, and that can be used to verify a recipient's identity. The system would include a "smart card" on which the identifying data would be stored and which would be swiped at the point of service to identify the card bearer positively. The card could include color photographs of the bearer.

The program would have to be designed to reduce fraud by health-care providers and recipients. The cards would be free to recipients. HHSC could contract with public and private entities to implement the pilot program. The program would have to be designed in a way that would be compatible with future use of smart cards for electronic provider payments.

HHSC would have to seek enhanced federal matching funds to implement the program and could adjust the program by rule if necessary for the state to

qualify for those funds. HHSC would have to report an evaluation of the pilot program with recommendations to the governor, lieutenant governor, and House speaker by January 1, 2005.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY:

Medicaid fraud drains vital resources from the program. Some health-care providers commit fraud by charging for services they do not render or by charging for higher-cost services, and some people steal or borrow another person's Medicaid card to obtain services. There have been some reports of providers enticing Medicaid recipients with free services to obtain their Medicaid information and later billing the program fraudulently.

The pilot program established by CSHB 3204 would test the feasibility of using smart cards to prevent fraud by ensuring that the person who received the services was the person eligible to receive them. The program would prevent providers from billing for visits that never occurred and would reduce the opportunity to charge for more expensive visits by noting the amount of time a patient spent in the office. If the card showed that the person was in the provider's office for 30 minutes and the provider charged for an hour visit, the program would be alerted to the fraud.

The state's current fraud prevention and detection resources cannot prevent the type of fraud that a smart card program could prevent. The state conducts audits and claim reviews and has implemented fraud prevention strategies, but it cannot verify a patient's identity at the point of service. Checking a patient's identity with a driver's license would not prevent fraud by providers, and receipts sent to patients largely go unread.

The pilot project would identify logistical problems that would need to be worked out before a smart card program could be implemented throughout the Medicaid program. Some questions are answered best when designing the program, such as how the card would be used for prescriptions that are phoned in. Meanwhile, the bill would set some parameters to ensure that systems created in the pilot project would be compatible with future possible initiatives, including electronic provider payments.

The fingerprinting required for biometric identification with a smart card is less personal than the fingerprint required for a driver's license. The smart card would store identifying information about the fingerprint, such as size and space between ridges, not a picture of the print. That information only is relevant to confirming the card holder's identity. It could not be used to compare the print against other databases.

Preventing fraud and abuse would save the state money that could be used to pay for services for people who are legitimately enrolled in Medicaid. The bill's fiscal note estimates that the pilot would cost the state about $250,000 to implement, with the federal government paying the rest. It estimates a savings of almost $4 million in general revenue and $10 million in all funds. Savings could be even larger if the state could obtain the 90 percent match rate that might be available for the development portion of the program, rather than the 75 percent match rate estimated in the fiscal note.

OPPONENTS SAY:

A smart card system could appear to save money by preventing fraud but actually might prevent legitimate claims from being reimbursed. Emergency rooms that are required by federal law to administer care could not bill Medicaid for services unless the patient happened to be carrying the smart card or returned to have it swiped another day. Under the current system, patients can tell emergency rooms their Medicaid numbers, and those services can be reimbursed.

The assumption that this bill would generate savings is unsupported. To save the state money, the project would have to perform as planned, and the amount of fraud and abuse would have to be as large as estimated. With its current tools and detection methodologies, the state has no reliable way of estimating how many transactions are fraudulent. This project could squander $250,000 on an exciting new technology that would promise great results but fail to deliver. In such tight fiscal times, those funds should go to direct services.

Instead of embarking on a technological fix, the state should require providers to verify patients' identity by checking their driver's licenses or other forms of identification. The state could require the provider to write down the I.D. number and could check the veracity of the verification during its audits of provider records. This simple check would require no funding to implement,

could go statewide immediately, and would prevent the types of fraud the smart card technology is aimed at preventing. Another low-technology solution would be to send patients a receipt for services, as private insurers do. This would alert recipients of fraudulent billing done in their name.

OTHER OPPONENTS SAY:

CSHB 3204 is not needed. This provision is included in HB 2292 by Wohlgemuth, passed by the House last month. That bill would allow the expansion of the program at the discretion of the health and human services commissioner, rather than requiring a recommendation to the Legislature, as CSHB 3204 would do. If the program works, the commissioner should have the authority to implement it statewide.

NOTES:

As filed, HB 3204 would have required implementation of a full electronic benefits transfer card system in Harris and Dallas counties by January 1, 2004, expanding statewide by September 1, 2005.

HB 2292 by Wohlgemuth includes a Medicaid fraud prevention pilot program that would use smart cards. That bill passed the House on April 28 and is scheduled for a public hearing in the Senate Finance Committee on May 12.