

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0521-07  
Bill No.: HCS for SS#2 for SCS for SB 62  
Subject: Health Care; Health Care Professionals; Federal-State Relations; Medicaid;  
Nursing and Boarding Homes; Ambulance Districts  
Type: Original  
Date: April 21, 2011

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Bill Summary: This legislation allows providers to include any retrieval fee for outsourced records storage service in the fee for release of medical records.

This legislation extends the sunset dates of various federal reimbursement allowances from 2011 to 2016. This legislation will sunset on September 30, 2016.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
General Revenue	Up to (\$41,292)	Up to (\$50,809)	Up to (\$52,079)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>Up to (\$41,292)</b>	<b>Up to (\$50,809)</b>	<b>Up to (\$52,079)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Ambulance Provider Tax Fund*	\$0	\$0	\$0
Nursing Facility Reimbursement Allowance Tax Fund**	\$0	\$0	\$0
Managed Care Provider Tax Fund***	\$0	\$0	\$0
Hospital Reimbursement Allowance Fund****	\$0	\$0	\$0
Pharmacy Provider Tax Fund*****	\$0	\$0	\$0
ICF/MR Provider Tax Fund*****	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Revenues and expenditures of approximately \$9,000,000 net to \$0.

\*\*Revenues and expenditures of approximately \$104,000,000 net to \$0.

\*\*\*Revenues and expenditures of approximately Unknown net to \$0.

\*\*\*\*Revenues and expenditures of up to approximately \$886,000,000 net to \$0.

\*\*\*\*\*Revenues and expenditures of approximately \$56,000,000 net to \$0.

\*\*\*\*\*Revenues and expenditures of approximately \$6,000,000 net to \$0.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 14 pages.

SEC:LR:OD (12/06)

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Income and cost would net to \$0.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### **Section 191.227:**

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Social Services-Research and Evaluation (R&E)** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health** state the Department projects that costs for these fees would be minimal and absorbed in existing appropriations. No fiscal impact.

In response to a previous version of this proposal, officials from the **University of Missouri** assume no significant revenue, no costs and no losses.

Officials from the **Department of Health and Senior Services (DHSS)** states various programs throughout the DHSS are required to obtain copies of medical records for various reasons such as verifying eligibility for services, periodically reviewing medical conditions, etc. With this change, the Department could potentially see an increase in the amounts that would be reimbursed to providers that supply medical records.

The Department assumes that the number of medical records obtained from off-site records storage is unknown, but expected to be minimal. As a result, the Department assumes a fiscal impact of (\$0 to Unknown, < \$100,000).

**Oversight** assumes, because the potential for increase in medical record fees is speculative, that the DHSS will not incur significant costs related to this proposal. If a fiscal impact were to result, the DHSS may request additional funding through the appropriations process.

Officials from the **Department of Social Services-Children's Division (CD)** assume the Children's Division does not anticipate a significant fiscal impact as the result of this proposed legislation. Any increase would be minimal and be absorbed by the Division.

Officials from the **Department of Social Services-MO HealthNet Division (MHD)** assume additional cost would be incurred if the proposed legislation passes. The MHD would pay the retrieval fee. However, the cost is minimal and it is assumed the cost would be covered by the current appropriation.

ASSUMPTION (continued)

In FY09, six providers billed MO HealthNet for medical records. In FY10, nine providers billed MO HealthNet for medical records. The average number of billings is eight .

The estimated retrieval fee is \$26.36 (\$21.36 plus 10 pages at \$.50). A trend factor of 3.6% is applied to the out years.

FY 12:  $8 \times \$26.36 = \$210.88$ .

FY 13:  $\$210.88 \times 3.6\%$  (trend factor) = \$218.47.

FY 14:  $\$218.47 \times 3.6\%$  (trend factor) = \$226.33.

Officials from the **Department of Social Services-Division of Legal Services (DLS)** state current law allows a health care provider to condition the furnishing of medical records on the payment of a fee to cover costs of copying, postage and notary services. The legislation would amend current law to also include a retrieval fee charged by an outsourced records storage service with which the health care provider has contracted for off-site records storage and management in the fee medical care providers can charge in providing medical records. The retrieval fee is limited to "not more than twenty-one dollars and thirty-six cents plus fifty cents per page for the cost of supplies and labor plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed twenty dollars, as adjusted annually" pursuant to statute. Further, if the health care provider stores records in an electronic or digital format, and provides the requested records in an electronic or digital format, they are authorized to charge not more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less. Moreover, the health care provider is also authorized to charge the requester for any applicable postage fee and/or notary fee not to exceed two dollars associated with their request. The DLS regularly obtains medical records in the course of its investigations and litigation and therefore the potential fiscal impact upon DLS could be substantial. Unknown Greater than \$100,000.

**Oversight** assumes, because the potential for increase in medical record fees is speculative, that the DLS will not incur significant costs related to this proposal. Also, Oversight believes DLS could access medical records from FSD. If a fiscal impact were to result, the DLS may request additional funding through the appropriations process.

Officials from the **Department of Social Services-Family Support Division (FSD)** state FSD reviews the health care records of an average of 4,131 applicants and recipients each month to determine initial or continued eligibility for the Temporary Assistance and MO HealthNet programs. These reviews may contain information from one or more health care providers; however, the FSD is unable to determine how many separate health care records are obtained per

ASSUMPTION (continued)

month. The FSD is not able to determine the number of health care records that would be obtained from health care providers utilizing off-site records storage services. For the purposes of this fiscal note, the FSD assumes one health care record per review for a total of 49,572 (4,131 x 12) health care records obtained per year. If 10% of these records were obtained from health care providers that use an off-site records storage service, the FSD would incur retrieval costs for 4,957 health care records per year.

Based on cost data available for two health care records retrieval companies, the average retrieval cost per record is \$31.48 ( $\$29.95 + \$33.00 = \$62.95 / 2 = 31.475$ , rounded up to \$31.48). However, this legislation limits the retrieval fee to twenty dollars (\$20.00). At this cost per record, the FSD would incur additional costs of \$99,140 ( $4,957 \times \$20.00$ ) to obtain health care records.

Therefore, the FSD anticipates the cost of this proposed bill to be unknown but greater than \$99,140.

**Oversight** assumes, because the potential for increase in medical record fees is speculative, that the FSD will not incur significant costs related to this proposal. Therefore, Oversight, has for fiscal note purpose only removed the language “unknown but greater than” and replaced the language with “up to”. If a greater fiscal impact were to result, the FSD may request additional funding through the appropriations process.

**Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401:**

Officials from the **Department of Health and Senior Services, Department of Revenue, Missouri State Treasurer** and the **Office of Administration-Budget and Planning** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of 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.

In response to a previous version of this proposal, officials from the **Department of Mental Health (DMH)** states the proposed legislation extends the sunset date of various federal reimbursement allowances from 2011 to 2016. Included in this proposal is the extension for the provider assessment for ICF/MR's for five years. If this sunset is extended, there would be no impact to The Department of Mental Health. If this legislation does not pass and the date does sunset, DMH would lose approximately \$2.7 million in General Revenue and \$4.7 million in Federal funding for next year.

The section of this legislation pertaining to the Hospital program RSMo 208.453 has no extension of the sunset date. If the provider assessment is similar to last year's amount, then the Department of Mental Health would lose approximately \$14.8 million in additional revenues (\$9.4 million federal, \$5.4 million general revenue) . Therefore, the DMH estimates a cost of \$5.4 million in general revenue and \$9.4 million in federal funds.

**Oversight** notes that the Department of Social Services (DSS) is the contact Department that works with the Federal government on Medicaid programs. Therefore, Oversight has decided to use DSS provider tax numbers for the ICF/MR provider tax program.

In response to a previous version of this proposal, officials from the **Department of Social Services - MO HealthNet Division (MHD)** stated the passage of the proposed legislation would not fiscally impact the MHD. However, if the proposed legislation does not pass, additional funding will be needed to maintain the current level of services.

The proposed legislation grants a five-year extension for the Managed Care Organization Reimbursement Allowance, the Ambulance Provider Tax, the Pharmacy Tax, the ICF/MR tax program and the Nursing Facility Reimbursement Allowance Tax.

**Section 190.839 - Ambulance Provider Tax:**

MHD is not currently collecting the Ambulance Provider Tax. In FY 12 it is anticipated MHD will collect \$9,069,225 in ambulance tax.

ASSUMPTION (continued)

**Section 198.439 - Nursing Facility Reimbursement Allowance Tax:**

The proposed legislation allows the MHD to collect \$104,175,945 in Nursing Facility Tax, which will allow MHD to draw in federal funds of \$180,847,160 in fiscal year 2012. The FY 12 budget submitted by the DSS assumed the nursing facility tax would continue through fiscal year 2012. If this proposed legislation does not pass, additional General Revenue funds of \$104,175,945 would be needed to continue the current level of services.

**Section 208.437 – Managed Care Provider Tax:**

The MHD is not currently collecting the Managed Care Provider Tax. The federal sunset for the managed care organization reimbursement allowance was September 30, 2009. This section of the proposed legislation will not have an impact on MO HealthNet.

**Section 208.480 – Hospital Reimbursement Allowance:**

The proposed legislation allowed the MHD to collect \$885,560,378, in hospital FRA tax, which would allow MHD to draw in federal funds of \$1,586,690,817 in fiscal year 2010. The FY 10 budget submitted by the DMH assumed that the hospital FRA would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of \$885,560,378 would be needed to continue the current level of services.

**Section 338.550 – Pharmacy Provider Tax:**

The proposed legislation allows the MHD to collect \$55,553,508 in pharmacy tax, which will allow DMS to draw in federal funds of \$96,273,516 in fiscal year 2012. The FY 12 budget submitted by the DSS assumed the pharmacy tax would continue through fiscal year 2012. If this proposed legislation does not pass, additional General Revenue funds of \$55,553,508 would be needed to continue the current level of services.

**Section 633.401 - ICF/MR Provider Tax:**

The proposed legislation allows the MHD to collect \$5,840,357 in intermediate care facilities for the mentally retarded tax, which will allow MHD to draw in federal funds of \$4,003,572 in fiscal year 2012. The FY 12 budget submitted by the Department of Mental Health assumed the intermediate care facilities for the mentally retarded tax would continue through fiscal year 2012. If this proposed legislation does not pass, additional General Revenue funds of \$5,840,357 would be needed to continue the current level of services.



FISCAL IMPACT - State Government                      FY 2012                      FY 2013                      FY 2014  
 (continued)

**MANAGED CARE PROVIDER  
 TAX FUND** (Section 208.437)

Income - Department of Social Services  
 Assessment on Medicaid Managed  
 Care Organizations                      Unknown                      Unknown                      Unknown

Costs - Department of Social Services  
 Medicaid Program Costs                      (Unknown)                      (Unknown)                      (Unknown)

**ESTIMATED NET EFFECT ON  
 MANAGED CARE PROVIDER  
 TAX FUND**                      **\$0**                      **\$0**                      **\$0**

**HOSPITAL REIMBURSEMENT  
 ALLOWANCE FUND** (Section  
 208.480)

Income - Department of Social Services  
 Assessment on Medicaid Hospital  
 Organizations                      \$885,560,378                      \$885,560,378                      \$885,560,378

Costs - Department of Social Services  
 Medicaid Program Costs                      (\$885,560,378)                      (\$885,560,378)                      (\$885,560,378)

**ESTIMATED NET EFFECT ON  
 HOSPITAL REIMBURSEMENT  
 ALLOWANCE FUND**                      **\$0**                      **\$0**                      **\$0**





FISCAL IMPACT - Small Business

**Section 191.227:**

If said small businesses have cause to periodically or regularly obtain medical records in their regular course of business.

FISCAL DESCRIPTION

**Section 191.227:**

Current law allows a health care provider to condition the furnishing of medical records on the payment of a fee to cover costs of copying, postage and notary services. This legislation allows the fee to also include any retrieval fee charged by an outsourced records storage service with which the health care provider has contracted for off-site records storage and management. However, in no case shall the cost of the retrieval fee exceed the costs of copying, postage and notary services. However, in no case shall the cost of the retrieval fee exceed the costs of copying, postage and notary services.

**Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401:**

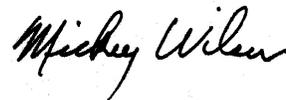
This legislation extends the expiration date of various federal reimbursement allowances from September 30, 2011, to September 30, 2016, including:

- (1) The ground ambulance service reimbursement allowance in Sections 190.800 - 190.839, RSMo;
- (2) The nursing facility reimbursement allowance in Sections 198.401 - 198.436;
- (3) The Missouri Medicaid Program's managed care organization reimbursement allowance in Sections 208.431 - 208.437;
- (4) The pharmacy reimbursement allowance tax in Sections 338.500 - 338.550; and
- (5) The assessment on intermediate care facilities for the mentally retarded in Section 633.401.
- (6) The hospital reimbursement allowance in Section 208.480.

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

Office of the Secretary of State  
Office of Administration-Budget and Planning  
Missouri State Treasurer  
Department of Social Services  
Department of Health and Senior Services  
Department of Mental Health  
Department of Revenue



Mickey Wilson, CPA  
Director  
April 21, 2011