COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

# FISCAL NOTE

L.R. No.: 5096-10
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SS for SB 1007
Subject: Department of Social Services; Department of Health and Senior Services; Medicaid; Disabilities; Public Assistance
Type: Original
Date: June 4, 2010

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Bill Summary: This legislation amends various requirements for public assistance programs administered by the state.

## FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| General Revenue | Unknown but Greater than $8,133,620 | Unknown but Greater than $8,800,794 | Unknown but Greater than $9,106,698 |
| **Total Estimated Net Effect on General Revenue Fund** | **Unknown but Greater than $8,133,620** | **Unknown but Greater than $8,800,794** | **Unknown but Greater than $9,106,698** |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| Third Party Liability Fund | Unknown but Greater than $367,100 | Unknown but Greater than $367,100 | Unknown but Greater than $367,100 |
| **Total Estimated Net Effect on Other State Funds** | **Unknown but Greater than $367,100** | **Unknown but Greater than $367,100** | **Unknown but Greater than $367,100** |

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| Federal | $6,500,000 | $6,500,000 | $6,500,000 |
| | | | |
| **Total Estimated Net Effect on All Federal Funds** | **$6,500,000** | **$6,500,000** | **$6,500,000** |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| | | | |
| | | | |
| **Total Estimated Net Effect on FTE** | **0** | **0** | **0** |

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|---|---|---|---|
| FUND AFFECTED | FY 2011 | FY 2012 | FY 2013 |
| **Local Government** | **$0** | **$0** | **$0** |

# FISCAL ANALYSIS

## ASSUMPTION

Officials from the **Office of Administration-Administrative Hearing Commission, Division of Budget and Planning, Department of Labor and Industrial Relations, Department of Corrections, Missouri State Highway Patrol, Department of Insurance, Financial Institutions and Professional Registration, Office of the State Courts Administrator, Missouri State Treasurer** and the **Office of Prosecution Services** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of the Attorney General** have not responded to Oversight's request for fiscal information.

***Section 199.010:***

Officials from the **Department of Health and Senior Services** states the costs for maintaining a facility to treat patients with active tuberculosis are unknown. All non-compliant, infectious TB patients must be committed to a treatment facility in order to prevent disease transmission. All homeless individuals with TB would require treatment in a facility, as they could not be treatment compliant while homeless. DHSS does not know how many tuberculosis patients we would have at any given time, however DHSS assumes costs could be significant. Last year, the DHSS had 12 TB cases that required treatment at the Missouri Rehabilitation Center. Four were

ASSUMPTION (continued)

homeless individuals and one patient had a Multi-Drug Resistant (MDR) strain. DHSS estimates that it would cost $1,000 per day (based on conversations with the Missouri Rehabilitation Center) to treat and house individuals with an average length of treatment of 180 days. In addition, one case of MDR TB costs approximately $250,000 to $500,000 for medications and medical costs. Since DHSS cannot estimate how many TB patients will need treatment, DHSS estimates cost for General Revenue to be Unknown, greater than $100,000.

***Section 198.016:***

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** states that currently Nursing Facility residents are being assessed by a point system it is unknown the number of individuals that may opt to receive home and community-based services if they receive information on these services. MHD might realize a small savings but the amount is unknown.

***Section 208.010:***

Officials from the **Department of Mental Health** assume this proposal allows MO HealthNet Division to re-price outpatient hospital claims when the individual is dually Medicare and Medicaid eligible. Normally Medicaid pays the provider 20% of the payment amount under Medicare as coinsurance and Medicare pays the rest. On these claims Medicaid will pay 20% of the amount currently paid under Medicaid which is less than the amount paid by Medicare resulting in savings to MO HealthNet. Most of the Part B claims paid on behalf of DMH clients are paid on behalf of individuals who are inpatients. General Revenue impact unknown cost less than $100,000 dollars.

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** states that currently MHD is required to reimburse full payment of Medicare Part B coinsurance and deductibles for dual eligibles. 1902(n)(2) of the SSA provides that a state is not required to provide payment to the extent that the payment under Medicare would exceed the payment amount under Medicaid. The proposed legislation will allow the MHD to re-price Part B outpatient crossover claims to no more than the MHD fee schedule amount.

A sample of the Part B outpatient crossover claims was taken and 26% of the sample could be re-priced to the MHD fee schedule. Based on this sample, it is estimated MHD could save annually FY 11 $21.9 million. (Outpatient crossover payments were multiplied by 26% to arrive at the estimated savings.) A 3.7% trend was added for FY12 ($22,710,300) & FY13 ($23,550,581) savings.

ASSUMPTION (continued)

***Section 208.215:***

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** state this section requires health benefit plans to process MO HealthNet subrogation claims for a period of three years from the date of service, regardless of their timely filing requirements. This would significantly increase third party liability recoveries. The estimated increase in recoveries is unknown but greater than $1,000,000.

***Section 208.453:***

Officials from the **Department of Mental Health** states the legislation deletes from RSMo section 208.453 the language exempting DMH psychiatric hospitals from the hospital provider tax. This change will allow DMH hospitals to generate additional Federal Medicaid revenues of approximately $6.5 million.

***Section 208.895:***

Officials from the **Department of Health and Senior Services** state the following:

Third Party Assessment: Assessments conducted by an independent third party was another recommendation made by the Lewin Group (ibid., page 9). This legislation addresses the Home and Community Based Services (HCBS) assessment component. When implemented in other states, increases in denial rates increased up to 0.75 percent were seen, due to more accurate and consistent assessments. Using the Lewin Group's estimates:

Cost avoidance for 10,000 nurse assessments at $40.85/assessment as currently conducted (pursuant to section 208.895, RSMo): $408,500 (standard FMAP). This is reduced to $340,417 in FY 2011 (10 months).

DSDS projects that there will be an increased cost for IT modifications of the web-based assessment tool, currently under construction. Projected costs are unknown, <$500,000 (50 percent GR/FED) for FY 2011.

Annual cost of conducting up to 20,000 to 25,000 nurse assessments (as projected by Lewin) at a cost of $172/assessment, at a 50 percent FMAP = ($3,440,000 to $4,300,000) (50 percent GR/FED). This is reduced to ($2,866,667 to $3,583,333) in FY 2011 (10 months).

ASSUMPTION (continued)

Projected cost avoidance: Lewin assumes up to two percent increase in denial rates for HCBS services. Again assuming 20,000 to 25,000 assessments, this would be a denial at intake of an additional 400 to 500 participants. Based upon an average cost per participant of $7,766 (FY 2009 average), there would be a cost avoidance of $3,106,400 to $3,883,000. This is reduced to $2,588,667 to $3,235,833 in FY 2011 (10 months).

Additionally, Lewin projects a cost avoidance of one percent of annual cost per participant. Based upon FY 2009 total clients touched of 56,717 and an average cost avoidance of $77.66, cost avoidance due to decreased cost per client: $4,404,642. This is reduced to $3,670,535 in FY 2011 (10 months). DSDS assumes that the language added to Section 208.895 will not a significant adverse impact on these cost avoidance estimates.

Total Net Effect:

| | | |
|---|---|---|
| FY 2011: | GR: | $360,925 - $1,204,589 |
| | FED: | $2,155,361 - $3,175,259 |
| | TOTAL: | $2,516,286 - $4,380,118 |
| FY 2012: | GR: | $733,109 - $1,445,830 |
| | FED: | $2,886,433 - $3,810,312 |
| | TOTAL: | $3,619,542 - $5,256,142 |
| FY 2013: | GR: | $733,109 - $1,445,830 |
| | FED: | $2,886,433 - $3,810,312 |
| | TOTAL: | $3,619,542 - $5,256,142 |

***Sections 208.909, 208.918 & 660.023:***

Officials from the **Department of Health and Senior Services** state telephony is a form of electronic verification system, as recommended by the Lewin Group to the Department of Social Services (http://www.dss.mo.gov/mhd/oversight/pdf/longterm-care2010jan07.pdf, page 20). When used in other states, telephony has resulted in more accurate billing and cost savings of up to five percent. Under this language, all providers of in-home services and all vendors of consumer directed services must utilize telephony services on or before July 1, 2015. While some savings may be realized prior to FY 2016, no cost savings are described in this fiscal note, as the use prior to this date is optional. According to the Lewin Group report, savings as the result of telephony could exceed five percent, or over $25,000,000 if currently used. (FY 2011: $0; FY 2012: $0; FY 2013: $0)

| FISCAL IMPACT - State Government | FY 2011 (10 Mo.) | FY 2012 | FY 2013 |
|---|---|---|---|
| **GENERAL REVENUE FUND** | | | |
| Savings - Department of Social Services Program Savings | Unknown but Greater than $7,972,695 | Unknown but Greater than $8,267,685 | Unknown but Greater than $8,573,589 |
| Costs Avoidance - Department of Health and Senior Services Section 208.895 | $360,925 to $1,204,589 | $733,109 to $1,445,830 | $733,109 to $1,445,830 |
| Costs - Department of Health and Senior Services Sections 199.010 | (Unknown but Greater than $100,000) | (Unknown but Greater than $100,000) | (Unknown but Greater than $100,000) |
| Costs - Department of Mental Health Program Costs Section 208.010.10 | (Unknown Less than $100,000) | (Unknown Less than $100,000) | (Unknown Less than $100,000) |
| **ESTIMATED NET EFFECT ON GENERAL REVENUE FUND** | **Unknown but Greater than $8,133,620** | **Unknown but Greater than $8,800,794** | **Unknown but Greater than $9,106,698** |
| **THIRD PARTY LIABILITY FUND** | | | |
| Savings - Department of Social Services Program Savings Section 208.215 | Unknown but Greater than $367,100 | Unknown but Greater than $367,100 | Unknown but Greater than $367,100 |
| **ESTIMATED NET EFFECT ON THIRD PARTY LIABILITY FUND** | **Unknown but Greater than $367,100** | **Unknown but Greater than $367,100** | **Unknown but Greater than $367,100** |

| FISCAL IMPACT - State Government (continued) | FY 2011 | FY 2012 | FY 2013 |
|---|---|---|---|
| **FEDERAL FUNDS** | | | |
| Savings - Department of Social Services Program Savings | Unknown but Greater than $14,560,205 | Unknown but Greater than $15,075,515 | Unknown but Greater than $15,609,892 |
| Income - Department of Mental Health Federal Revenues Section 208.453 | $6,500,000 | $6,500,000 | $6,500,000 |
| Costs Avoidance - Department of Health and Senior Services Section 208.895 | $2,155,361 to $3,175,259 | $2,886,433 to $3,810,312 | $2,886,433 to $15,734,375 |
| Costs - Department of Social Services Reimburse Federal Assistance | (Unknown but Greater than $14,560,205) | (Unknown but Greater than $15,075,515) | (Unknown but Greater than $15,609,892) |
| Costs - Department of Health and Senior Services Reimburse Federal Assistance Section 208.895 | ($2,155,361 to $3,175,259) | ($2,886,433 to $3,810,312) | ($2,886,433 to $15,734,375) |
| **ESTIMATED NET EFFECT ON FEDERAL FUNDS** | **$6,500,000** | **$6,500,000** | **$6,500,000** |

| FISCAL IMPACT - Local Government | FY 2011 (10 Mo.) | FY 2012 | FY 2013 |
|---|---|---|---|
| | **$0** | **$0** | **$0** |

FISCAL IMPACT - Small Business

This legislation will mandate that in-home services providers and consumer directed services vendors must have a telephonic based billing system, and interact through an independent third party assessor for the purposes of providing home and community based services.

FISCAL DESCRIPTION

Treatment and commitment of tuberculosis: This legislation changes the references to the University of Missouri Board of Curators as it relates to the treatment and commitment of tuberculosis to the Department of Health and Senior Services. In addition, state payment shall be available for the treatment and care of individuals with tuberculosis committed for public health reasons only after benefits from all third-party payers have been exhausted. Sections 172.850, 199.010 TO 199.260

Information regarding home and community based services: Prior to admission of a MO HealthNet individual into a long-term care facility, the prospective resident or his or her next of kin, legally authorized representative, or designee shall be informed of the home and community based services available in this state and shall have on record that such home and community based services have been declined as an option. Section 198.016

Exemption for Mo HealthNet from paying Medicare Part B deductible amounts for hospital services: Current law requires reimbursement for services provided to an individual who is eligible for MO HealthNet, Medicare Part B, and Supplementary Medical Insurance to include payment in full of deductible and coinsurance amounts as determined by federal Medicare Part B provisions. This legislation exempts MO HealthNet from paying for the Medicare Part B deductible and coinsurance amounts for hospital outpatient services. Section 208.010

Third party payer/subrogation: Under this legislation any third party payer, such as third party administrators, administrative service organizations, health benefit plans and pharmacy benefits managers, shall process and pay all properly submitted MO HealthNet subrogation claims using standard electronic transactions or paper claims forms for a period of three years from the date services were provided or rendered. However, such third party payers shall not:

(1) Be required to reimburse for items or services which are not covered under MO HealthNet;

(2) Deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(3) Be required to reimburse for items or services for which a claim was previously submitted to the third party payer by the health care provider or the participant and the claim was properly denied by the third party payer for procedural reasons, except for timely filing, type or format failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

FISCAL DESCRIPTION (continued)

(4) Be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim form for subrogation has been filed.

Such third party payers shall reimburse for items or services to the extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it has been properly billed at the point of sale. The MO HealthNet Division shall also enforce its rights within six years of a timely submission of a claim.

Certified computerized MO HealthNet records shall be prima facie evidence of proof of moneys expended and the amount due the state. Section 208.215

Repeal of public hospital exemption from the hospital reimbursement allowance: This legislation no longer allows public hospitals which are operated primarily for the care and treatment of mental disorders to be exempted from participating in the Hospital Reimbursement Allowance. Section 208.453

Independent third party in-home and community based assessments: This legislation allows, rather than requires, the Department of Health and Senior Services to reimburse in-home providers for nurse assessments of participants in the in-home and home and community based programs. New language is added allowing the Department to contract for home and community based assessments through an independent third-party assessor.

The contracts shall include a requirement that within 15 days of receipt of a referral for service, the contractor shall have made a face to face assessment of care need and developed a plan of care and the contractor shall notify the referring entity within 5 days of receipt of referral if additional information is needed to process the referral.

The contract shall also include the same requirements for such assessments as of January 1, 2010, related to timeliness of assessments and the beginning of service.

The two nurse visits that are currently allowed under section 660.300, shall continue to be performed by home and community-based providers for, including but not limited to, reassessments and level of care recommendations. These reassessments and care plan changes shall be reviewed and approved by the independent third party assessor. In the event of dispute over the level of care required, the third party assessor shall conduct a face-to-face review with the client in question. This provision has a three-year expiration date. SECTION 208.895

FISCAL DESCRIPTION (continued)

Telephone tracking system: This legislation requires both personal care assistance vendors and in-home services providers to use a telephone tracking system to review and certify the accuracy of reports of delivered services and to ensure more accurate billing by July 1, 2015. The requirements of the telephone tracking system are specified in the legislation. In order for vendors or provider agencies to obtain an agreement with the Department of Social Services, the vendor or agency must demonstrate the ability to implement the telephone tracking system.

Personal care assistance consumers shall be responsible for approving requests through the telephone tracking system and shall provide the vendor with necessary information to complete the required paperwork for establishing the employer identification number.

DHSS in collaboration with centers for independent living must establish a telephony pilot project in an urban and a rural area. This legislation requires the telephony report provided to the Governor to include a minority report detailing elements not agreed upon by centers for independent living and the executive branch. Entities interested in participating in the telephony pilot project will not be required to pay the full cost of the project and can contract with a vendor of their choice. SECTIONS 208.909, 208.918, 660.023

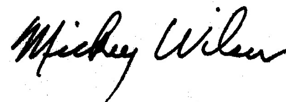
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State
Office of Administration-Administrative Hearing Commission
Missouri State Treasurer
Department of Corrections
Office of the State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Missouri State Highway Patrol
Department of Labor and Industrial Relations
Office of Prosecution Services
Division of Budget and Planning

SOURCES OF INFORMATION (continued)

**Not Responding: Office of the Attorney General**



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Director
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