COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1125-03
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HB 286
Subject: Drugs and Controlled Substances; Elderly; Federal-State Relations; Health Care; Health Department; Health, Public; Hospitals; Medicaid; Pharmacy; Social Services Department
Type: Original
Date: May 30, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(Unknown less than $100,000)	(Unknown less than $100,000)	(Unknown less than $100,000)
Total Estimated Net Effect on General Revenue Fund	**(Unknown less than $100,000)**	**(Unknown less than $100,000)**	**(Unknown less than $100,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Senior Rx	$5,200,000	$6,200,000	$6,500,000
Pharmacy Tax	$31,486,216	$31,490,334	$31,490,334
Federal Reimbursement Allowance*	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$36,686,216**	**$37,690,334**	**$37,990,334**

***Revenues and expenditures of approximately $545 million annually would net to $0.**
Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal*	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

***Revenues and expenditures of approximately $870 million would net to $0.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health (DOH)** believe that this proposal, over time, will increase participation by generic drug manufacturers in the Missouri Senior Rx program. RSMO currently requires generic manufacturers to pay the program a 15% rebate on their drugs that are utilized by the program participants while the national trend (including the Missouri Medicaid program) is 11%.

William M. Mercer, Inc. provided the DOH with an estimated cost savings associated with a reduction in the generic rebate percentage. DOH states that the current rebate contracts with generic drug companies expire on either 5-31-03 or 6-30-03. DOH states many of the generic companies have notified the program they will withdraw from the program at the end of this contract period if the rebate percentage for generic companies is not reduced to 11%. Therefore, the assumption made by Mercer, Inc and DOH is that if the rebate reduction for generic companies is not passed, generic companies will withdraw from the program, thus making the program a brand name drug only program for FY 04 and beyond. DOH and Mercer also assume the primary factor driving the estimated savings in total program costs is the increase in the average cost of a prescription resulting from only brand name drugs being available. By removing the generic medications from the program, Mercer, Inc estimated the average cost of the prescription will increase from $74 to $88 in FY 04; from $80 to $95 in FY 05; and from $86 to $102 in FY 06.

ASSUMPTION (continued)

DOH assumptions in calculating cost savings:

Population

--Estimates for the total number of seniors in Missouri were based on the 1990 and 2000 census projected forward through SFY06.
--The total senior population in Missouri grows by an average of 3% per year.
–Estimated enrollment is assumed to be 22,000 in SFY04; 28,325 in SFY05 and 31,160 in SFY06.

Claim Costs/Trends/Financial Analysis

--Discounts are legislated at 10.43% of AWP (Average wholesale price) for brand and 20% of AWP for generic drugs.
--Rebates are provided at 15% of AMP (Average manufacturer's price) for brand and generic drugs in SFY03.
--Rebates are provided at 15% of AMP for brand drugs and 11% of AMP for generic drugs in SFY04, SFY05 and SFY06.
–Generic manufacturers will be willing to participate in the program if the rebate amount is reduced from 15% to 11%.
--There is a 6 month lag in rebate payments.
--Dispensing fee of $4.09 per prescription.
--Projected yearly number of scripts per person–40 scripts per participant per year in FY03 in total (of which the program benefits will cover 30 scripts per participant per year) 43 scripts per participant per year in FY04 in total (of which the program benefits will cover 34 scripts per participant per year).
–Number of scripts per participant per year is trended at 8% to SFY05 and 7.5% to SFY06.
--Projected average cost per script $69 in FY03 (before discounts & rebates); $74 in FY04 if the legislation passes and $88 if the legislation does not pass (before discounts & rebates).
--Average cost per script is trended at 8% to SFY05 and 7.5% to SFY06.

The DOH states the program savings will be $5,200,000 in FY 04; $6,200,000 in FY 05; and $6,500,000 in FY 06.

Oversight was not provided the Mercer, Inc assumptions since this information is proprietary information of Mercer, Inc. **Oversight** does not have the detail information to recalculate the saving and cannot validate the DOH response. **Oversight** is presenting the cost savings as provided by the DOH.

ASSUMPTION (continued)

Official from the **Secretary of State Office (SOS)** state this proposal modifies the rebate amounts given for prescription drugs under the Senior Rx Program and could result in the Department of Health and Senior Services promulgating more rules. These rules would be published in the *Missouri Register* and the *Code of State Regulations.* Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as eight (8) pages in the *Code of State Regulations.* For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is $23. The estimated cost of a page in the Code is $27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. SOS officials estimate total costs for FY 04 to be $492.

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.

The **Department of Social Services - Division of Medical Services (DMS)** states in reference to Section 208.478, the DMS assumes the tax could be worked out with the hospitals and there would be no cost.

The DMS assumes if the federal reimbursement allowance (FRA) program is not extended, additional funding would be needed to maintain the current level of services. The DOS estimates the assessment on hospitals of $1,062,373,865 in FY 05 and $1,416,498,487 in FY 06 would be needed.

The DMS states this proposal makes minor changes to the administration of the pharmacy tax administered by DMS. The DMS estimates retail pharmacy sales for FY04 at $3.22 billion. This is based on the data obtained during the first year of operation of the pharmacy tax and inflated by 3%. For the purposes of this fiscal note, DMS assumed an average tax rate of 1.71%, which would yield revenue of $55,056,000. $23,401,002 will be used to continue the program management initiatives. The net gain in terms of GR to the State is $31,654,998 ($55,056,000 - $23,401,002). The net gain of $31,654,998 allows DMS to draw federal funds of $50,267,874 for a total of $81,922,872.

ASSUMPTION (continued)

DMS assumes that the average tax rate could approach 1.8%, which would yield revenue of $57,960,000, but DMS has elected to project revenue of $55,056,000 to be fiscally conservative.

The maintenance and additional requirements of this program will require one additional FTE.

DMS estimates that $100,000 (E) will be needed for a vendor system support. The funds are requested so that DMS can maximize the pharmacy tax revenue and to perform the quarterly revisions, which should also increase pharmacy tax revenue.

For the purpose of this fiscal note, DMS assumed the pharmacy tax would be in effect in FY04, FY 05, and ¼ of FY06. The DMS assumes the tax will expire ninety days after one or more of the following conditions are met: (1) the aggregate dispensing fee paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement, or (2) the formula used to calculate the reimbursement for products dispensed by pharmacies is changed resulting in lower reimbursement in the aggregate than provided in fiscal year 2003, or (3) June, 30, 2005. It was assumed that pharmacy tax would sunset 90 days after any change in dispensing fee or ingredient reimbursement and that occurred on July 1, 2003, the pharmacy tax would expire on September 30, 2003 and only ¼ would be realized in FY04 and no revenue for FY05 and FY06.

Officials from the **Department of Mental Health (DMH)** state per Section 208.453, RSMo, "…public hospitals which are operated primarily for the care and treatment of mental disorders…" are exempt from the Federal Reimbursement Allowance (FRA). As a result, the Department of Mental Health (DMH) hospitals are excluded from the FRA program. Therefore the changes specifically to the FRA program - sections 208.477 & 208.480 will have no fiscal impact for DMH.

The DMH further states the changes to Section 408.478 have a minimal impact to DMH. Three CPS hospitals currently report Graduate Medical Expense (GME). Since DMH provides its own state match, only the federal portion (approximately 60%) of GME payments would be made to DMH. At this time, FY03 data on quarterly GME payments shows $10,600 x 60% = $6,360. Data on enhanced GME payments to be made for FY04 indicates that DMH will receive $52,000 x 60% = $31,200. Based on this information, the assumption has been made that if GME payments were discontinued if payments fell below the SFY 2002 level, the fiscal impact to DMH would be approximately $37,560. However, it should be noted that GME payments fluctuate significantly from year to year and DMH assumes that actual impact would be less than $100,000. The DMH states this is a loss of revenue to General Revenue of unknown, less than $100,000

FISCAL IMPACT - State Government	FY 2004	FY 2005	FY 2006
GENERAL REVENUE			
Loss - Department of Mental Health			
Graduate Medical Assistance	(Unknown less than $100,000)	(Unknown less than $100,000)	(Unknown less than $100,000)
ESTIMATED NET EFFECT TO GENERAL REVENUE	**(Unknown less than $100,000)**	**(Unknown less than $100,000)**	**(Unknown less than $100,000)**
SENIOR Rx FUND			
Savings - Department of Health and Senior Services			
Program Savings	$5,200,000	$6,200,000	$6,500,000
ESTIMATED NET EFFECT ON SENIOR Rx FUND	**$5,200,000**	**$6,200,000**	**$6,500,000**
PHARMACY TAX			
Savings - Department of Social Services - Division of Medical Services			
Program savings - pharmacy program	$31,572,666	$31,572,666	$31,572,666
Costs - Department of Social Services - Division of Medical Services			
Personal Services (1 FTE)	($22,750)	($22,750)	$22,750
Fringe Benefits	($9,207)	($9,207)	($9,207)
Expense and Equipment	($54,493)	($50,375)	($50,375)
Total Costs - Department of Social Services - Division of Medical Services	($86,450)	($82,332)	($82,332)

ESTIMATED NET EFFECT ON PHARMACY TAX FUND	**$31,486,216**	**$31,490,334**	**$31,490,334**
FEDERAL REIMBURSEMENT ALLOWANCE FUND			
Income - Department of Social Services			
Assessment of hospitals	$0	$409,332,650	$545,776,867
Costs - Department of Social Services			
Program specific expenditures	$0	($409,332,650)	($545,776,867)
ESTIMATED NET EFFECT ON FEDERAL REIMBURSEMENT ALLOWANCE FUND	**$0**	**$0**	**$0**
FEDERAL FUNDS			
Income - Department of Social Services			
Medicaid match	$80,464	$653,123,547	$870,803,952
Costs - Department of Social Services - Division of Medical Services			
Program specific expenditures	$0	($653,041,215)	($870,721,620)
Personal Services (1 FTE)	($18,489)	($22,750)	$22,750
Fringe Benefits	($7,482)	($9,207)	($9,207)
Expense and Equipment	($54,493)	($50,375)	($50,375)
Total Costs - Department of Social Services - Division of Medical Services	($80,464)	($653,123,547)	($870,758,452)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2004	FY 2005	FY 2006
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal states if the criteria used to determine Medicaid eligibility under a 1115 waiver is more restrictive than those in place in fiscal year 2003, the DMS shall reduce the federal reimbursement allowance assessment for that fiscal year and increase cost of the uninsured payments for that fiscal year.

The amount of appropriation made to fund Medicaid graduate medical education shall not be less than the amount paid for such purposes for state fiscal year 2002.

This proposal extends the sunset date for the federal reimbursement allowance for hospitals from September 30, 2004, to September 30, 2006.

This proposal modifies the rebate amount for prescription drugs in the Missouri Senior Prescription Program. Current law requires pharmaceutical manufacturers participating in the Senior Prescription Program to pay a rebate of 15% on all prescription drugs. This proposal changes the rebate amount to 15% for brand name drugs and 11% for generic drugs for transactions occurring on or after July 1, 2003.

PHARMACY TAX

The Department of Social Services may adjust the tax rate quarterly on a prospective basis.

The pharmacy tax shall expire 90 days after one or more of the following conditions are met:

(1) The aggregate dispensing fee paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount, or (2) the formula used to calculate the reimbursement for products dispensed by pharmacies is changed resulting in lower reimbursement in the aggregate than provided in fiscal year 2003, or (3) June 30, 2005.

This act contains an emergency clause.

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 Social Services
Department of Health and Senior Services
Department of Mental Health

Mickey Wilson

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