

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1986-01
Bill No.: HB 899
Subject: Insurance - General; Insurance Dept.; Consumer Protection
Type: Original
Date: April 11, 2011

Bill Summary: Changes the requirements for Missouri's health care utilization review process to comply with federal law and regulations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	\$0 or (Unknown less than \$50,000)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue Fund	\$0 or (Unknown less than \$50,000)	\$0 or (Unknown)	\$0 or (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Insurance Dedicated	Up to \$10,000	\$0	\$0
Road	\$0	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$10,000	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

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

* Unknown revenues and expenses net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state insurers would be required to submit two amendments to their policies to comply with legislation. Policy amendments must be submitted to the department for review along with a \$50 filing fee. The number of insurance companies writing these policies in Missouri fluctuates each year. One-time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$10,000.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the DIFP will need to request additional staff to handle increase in workload.

Officials from the **Missouri Department of Transportation (MoDOT)** state the MoDOT/Missouri State Highway Patrol (MHP) Medical Plan does not fall under the definition of "health carrier" for purposes of this legislation (as defined in section 376.1350 RSMo). However, section 104.801 RSMo, states that any legislation enacted by the General Assembly which mandates the coverage of specific health benefits, services or providers in the policies or contracts of insurers, health services corporations, health maintenance organizations or other

ASSUMPTION (continued)

third party payors shall also apply to the MoDOT/MHP Medical Plan. It is not clear if this legislation is mandating “the coverage of specific health benefits, services or providers” because it is imposing additional requirements/processes upon health carriers that conduct utilization review. If the proposal does not mandate the coverage of specific health benefits, services or providers, the Medical Plan would not be required to comply with its provisions under section 104.801, and the bill should not have a fiscal impact upon MoDOT or upon the MoDOT/MHP Medical Plan.

The Medical Plan contracts with Coventry Health Care to provide our network of providers and process our claims at a contracted rate. In addition to those services, Coventry prepares a utilization review and handles medical service appeals based on denials of coverage to our participants. We assume the legislation would prompt Coventry to update their current utilization review process and current grievance process, which would increase the amount of administrative fees the Plan may pay for their services in the future.

The MoDOT does have a current contracted rate, but when the Plan is required to bid for these services, we may see an increase in administrative fees. The impact is unknown, but could be more than \$100,000.

Based on discussions with MoDOT staff, **Oversight** notes that the contract with Coventry will expire at the end of 2012 (FY 13). Since MoDOT has a current contracted rate with Coventry, any potential increase in administrative fees will not occur until FY 13. **Oversight** assumes since MoDOT will be rebidding their health care contract in the near future, any potential increase in administrative fees will be built into the contracted rate during the bidding process. The potential increase in costs is unknown.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state this legislation does not revise Chapter 208, RSMo and, therefore, does not affect MO HealthNet eligibility or benefits.

This legislation does revise Chapter 376, RSMo. The MHD assumes that since there is no specific exemption for contracts with the state, the legislation will pertain to HMOs that contract with the state to provide health benefits to MO HealthNet Managed Care participants.

MHD recognizes there may be additional costs of doing business for HMOs if this legislation passes and that those costs may be passed on to the MHD. The MHD may incur additional costs for an actuarial analysis to determine if capitated rates should be adjusted for the additional costs incurred by the HMO.

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ASSUMPTION (continued)

If an actuarial analysis is needed it will occur in the first year and is a one-time cost. The cost of the analysis will depend on the number of program changes that will need to be analyzed as well as the complexity of those changes. This cost is unknown but may be as high as \$100,000. Since this is an administrative cost there will be a 50% federal match rate.

Oversight notes the DSS-MHD states they may incur additional costs for an actuarial analysis and there may be additional costs if the actuarial analysis determines capitated rates should be adjusted. Therefore, **Oversight** assumes \$0 or Unknown costs may be incurred, depending on if an actuarial analysis is needed and if capitated rates need to be adjusted.

Officials from the **DSS - Family Support Division** assume the proposal would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Costs - DSS-MHD</u>			
Increase in program costs	<u>\$0 or (Unknown less than \$50,000)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>\$0 or (Unknown less than \$50,000)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
INSURANCE DEDICATED FUND			
<u>Income - DIFP</u>			
Form filing fees	Up to \$10,000	\$0	\$0
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND			
	<u>Up to \$10,000</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
ROAD FUND			
<u>Costs - MoDOT</u>			
Increase in medical service contract rates	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON ROAD FUND	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
FEDERAL FUNDS			
<u>Income - DSS-MHD</u>			
Increase in program reimbursements	\$0 or Unknown less than \$50,000	\$0 or Unknown	\$0 or Unknown
<u>Costs - DSS-MHD</u>			
Increase in program costs	<u>\$0 or (Unknown less than \$50,000)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal may impact small businesses that provide health care for employees if the provisions of this bill result in an increase in health care premiums.

FISCAL DESCRIPTION

This proposal changes the laws regarding the state's health care utilization review process to comply with federal laws and regulations. In its main provisions, the proposal: (1) Requires a health carrier to maintain records for at least six years for all benefit requests and claims and for notices associated with utilization review and benefit determinations; (2) Allows a covered person to file a request for an external review if a health carrier fails to strictly adhere to the requirements regarding making utilization review and benefit determinations of a benefit request or claim; (3) Requires a health carrier to ensure that the utilization review is conducted in a manner to make certain the independence and impartiality of the individuals in making the utilization review or benefit determination; (4) Prohibits a health carrier from making a decision regarding hiring, compensation, termination, promotion, or other similar matters based upon the likelihood that the individual will support the denial of benefits; (5) Requires a written notification of an adverse determination to include information sufficient to identify the specific claim and the specific reason for the denial and to provide the required notice in a culturally and linguistically appropriate manner if required in accordance with federal regulations; (6) Requires a health carrier that provides emergency service coverage to cover services to screen and stabilize a covered person without the need for prior authorization under certain situations, without the provider being in the network, and without the imposition of an administrative requirement or limitation on coverage for an out-of-network provider that is more restrictive than the requirements or limitations that apply to emergency services received from an in-network provider; (7) Requires a health carrier to maintain a written register of all grievances received during the year, including the notices and claims associated with the grievances, and to retain the required information for six years. The health carrier must make the records available for examination to the enrollee; the Director of the Department of Insurance, Financial Institutions and Professional Registration; and appropriate federal oversight agencies upon request; (8) Specifies that if a health carrier fails to strictly adhere to the provisions regarding receiving and resolving grievances involving an adverse determination, an enrollee must be deemed to have exhausted all efforts and can file for an external review; (9) Requires every health carrier to establish a grievance review process. Currently, only a health carrier that offers managed care plans must establish a first- and second-level grievance review process; (10) Requires, prior to issuing a decision, a health carrier to provide free of charge to the enrollee or his or her authorized representative any new or additional evidence in connection with a grievance or final adverse determination to a covered person within a time period that allows the covered person or the representative a reasonable opportunity to respond; (11) Requires a health carrier that offers managed care plans to establish a second-level review process for its managed care plans; (12) Requires the department director to resolve any grievance regarding a final adverse determination based on medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered service when appealed by an enrollee or health carrier or plan sponsor through a referral to an independent review organization. Currently, the department director must resolve

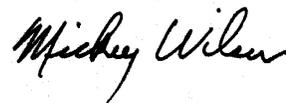
FISCAL DESCRIPTION (continued)

any grievance regarding an adverse determination; (13) Requires the department director to approve independent review organizations eligible to be assigned to conduct external reviews. Currently, the department director must establish the qualifications for the review organizations; (14) Reduces, from 72 hours to 24 hours, the time period that a health carrier has to orally notify an enrollee after receiving a request for an expedited review of a carrier's determination; (15) Removes the provision which specifies that the requirements regarding health care utilization review are not applicable to health indemnity plans without a managed care component; and (16) Prohibits a health care provider from charging a fee to a patient for the reproduction or copying of health care records or health information provided to the Division of Consumer Affairs within the department under specified conditions.

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 Insurance, Financial Institutions, and Professional Registration
Department of Social Services
Missouri Department of Transportation
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Joint Committee on Administrative Rules
Missouri Department of Conservation
Office of Secretary of State



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L.R. No. 1986-01
Bill No. HB 899
Page 9 of 9
April 11, 2011

Director
April 11, 2011

HWC:LR:OD