Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 28 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Jim Stamas
Senate Committee: Appropriations
House Committee: Appropriations

Date Completed: 6-30-21

CONTENT

The substitute for the supplemental appropriates $25.0 million Gross and GF/GP to the Department of Insurance and Financial Services to create a post-acute auto injury provider relief fund within the Department of Treasury.

Table 1

Budget Area	Gross	GF/GP
Insurance & Financial Services	$25,000,000	$25,000,000
TOTAL	**$25,000,000**	**$25,000,000**

FISCAL IMPACT

The bill provides fiscal year (FY) 2020-21 line-item appropriations of $25.0 million Gross and GF/GP to create a fund that would provide financial support to providers of services for individuals injured in vehicular accidents to the extent that said providers can demonstrate financial losses for certain services to such individuals under certain circumstances. Table 2 summarizes the details of the appropriations in the supplemental.

FY 2020-21 BOILERPLATE LANGUAGE SECTIONS-PART 2

Sec. 201. General. Records amount of total State spending and payments to local units of government.

Sec. 202. General. Subjects appropriations and expenditures in the article to the provisions of the Management and Budget Act.

Sec. 203. General. Directs that, if the State Administrative Board transfers funds appropriated in the Act, the Legislature may, by concurrent resolution requiring a majority vote in each chamber, transfer funds within a particular department, board, commission, officer, or institution.

Sec. 301. Insurance and Financial Services. Creates the Post-Acute Auto Injury Provider Relief fund within the Department of Treasury and directs that $25.0 million be deposited in that fund. Limits the amount of the fund that may be used for administrative expenses to $500,000. Directs that interest and earnings from investment of fund revenue must be deposited in the State's General Fund. Limits distributions to providers to charges for services for which there is no Medicare code and for which the provider can demonstrate that fees under the Insurance Code have caused the provider to bill at a rate that is below the cost of providing the service. Requires the following information to be included by the provider in the

application for distribution from the fund: 1) The total number of patients treated and the entities billed for each patient. 2) A full list of charges and payments received for those charges and supporting invoices for all charges for motor vehicle accident care paid by auto insurers in 2019. 3) A full list of charges and payments for those charges and supporting invoices for all charges for motor vehicle accident care paid by other forms of insurance and other entities in 2019. 4) Evidence that the provider attempted to bill for a service that does not have a Medicare code, evidence that the provider has not been paid at the charged rate or otherwise reimbursed, and evidence that adjustment has been upheld by the Department of Insurance and Financial Services pursuant to utilization review rules. 5) Documentation indicating a good faith effort to alter business practices to adhere to the Insurance Code, with flexibility given to the Department of Insurance and Financial Services to determine further requirements to achieve compliance with the provision. 6) Documentation, including full financial statements, indicating a systemic deficit caused by changes to the Insurance Code, with flexibility given to the Department of Insurance and Financial Services to determine further requirements to achieve compliance with the provision. 7) Any other information determined by the Department of Insurance and Financial Services to determine whether distribution of money from the fund is appropriate.

Bars fund eligibility for any entity that enters the State as a new licensee or reorganizes, reincorporates, or otherwise re-establishes itself under a new name after January 1, 2019. Directs the Department of Insurance and Financial Services to 1) administer the fund and review and approve applications, 2) develop application and review processes including criteria established in Sec. 301 and utilize data previously submitted pursuant to Administrative Rules, 3) develop a process to recoup distributed money that is later determined to have been distributed fraudulently and treats fraudulent activity as fraud pursuant to the Insurance Code and allows any recouped funds to be dispersed pursuant to Sec. 301, 4) accept applications for the Fund no later than 30 days after the effective date of the appropriation, 5) review all applications and issue a determination within 21 days of receipt of a completed application, with distributions made within 7 days of that determination, 6) report to the Legislature 15 days before the application process opens including a sample application and guidance and rules, 7) consider how charges and payments received in an application relate to care charged to and by other forms of insurance with the Department authorized to contract with a third party to access health care and insurance data to review applications, 8) use data collected as a result of utilization review and fee schedule rules in accordance with the Insurance Code, 9) not consider lost profits alone as a criterion for awarding money to a provider and require a provider to demonstrate a systematic deficit with respect to services, 10) document and make publicly available on a website all information related to the approval or denial of distributions from the fund, 11) award money from the fund on a first-come first-served basis, with no money paid from the fund after appropriated or recouped revenue is exhausted, and 12) limit total distributions to any individual provider to a maximum of $500,000 in a calendar year.

Requires a quarterly report to the Legislature from the Department of Insurance and Financial Services including the number of providers that have applied for funding, a list of providers that have been approved for funding and the amounts awarded, a list of providers that have been denied funding and the reasons for the denials, and metrics for approved payments on all charges and payments received that were determined to be inadequate, information on provider charges and payments in comparison to the non-auto insurance market, and the total amount expended and remaining in the fund.

Requires a report to the Legislature one year after the Department of Insurance and Financial Services begins accepting applications or after funding is exhausted with aggregated data from the quarterly reports, analysis of the impact of the Insurance Code provisions on reimbursement and recommendations from the Department director to the Legislature.

States intent of the Legislature that information from the reports to the Legislature shall be used in determining whether changes are needed to the Insurance Code to ensure adequate services in the future. Requires a provider that avails itself and receives revenue from the fund does so as its exclusive remedy and forgoes all other forms of recovery for any charges and makes any payment inadmissible for any purposes outside of claims made. Creates a work project for the funding. Defines "patient" as an injured person entitled to benefits under the Insurance Code and defines "provider" as a post-acute brain or spinal injury clinic or other person who renders treatment or training or a post-acute brain or spinal injury attendant care providers.

Table 2

Department/Program	**Gross**	**GF/GP**
Insurance and Financial Services		
Post-acute auto injury provider relief fund	$25,000,000	$25,000,000
Total Insurance and Financial Services	**$25,000,000**	**$25,000,000**
Total FY 2020-21 Supplemental Appropriations	**$25,000,000**	**$25,000,000**

Fiscal Analyst: Steve Angelotti

S2122\s28sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.