COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2083-02
Bill No.: HB 741
Subject: Drugs and Controlled Substances; Medicaid; Public Assistance; Social Services Department
Type: Original
Date: April 30, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General*	$6,457,167 to $6,581,450	$6,457,167 to $6,581,450	$6,457,167 to $6,581,450
Total Estimated Net Effect on General Revenue Fund	**$6,457,167 to $6,581,450**	**$6,457,167 to $6,581,450**	**$6,457,167 to $6,581,450**

*Does not include an unknown cost.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Pharmacy Tax	$31,494,070	$31,490,334	$31,490,334
Total Estimated Net Effect on Other State Funds	**$31,494,070**	**$31,490,334**	**$31,490,334**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 10 pages.

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

*Savings and Loss of approximately $60,000,000 annually 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 and Senior Services** assume this proposal would not fiscally impact their agency.

Officials from the **Department of Mental Health (DMH)** state the proposed bill limits funding to appropriations for any benefit payments for medical assistance not mandated by federal law, including those medical benefits available for federal financial participation in the state Medicaid program. Several of these statutory sections involve Medicaid programs for which state match are provided from the DMH budget.

The DMH states Section 208.152.1(7) has been eliminated in this proposal. This would remove dental services from the medical assistance services that are eligible for benefit payments. Medicaid currently covers dental services for eligible DMH clients. The majority of the current Medicaid payments made on behalf of DMH clients, both in DMH facilities and in the community, are billed by and paid directly to the dentist, and cost data is not available.

ASSUMPTION (continued)

The DMH states the following assumptions have been made to arrive at the high side of the fiscal cost of dental that could result from the DMH perspective.

1) The two children's facilities run by the Division of CPS would have approximately 450 dental visits per year at an average cost of $60 per visit.
2) The Division of MRDD serves approximately 25,000 clients per year.
   a) Of these clients, it is estimated that 70% are Medicaid-eligible.
   b) It is estimated that 65% of MRDD clients are Medicaid-eligible because they are permanently and totally disabled (PTD).
   c) It is assumed that 100% of Medicaid-eligible clients will receive dental care during the year at the average dental care cost for all Medicaid-eligibles.
   d) Monthly reports from Division of Medical Services provided statistics on Medicaid dental clients and costs.
3) MRDD Medicaid dental revenue figures were pulled from applicable facility Medicaid cost reports.

The DMH estimates the fiscal impact could be from $0 to $124,283 per year. It is estimated that the dental cost for Medicaid-eligible clients in the Division of CPS and the Division of MRDD would be $124,283 per year. The total estimated fiscal impact is based on yearly expenditures of $102,318 plus a yearly loss Medicaid dental revenue of $21,965.

The DMH states Subsection 24(d) (3) of Section 208.152 has been revised to state that the Department of Social Services could apply co-payments to "all covered services" to the extent authorized by the federal government. Current statutory language limits co-payments to a few services, such as dental, drugs, eyeglasses etc. This revision would give the Division of Medical Services the authority to apply co-payments to DMH-Medicaid covered services. Providers cannot refuse to serve someone based on the individual's ability to make a co-payment. Because many recipients will not have the extra funds to make the co-payments, providers will receive a lower rate of reimbursement for services at a time when reimbursement rates are below costs. Many individuals served by DMH will also be affected by the pharmacy co-payment in addition to their co-pays for DMH services.

The DMH states in the Governor Recommends budget, the DMH had a core reduction of $1,538,800 in General Revenue funds to generate savings by applying a nominal co-payment amount to certain Medicaid recipients on certain Medicaid services. DMH Medicaid services that were identified were Community Psychiatric Rehabilitation (CPR), Targeted Case Management (TCM - Division of CPS), and Comprehensive Substance Treatment and Rehabilitation (CSTAR) programs. Without knowing the Medicaid services that this change will

ASSUMPTION (continued)

affect beyond those services identified in the Governor's reduction and the amount of co-payments that will be applied for each type of service, it is not possible to provide an accurate fiscal impact due to co-payment changes. Therefore the fiscal impact of the co-payment change is unknown.

The DMH states based on changes to section 208.162.1, benefit payments for medical assistance shall be made on behalf of those individuals who would have been eligible for general relief benefits as defined on June 30, 2003. This appears to freeze the general relief eligibility requirements to the policies in place as of June 30, 2003. Any DMH client who would no longer be eligible for the general relief payments would be more at risk of greater need of services provided by DMH and community providers. Loss of the monthly cash assistance payments currently received by those eligible for general relief could result in the inability to pay rent, purchase necessary prescription drugs, etc. The inability to have access to these necessities can result in destabilization, and cause further deterioration of the client's mental health, resulting in greater utilization of the DMH service system. DMH would only be able to provide the additional mental health services required due to the loss of general relief payments, to the extent of the appropriations available to DMH for such services.

Officials from the **Secretary of State Office (SOS)** state this proposal modifies various provisions relating to the certain medical assistance benefit payments to be subject to appropriations. 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 20 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. The SOS estimates the cost for FY 04 only to be $1,230 [(20 pages x $27) + (30 pages x $23)].

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.

<u>ASSUMPTION</u> (continued)

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state:

Section 208.152.
The elimination of dental services for adults will result in a cost savings to the DMS projected to be $15,500,000. The basis for the estimate was FY 02 actual expenditures for dental services. Dental services for children will continue as a covered service as an early and periodic screening and diagnosis (EPSDT) service.

In addition, the DMS states limiting eyeglasses to one pair following cataract surgery will result in a cost savings. The savings is projected to be $1,550,000. The estimate is based on actual FY 01 payments.

Section 338.500
The DMS states this section makes minor changes to the administration of the pharmacy tax administered by DMS as well as extends the pharmacy tax through July 1, 2005. The legislation also states that the pharmacy tax will expire in 90 days if the aggregate dispensing fee or the formula used to calculate the reimbursement is lower than the fiscal year 2003 reimbursement. The FY04 budget (Governor Recommendations) contains two items that will reduce the reimbursement (AWP-14% and Co-payments) to pharmacies.

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.

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,

<u>ASSUMPTION</u> (continued)

FY 05, and ¼ of FY06. As stated, the language states the pharmacy tax will expire 90 days after any change in dispensing fee or ingredient reimbursement, or July 1, 2005. DMS assumed the intent was for the pharmacy tax to sunset on July 1, 2005, but in the current form, DMS assumed that the pharmacy tax would expire 90 days after July 1, 2005. If 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.

FISCAL IMPACT - State Government	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE			
Savings - Department of Social Services - Division of Medical Services			
Program savings - dental program	$5,981,450	$5,981,450	$5,981,450
Program savings - limitation of eyeglasses	$600,000	$600,000	$600,000
Total Savings - Department of Social Services - Division of Medical Services	$6,581,450	$6,581,450	$6,581,450
Costs - Department of Mental Health			
Dental Services	($0 to $124,283)	($0 to $124,283)	($0 to $124,283)
Co-payments	(Unknown)	(Unknown)	(Unknown)
Total Costs - Department of Mental Health	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS*	**$6,457,167 to $6,581,450**	**$6,457,167 to $6,581,450**	**$6,457,167 to $6,581,450**
***Does not include unknown cost.**			
PHARMACY TAX			
Savings - Department of Social Services - Division of Medical Services			
Program savings - pharmacy program	$31,574,534	$31,572,666	$31,572,666
Costs - Department of Social Services - Division of Medical Services			
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)	($82,332)	($82,332)
ESTIMATED NET EFFECT ON PHARMACY TAX FUND	**$31,494,070**	**$31,490,334**	**$31,490,334**
FEDERAL			
Income - Department of Social Services - Division of Medical Services			
Federal Assistance	$80,464	$82,332	$82,332
Savings - Department of Social Services - Division of Medical Services			
Program savings	$60,655,960	$60,654,092	$23,035,519
Loss - Department of Social Services - Division of Medical Services			
Federal Assistance	($60,655,960)	$60,654,092	($23,035,519)
Costs - Department of Social Services - Division of Medical Services			
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)	($82,332)	($82,332)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2004 (10 Mo.)	FY 2005	FY 2006
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Modifications to the pharmacy tax may affect pharmacies which are small businesses.

DESCRIPTION

This proposal revises provisions pertaining to benefit payments under the Medicaid Program and provisions pertaining to the Pharmacy Tax.

MEDICAID BENEFITS

The proposal requires the following to be subject to appropriations and contingent upon available moneys: (1) benefit payments for medical assistance not mandated by federal law; (2) medical assistance benefits available for federal matching dollars; and (3) state-funded Medicaid benefits. Resources available must be documented by appropriated moneys contained in an appropriations bill signed by the Governor. The resources available can be subject to withholdings imposed by the Governor. If the Department of Social Services is bound by federally mandated requirements, the department and its divisions will not be required to file a notice of proposed rulemaking.

In addition, the proposal:

(1) Requires that Medicaid benefits be administered within appropriations provided. This provision does not require or authorize a reduction in provider fees;

(2) Allows the department to reduce expenditures in response to withholdings by the Governor. A reduction in provider fees is exempt from this provision;

(3) Allows the department to establish prior authorizations for services based on emergency rules if services and payments are reduced to comply with available state moneys;

(4) Allows the department to not grant a hearing if a change to a program is made resulting in a reduction of services and payments in order to conform with available state moneys;

(5) Removes payments for dental services under the Medicaid Program and limits benefits to

DESCRIPTION (continued)

one pair of glasses following cataract surgery;

(6) Requires prescription and non-prescription drugs and administering devices that are covered under the Medicaid Program to be prescribed by a licensed health care professional and subject to safety and effectiveness provisions of Sections 505 or 507 of the federal Food and Drug Cosmetic Act;

(7) Authorizes the Division of Medical Services to require Medicaid recipients to pay part of the charge or costs of all covered services;

(8) Requires the division to define by rule, reasonable costs, quality, quantity, and charges for medical assistance on a basis ensuring the greatest amount of medical care consistent with moneys available;

(9) Requires the department and its divisions to reduce payment for covered benefits on a pro-rata basis during the final six months of a fiscal year as based on the consensus budget estimates and first quarter actual receipts;

(10) Allows the department and its divisions to not grant a hearing if a change is made in a program, subject to law. The change is conditioned on modifying services or payments based on available moneys; and

(11) Requires benefit payments for Medicaid to be made for persons who would have been eligible for general relief benefits as defined on June 30, 2003.

PHARMACY TAX

The proposal makes the following changes to the Pharmacy Tax:

(1) The effective date of the Pharmacy Tax is changed from July 1, 2002, to July 1, 2003;

(2) The Department of Social Services can adjust the pharmacy tax rate quarterly, on a prospective basis;

(3) The tax will expire 90 days after stated conditions are met. The director of the department is required to notify the Revisor of Statutes of the expiration date if the conditions are met. If the conditions are not met, the tax will expire on June 30, 2005; and

(4) Certain statutes pertaining to the tax are repealed.

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
Secretary of State

Mickey Wilson

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DIRECTOR
APRIL 30, 2003