COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1260-08
Bill No.: HCS for HB 497
Subject: Health Care; Insurance-Medical; Department of Insurance, Financial Institutions and Professional Registration
Type: Original
Date: March 11, 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 Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal*	$0	$0	$0
Total Estimated Net Effect on All 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** assume the proposal would have no fiscal impact on their agency.

In response to a previous version of this proposal, officials from the **Department of Insurance, Financial Institutions & Professional Registration** assume the proposal would have no fiscal impact on their agency.

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.

In response to a previous version of this proposal, officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

In response to a previous version of this proposal, 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.

ASSUMPTION (continued)

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 **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.

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

Section 191.1008: This section 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 conducting the investigations and levying 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 we are unable to determine the fiscal impact of this section.

ASSUMPTION (continued)

Section 197.553.2: The proposed legislation in section 197.553.1 requires hospitals to report each reportable incident to a federally-designated patient safety organization. If the patient safety organization finds the initial report, root cause analysis, or reportable incident prevention plan to be insufficient, the hospital will have two attempts to correct it. If the hospital proves to be unsuccessful, they are required to conduct the process with DHSS. The Department is unable to determine how often this would occur.

Further, if a hospital chooses not to provide an initial report, root cause analysis, or reportable incident prevention plan to a patient safety organization within the specified time frame, the hospital shall submit all three elements to DHSS. The Department is unable to determine how often hospitals would choose to report to DHSS rather than the patient safety organization.

Due to the severity of the events to be reported, it is likely that for those events that DHSS is involved with, that considerable time would be required for review, analysis, and investigation. The department is unable to anticipate how many events would occur; therefore the fiscal impact is assumed to be unknown.

Section 197.553.3: This section requires hospitals to report any serious reportable event in healthcare to the patient or the patient's legally authorized representative. The Department assumes that this could result in a higher number of complaints, therefore requiring additional inspections performed by the Division of Regulation and Licensure. The number of additional inspections is unknown at this time and therefore the Department assumes an unknown number of additional FTE would be necessary.

Section 197.562: Proposed section 197.562 requires hospitals to report information on errors to DHSS on a quarterly basis. This information is to be used by the Department to publish an annual report to the public of reportable incidents as well as to ascertain whether a frequency or pattern of harm exists that warrants further action. In order to provide the required annual reports, it would be necessary to develop a system to accommodate the ongoing submission of required data by approximately 140 hospitals. DHSS estimates that one additional FTE will be needed to work with hospitals to assure data completeness and quality, as well as prepare the annual reports required:

- One Research Analyst III ($38,700, Range A25, Step G) will be responsible for working with the hospitals to inform them how to submit data; testing the system; retrieving the data from the system from 140 hospitals quarterly, resulting in 560 data files annually; reviewing the data for completeness and errors; contacting hospitals to resolve data issues; storing the data; analyzing data for harmful trends; and compiling annual reports.

ASSUMPTION (continued)

Support from ITSD will be needed to assist with developing and maintaining a data collection system that will facilitate producing the required annual reports. ITSD estimates the need for one FTE to develop and maintain the system:

- One Computer Information Technology Specialist I ($47,184, Range A30, Step H) will be responsible for developing an online system for hospital submission of data that would include the following: hospital id, date of submission, date of the quarter, number of reportable events by category, number of patients incurring the reportable events, rate per patient by category within three regions, whether a death or disability occurred (and for which event), whether root cause analysis has been done, and whether a prevention plan has been done and submitted to the patient safety organization. Once the system is developed, the FTE will be responsible for ongoing maintenance and upkeep of the system. This position will also be responsible for ensuring the integrity of the electronic collection of the data elements each quarter and for hardware maintenance of the system servers on which the application and database will reside.

ITSD further assumes that the application will reside on servers at DHSS-ITSD with an annual lease cost of $8,000.

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

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

ASSUMPTION (continued)

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.

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)

FISCAL IMPACT - State Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
Costs - Department of Mental Health			
Program Costs	(Unknown but Greater than $100,000)	(Unknown but Greater than $100,000)	(Unknown but Greater than $100,000)
Costs - Department of Health and Senior Services			
Program Costs	(Unknown but Greater than $100,000)	(Unknown but Greater than $100,000)	(Unknown but Greater than $100,000)
Costs - Department Social Services			
Program Costs	(Unknown but Greater than $104,166)	(Unknown but Greater than $125,000)	(Unknown but Greater than $125,000)
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)**
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
Costs - Department of Social Services			
Program Costs	(Unknown but Greater than $104,167)	(Unknown but Greater than $125,000)	(Unknown but Greater than $125,000)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Section 197.553.1 of the proposed legislation requires hospitals to report reportable incidents to a federally-designated patient safety organization. Small hospitals could incur costs associated with reporting these incidents.

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 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

FISCAL DESCRIPTION (continued)

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.

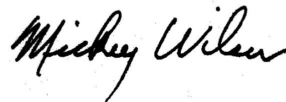
An organization can disclose non-identifying information regarding the number and type of patient safety incidents that occur, but documents and any communication created by a health care provider must be kept confidential by the organization.

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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