

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1260-03
Bill No.: HB 497
Subject: Health Care; Insurance-Medical; Department of Insurance, Financial Institutions and Professional Registration
Type: Original
Date: February 24, 2009

Bill Summary: This legislation establishes requirements for transparency of health care information and patient safety.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown but Greater than \$304,166)	(Unknown but Greater than \$325,000)	(Unknown but Greater than \$325,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$304,166)	(Unknown but Greater than \$325,000)	(Unknown but Greater than \$325,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs of approximately \$104,167 in FY10, \$125,000 in FY11 and FY12 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Conservation** and the **Department of Insurance, Financial Institutions & Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Public Safety** are unable to determine the fiscal impact and defers to Missouri Consolidated Health Care Plan.

Officials from the **Missouri Consolidated Health Care Plan** assume the proposal would have no fiscal impact on their agency.

Officials from the **Missouri State Highway Patrol (MSHP)** states the Department of Highways and Transportation (DHT) will be responding on behalf of the MSHP.

Oversight notes that the DHT did not respond on behalf of MSHP and assume no fiscal impact.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

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.

ASSUMPTION (continued)

Officials from the **Department of Mental Health (DMH)** state Section 191.1005 is very similar to SB 149 (FN 0809) submitted earlier this session defines "insurer" to include the state of Missouri and requires significant data collection around quality and performance measures. DMH understands that both the Department of Health and Senior Services and Department of Social Services assumed they would be required to collect and report on quality and performance measures and estimated costs associated with this provision. Therefore, DMH assumes a cost of greater than \$100,000 for a contract to meet the standards established in Section 191.1005.

Provisions contained in this legislation will create additional work for DMH in preparing reports (shifting demographics study). These costs cannot be quantified.

The hospitals operated by the Department of Mental Health are excluded from Chapter 197, RSMo licensing requirements. It would appear that the provisions of the legislation relating to this chapter would create no fiscal impact for the Department.

In response to a similar proposal from this year (SB149), Officials from the **Department of Health and Senior Services (DHSS)** assume Section 191.1008 requires DHSS to investigate complaints of alleged violations of this section by any person or entity other than a health carrier. If the complaint were against an individual, DHSS would have no authority. These complaints would need to be handled by the Board of Healing Arts or the Board of Nursing. Complaints against an entity could also include types of health care settings that are not currently under the regulatory charge of DHSS such as physician's offices, clinics, etc. The violations referred to in this section do not seem to be clinical or regulatory in nature. Instead, they appear to be concerned more with data disclosure.

This legislation would require the Department to promulgate rules for the processes for the investigations and also work with the program staff to levy the fines authorized by law.

It is unknown how many complaints of alleged violations will be received by the Department. Depending upon the increase in workload, additional staff may be required.

DHSS is not able to determine how many complaints would be received that would require investigation; therefore the Department is unable to determine the fiscal impact of this section.

Oversight assumes a fiscal impact of Unknown but Greater than \$100,000.

ASSUMPTION (continued)

Officials from the **Department of Social Services** state the following:

Performance Reports/Quality Health Standards Section 191.1005.1-2:

This section will have a fiscal impact to the MO HealthNet Division (MHD). MHD will have costs for a contractor to collect, compile, evaluate and compare the quality of care data. The cost for a contractor is unknown, but greater than \$250,000. The first year cost (\$208,333) is calculated for 10 months and the second and third year costs (\$250,000) are for 12 months.

Section 191.1005.2(20) Medical Claims Data:

This section allows health carriers to use data collected from medical claims, health care providers or other sources including the Centers for Medicare and Medicaid Services (CMS) and other entities. Health carriers are prohibited from entering into contracts that limit the use of medical claims data to payment of claims or otherwise preclude health carriers from responding to the public's need for comparative cost, quality, and efficiency information, or other performance information on health care services and providers. Health carriers may use claims and contracted rate data to report on cost, quality and efficiency consistent with the patient charter or other nationally recognized standards such as those issued by the National Committee for Quality Assurance.

It is assumed that this section applies to the MHD because Section 191.1005.1(2) includes in the definition of "insurer" the state of Missouri when rendering health care services under a medical assistance program.

MHD further assumes that any request made for data under this section would have to comply with all federal and state confidentiality requirements. If the data requested is not readily available the MHD would incur expenses in obtaining, compiling and reporting the data or those tasks would be contracted to their fiscal agent. It is assumed that the MHD or their fiscal agent would charge entities that request the data and that they would be reimbursed.

Section 191.1008 Quality Data:

This section requires anyone who sells or distributes public health care quality and cost efficiency data to identify the source of the measure used. No fiscal impact to the MHD.

ASSUMPTION (continued)

Section 197.550 to 197.586 Patient Safety and Reportable Events:

This legislation requires hospitals to report each reportable incident to a patient safety organization and to the Department of Health and Senior Services (DHSS). Since this primarily involves the hospital and the Department of Health and Senior Services, it will not have a fiscal impact on the MO HealthNet Division.

Total Cost: FY10 Unknown >\$208,333 (\$104,166.50 GR); FY11 Unknown >\$250,000 (\$125,000GR); FY12 Unknown >\$250,000 (\$125,000GR)

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs - Department of Mental Health</u>			
Program Costs	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
<u>Costs - Department of Health and Senior Services</u>			
Program Costs	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
<u>Costs - Department Social Services</u>			
Program Costs	<u>(Unknown but Greater than \$104,166)</u>	<u>(Unknown but Greater than \$125,000)</u>	<u>(Unknown but Greater than \$125,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown but Greater than \$304,166)</u>	<u>(Unknown but Greater than \$325,000)</u>	<u>(Unknown but Greater than \$325,000)</u>

FEDERAL FUNDS

Income - Department of Social Services

Federal Assistance	Unknown but Greater than \$104,167	Unknown but Greater than \$125,000	Unknown but Greater than \$125,000
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Costs - Department of Social Services

Program Costs	<u>(Unknown but Greater than \$104,167)</u>	<u>(Unknown but Greater than \$125,000)</u>	<u>(Unknown but Greater than \$125,000)</u>
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**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

\$0 \$0 \$0

FISCAL IMPACT - Local Government

FY 2010 (10 Mo.)	FY 2011	FY 2012
<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation establishes requirements for transparency of health care information and patient safety.

TRANSPARENCY OF HEALTH CARE INFORMATION:

Programs of insurers that publicly assess and compare the quality and cost efficiency of health care providers must conform to specified criteria for the transparency of health care information.

Any person who sells or distributes comparative health care quality and cost-efficiency data for public disclosure must identify the measuring technique used to validate and analyze the data, except for articles or research studies published in peer-reviewed academic journals that do not

FISCAL DESCRIPTION (continued)

receive funding from a health care insurer or state or local government. Individuals violating this provision will be investigated by the Department of Health and Senior Services and may be subject to a penalty of up to \$1,000. Health insurers violating this provision will be investigated by the Department of Insurance, Financial Institutions and Professional Registration and subject to the Department's enforcement powers of the state's insurance laws.

PATIENT SAFETY

Beginning January 1, 2010, hospitals must report all serious health care incidents resulting in serious adverse events to a federally designated patient safety organization no later than one business day following the discovery of the incident. The report must describe the immediate actions taken to minimize patient risk and the prevention measures carried out. The hospital will have 45 days after the incident was discovered to submit a root cause analysis report and prevention plan to the organization, with or without the technical assistance of the organization. If the organization finds any of the reports provided by the hospital to be insufficient, the hospital will have two attempts to make corrections. The Department of Health and Senior Services will assist hospitals with three or more insufficient reports and accept reports from a hospital that does not submit serious adverse events to an organization. All hospitals must establish policies to notify a patient within one business day after the hospital is aware of an occurrence of a serious adverse event in health care. Notifying the patient will not be considered acknowledgment or admission of hospital liability for the serious adverse event. After receiving a complete root cause analysis report and prevention plan from a hospital, an organization must assess the information and report back to the hospital its findings and recommendations for preventing future incidents.

By April 30 of every year, the Department must publish to the public a report indicating the number of serious adverse events for the previous year by region and category and can include serious adverse events by type of facility. Hospitals must report incidents of serious adverse events on a quarterly basis to the Department.

Patient safety organization meetings with individuals related to an incident must keep discussions limited to the course of carrying out the business of the organization. Proceedings and records of an organization cannot be used in civil action against a health care provider, and providers furnishing services to an organization cannot be liable for civil damages as a result of findings based on the provider's services.

An organization can disclose non-identifying information regarding the number and type of patient safety incidents that occur, but documents and any communication created by a health care provider must be kept confidential by the organization.

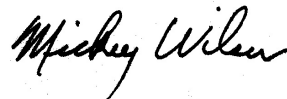
FISCAL DESCRIPTION (continued)

Payment claims for health care services related to a reported incident of a serious adverse event made by a hospital will not be subject to the Unfair Claims Settlement Practices Act. Beginning January 1, 2010, hospitals that report an incident of a serious adverse event cannot charge for or legislation individuals or insurers for services related to the incident. If an insurer denies a claim because of lack of coverage for services that resulted from an incident of a serious adverse event, the health care provider or facility involved cannot bill the patient for the uncovered services.

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

Missouri State Highway Patrol
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
Missouri Consolidated Health Care Plan
Department of Conservation
Office of the Secretary of State
Office of the Attorney General



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