

2020 Regular Session

SENATE BILL NO. 166

BY SENATOR HEWITT

FISCAL CONTROLS. Provides for forecasting of the Medicaid program. (gov sig)

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AN ACT

To amend and reenact R.S. 39:21.3(E)(1), to enact R.S. 39:21.3(H), and to repeal R.S. 39:21.3(E)(4) and (5), relative to the forecast of the Medicaid program; to provide for the duties of the Health and Social Services Estimating Conference; to provide for the Medicaid Estimating Conference; to provide relative to the duties and meetings of the Medicaid Estimating Conference; to provide relative to the principals and participants of the Medicaid Estimating Conference; to provide for the termination of the Medicaid Subcommittee of the Health and Social Services Estimating Conference; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:21.3(E)(1) is hereby amended and reenacted and R.S. 39:21.3(H) is hereby enacted to read as follows:

§21.3. Consensus estimating conferences; duties and principals

* * *

E. Health and Social Services Estimating Conference.

(1) Duties. The Health and Social Services Estimating Conference shall

1 develop such official information relating to the health and social service system of
2 the state, including forecasts of social and health service caseloads, excluding the
3 Medicaid program, as the conference determines is needed for the state planning
4 and budgeting system.

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6 H. Medicaid Estimating Conference.

7 (1) Duties. (a) The Medicaid Estimating Conference shall develop the
8 official forecast of the Medicaid program for the purposes of budget
9 development and enactment each fiscal year and development of the five-year
10 baseline budget projection relative to the Medicaid Program. All conference
11 decisions to adopt the official forecast shall be by a favorable vote of two-thirds
12 of the principals.

13 (b) When developing the forecast, the conference shall consider the
14 following factors:

15 (i) The number of Medicaid enrollees, the demographics of the enrollees
16 as it relates to programmatic costs, and the eligibility criteria under which these
17 individuals are enrolling.

18 (ii) The rate of utilization of services for the fee-for-service program and
19 for the managed care program.

20 (iii) The volume of member-months in the managed care program.

21 (iv) The growth in the costs of medical goods and services for the
22 fee-for-service program and for the managed care program.

23 (v) The pharmaceutical rebate program.

24 (vi) Provider reimbursement methodologies.

25 (vii) The components contemplated by the actuaries in the development
26 of the per-member-per-month premiums paid to the Medicaid managed care
27 organizations.

28 (viii) The supplemental payment programs, including but not limited to
29 full-Medicaid pricing (FMP) payments, upper payment limit (UPL) payments,

1 disproportionate share (DSH) payments, and payments pursuant to the
2 Managed Care Incentive Program (MCIP).

3 (ix) All payments pursuant to the LSU Public-Private Partnership
4 agreements between the state and any partner hospital in effect at the time that
5 the forecast is developed.

6 (x) Any changes to the program that are required to be implemented
7 under federal or state rule or law during the fiscal years included in the forecast
8 and quantifiable at the time the forecast is developed.

9 (xi) Any other aspect of the Medicaid program the conference deems
10 pertinent to the development of its forecast.

11 (2) Principals. The principals of the Medicaid Estimating Conference are
12 as follows:

13 (a) The president of the Senate, or his designee who may be a member
14 of the Joint Legislative Committee on the Budget, including an interim member.

15 (b) The speaker of the House of Representatives, or his designee who
16 may be a member of the Joint Legislative Committee on the Budget, including
17 an interim member.

18 (c) The chairman of the Senate Committee on Finance, or his designee
19 from the membership of the Committee on Finance.

20 (d) The chairman of the House Committee on Appropriations, or his
21 designee from the membership of the Committee on Appropriations.

22 (e) The chairman of the Senate Committee on Health and Welfare, or his
23 designee from the membership of the Committee on Health and Welfare.

24 (f) The chairman of the House Committee on Health and Welfare, or his
25 designee from the membership of the Committee on Health and Welfare.

26 (g) The commissioner of administration, or his designee.

27 (h) The secretary of the Louisiana Department of Health, or his designee.

28 (i) A faculty member specializing in healthcare economics from a public
29 or private university in the state, selected by the other principal members, from

1 a list of as many as five, but not less than three names, submitted to them by the
2 Board of Regents.

3 (3) Participants. The participants to the Medicaid Estimating Conference
4 that may provide information for the conference's consideration in developing
5 its forecasts are as follows:

6 (a) A member of the professional staff of the Louisiana Department of
7 Health specializing in healthcare economics and possessing experience
8 forecasting healthcare expenditures to be designated by the secretary of the
9 Louisiana Department of Health.

10 (b) A member of the professional staff of the legislative fiscal office
11 specializing in healthcare economics and possessing experience forecasting
12 healthcare expenditures to be designated by the legislative fiscal officer.

13 (c) Members of the professional staff of the Senate, House of
14 Representatives, legislative fiscal office, or division of administration with fiscal
15 expertise on the Medicaid program.

16 (d) Members of the professional staff of the Louisiana Department of
17 Health with expertise on the administering, operating or financing of the
18 Medicaid program.

19 (e) Any other person invited to participate in the conference by a
20 principal.

21 (4) Conference Meetings.

22 (a) Principal to preside over meetings. The chairmanship of the
23 conference shall rotate as follows:

24 (i) Coterminous to the 2020-2024 term of the legislature, the president
25 of the Senate, or his designee, shall preside over the meetings of the conference.

26 (ii) Beginning with the commencement of the 2024-2028 term of the
27 legislature, the chairmanship of the conference shall rotate biennially among the
28 president of the Senate, or his designee, and the speaker of the House of
29 Representatives, or his designee, beginning with the president of the Senate, or

1 his designee.

2 (b) Timing of Meetings. The conference shall meet at least three times
3 per fiscal year as to ensure that the forecast is utilized by the division of
4 administration in the development of the budget, the legislature in the
5 enactment of the budget, and the division of administration and the Joint
6 Legislative Committee on the Budget in the determination of expenditures to
7 include in the development of the five-year baseline budget projection relative
8 to the Medicaid Program.

9 (c) Executive Session. The conference may, upon approval by a majority
10 of the principals in attendance, go into executive session to discuss records or
11 matters entitled to confidential status by existing state or federal laws.

12 (5) Conference Staff. The president of the Senate shall designate a
13 member of the professional staff of the Senate with fiscal expertise on the
14 Medicaid program to staff the conference.

15 (6) Reports of the Conference. The conference shall submit each adopted
16 forecast to the Joint Legislative Committee on the Budget for its review. The
17 chairman of the Joint Legislative Committee on the Budget shall place the
18 presentation of the Medicaid forecast on the agenda for discussion at the next
19 month's regular meeting following the submission by the conference.

20 Section 2. R.S. 39:21.3(E)(4) and (5) are hereby repealed in their entirety.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Martha S. Hess.

DIGEST

SB 166 Original 2020 Regular Session Hewitt

Present law provides for the duties of the Health and Social Services Estimating Conference to develop such official information relating to the health and social service system of the state, including forecasts of social and health service caseloads, as the conference determines is needed for the state planning and budgeting system.

Proposed law retains present law and provides for the exclusion of the Medicaid program from the duties of the Health and Social Services Estimating Conference.

Proposed law repeals present law providing for the Medicaid Subcommittee of the Health and Social Services Estimating Conference.

Present law provides that the Medicaid Subcommittee is responsible for developing forecasts and reviewing information related to the Medicaid Program, including the number of Medicaid enrollees, eligibility criteria, rate of utilization and growth in the cost of services, provider reimbursement methodologies, and the factors used in developing the per-member-per-month premiums paid to the Medicaid managed care companies.

Present law provides that the Medicaid Subcommittee is composed of the following persons:

- (1) One member of the professional staff of the division of administration to be appointed by the commissioner of administration.
- (2) One member of the professional staff of the legislature who shall have fiscal expertise to be appointed by the president of the Senate.
- (3) One member of the professional staff of the legislature who shall have fiscal expertise to be appointed by the speaker of the House of Representatives.
- (4) One member of the professional staff of DHH who shall have forecasting expertise to be appointed by the secretary of DHH.
- (5) The legislative fiscal officer, or his designee who shall have healthcare experience.
- (6) A faculty member specializing in healthcare economics to be selected by members of the conference.

Present law provides that the chairmanship of the subcommittee rotate biennially among the professional legislative staff appointed by the president of the Senate and the speaker of the House of Representatives.

Present law provides that the subcommittee is to meet as follows:

- (1) In September, to establish an initial forecast for the ensuing fiscal year which shall be utilized by DHH in formulating its budget request.
- (2) In December, to revise the forecast for the ensuing fiscal year which shall be utilized in the preparation of the executive budget recommendations by the state budget office.
- (3) In April, to revise the forecast for the ensuing fiscal year which shall be utilized by the legislature in its adoption of a state budget for the ensuing fiscal year.

- (4) In July, to discuss the forecast for the current fiscal year as compared to the current year appropriation.

Present law provides that the subcommittee submits a summary report to the conference of topics discussed and any actions taken.

Present law provides that the subcommittee shall submit the Medicaid forecast to the Joint Legislative Committee on the Budget for its review. The chairman of the Joint Legislative Committee on the Budget must place the presentation of the Medicaid forecast on the agenda for discussion at the next month's meeting following the submission by the subcommittee.

Proposed law creates the Medicaid Estimating Conference and provides for its duties to develop the official forecast of the Medicaid program for the purposes of budget development and enactment each fiscal year and development of the five-year baseline budget projection relative to the Medicaid Program.

Proposed law provides that the Medicaid forecast shall be adopted by a favorable vote of two-thirds of the conference's members.

Proposed law provides for the principals, or membership, of the conference:

- (1) The president of the Senate, or his designee from the membership of the Senate.
- (2) The speaker of the House of Representatives, or his designee from the membership of the House of Representatives.
- (3) The chairman of the Senate Committee on Finance, or his designee from the membership of the Committee on Finance.
- (4) The chairman of the House Committee on Appropriations, or his designee from the membership of the Committee on Appropriations.
- (5) The chairman of the Senate Committee on Health and Welfare, or his designee from the membership of the Committee on Health and Welfare.
- (6) The chairman of the House Committee on Health and Welfare, or his designee from the membership of the Committee on Health and Welfare.
- (7) The commissioner of administration, or his designee.
- (8) The secretary of the Louisiana Department of Health (LDH), or his designee.
- (9) A faculty member specializing in healthcare economics from a public or private university in the state, selected by the other principal members, from a list of as many as five, but not less than three names, submitted to them by the Board of Regents.

Proposed law provides for the chairmanship of the conference to rotate:

- (1) Coterminous to 2020-2024 term of the legislature, the president of the Senate, or his designee, shall preside over the meetings of the conference.
- (2) Beginning with the commencement of the 2024-2028 term of the legislature, the chairmanship of the conference shall rotate biennially among the president of the Senate, or his designee, and the speaker of the House of Representatives, or his designee, beginning with the president of the Senate, or his designee.

Proposed law provides for the participants to the conference that may provide information

for the conference's consideration in developing its forecasts:

- (1) A member of the professional staff of LDH specializing in healthcare economics and possessing experience forecasting healthcare expenditures to be designated by the secretary of LDH.
- (2) A member of the professional staff of the legislative fiscal office specializing in healthcare economics and possessing experience forecasting healthcare expenditures to be designated by the legislative fiscal officer.
- (3) Members of the professional staff of the Senate, House of Representatives, legislative fiscal office, or division of administration with fiscal expertise on the Medicaid program.
- (4) Members of the professional staff of LDH with expertise on the administering, operating, or financing of the Medicaid program.
- (5) Any other person invited to participate in the conference by a principal.

Proposed law provides for the meetings of the conference. The conference is to meet at least three times per fiscal year as to ensure that the forecast is utilized by the division of administration in the development of the budget, the legislature in the enactment of the budget, and the division of administration and Joint Legislative Committee on the Budget in the determination of expenditures to include in the development of the five-year baseline budget projection relative to the Medicaid Program.

Proposed law provides for the conference to go into executive session to discuss records or matters entitled to confidential status by existing state or federal laws, upon approval by a majority of the principals in attendance.

Proposed law provides for the president of the Senate to designate a member of the professional staff of the Senate with fiscal expertise on the Medicaid program to staff the conference.

Proposed law provides for the conference to submit each adopted forecast to the Joint Legislative Committee on the Budget for its review. The chairman of the Joint Legislative Committee on the Budget shall then place the presentation of the Medicaid forecast on the agenda for discussion at the next month's regular meeting following the submission by the conference.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 39:21.3(E)(1); adds R.S. 39:21.3(H); repeals R.S. 39:21.3(E)(4) and (5))