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FISCAL IMPACT REPORT

SPONSOR: Varela DATE TYPED: 03/03/03 HB 668a/HGUAC

SHORT TITLE: Medicaid Fraud Control Unit SB _____

ANALYST: Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Attorney General
 Human Services Department
 Department of Health

SUMMARY

Synopsis of HGUAC Amendment

The House and Urban Affairs Committee made the following change to House Bill 668.

On page 6, line 16 after the period the remainder of the line and all of line 17 and 18 through “unit” is omitted. The omitted line read, “No disposition of any investigation or settlement of any fraud claim shall be made without the approval of the unit”. With the omission of this language, the disposition of claims remains the responsibility of HSD.

Synopsis of Original Bill

House Bill 668 (HB 668) requires that the Medicaid Fraud Control Unit (MFCU) develop a joint protocol concerning investigation of Medicaid fraud with the Human Services Department (HSD), Children, Youth, Families Department (CYFD), and Department of Health (DOH). It requires that HSD, CYFD, DOH, and MFCU enter into a memorandum of understanding (MOU) concerning coordination and investigation of fraud. The Memorandum of Understanding (MOU) will require that a report be made to the Legislative Finance Committee (LFC) concerning the

results of all investigations, including the disposition of recoveries received. Finally, it requires that MFCU must approve the disposition of any investigation or settlement of any fraud claim.

Significant Issues

The Human Services Department reports that a joint protocol and MOU concerning fraud investigations is a useful idea to improve cooperation between agencies and increase effectiveness. However, requiring that MFCU approve the disposition of investigations and settlements of fraud claims will interfere with the ability of HSD to function effectively to assure statewide access to medical care for Medicaid recipients, and may violate federal law. Reporting to the LFC could result in breaches in the confidentiality necessary to properly perform fraud and abuse control functions.

The Attorney General, on the other hand, feels this legislation recognizes that there is currently a lack of coordination between DOH, HSD and the MFCU when conducting investigations involving allegations of Medicaid provider fraud. Presently, each agency conducts independent investigations, many times without the other agency's knowledge or input. A Joint Protocol could eliminate duplicative investigations, allowing the other agencies to pursue different matters.

The legislation also contains two provisions for reporting to the Legislative Finance Committee on a quarterly basis. The key provision is that all settlement agreements must be approved by the Attorney General's Office suggests that a significant problem currently exists regarding fraud case dispositions.

These two agency's responses suggest there is a difference of perspective based on what each portrays as its role in the process. HSD has indicated its desire to arrange financial settlements in some cases, while the Attorney General may want to pursue an investigation criminally. This inherent difference suggests closer co-operation may be necessary. HSD refers to, but does not define, the violation of federal law. This may relate to HSD's role as primary Medicaid contact for the state leaving the agency as final arbiter among agencies.

FISCAL IMPLICATIONS

There is no appropriation but the mechanics of operating such a unit may require additional funds.

ADMINISTRATIVE IMPLICATIONS

There would be administrative work required to set up and maintain such a unit.

OTHER SUBSTANTIVE ISSUES

The new section requires that "No disposition of any investigation or settlement of any fraud claim shall be made without the approval of the unit". However, how approval is reached is not defined.