

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1573-03  
Bill No.: HB 723  
Subject: Health Department; Health Care; Medicaid; Fees  
Type: Original  
Date: March 11, 2013

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Bill Summary: This proposal requires the Department of Health and Senior Services to seek waivers from the federal government to allow moneys from the brain injury fund to be used for brain injury services under the MO HealthNet Program.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(\$658,873)	(Unknown, greater than \$786,139)	(Unknown, greater than \$786,475)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$658,873)</b>	<b>(Unknown, greater than \$786,139)</b>	<b>(Unknown, greater than \$786,475)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Brain Injury	(\$750,000)	(\$750,000)	(\$750,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$750,000)</b>	<b>(\$750,000)</b>	<b>(\$750,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Federal*			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Income and expenditures net to \$0.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	0.5	0.5	0.5
Federal	0.5	0.5	0.5
<b>Total Estimated Net Effect on FTE</b>	<b>1</b>	<b>1</b>	<b>1</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 2014	FY 2015	FY 2016
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS)** state Section 304.028.2 proposes DHSS work in cooperation with Department of Social Services to seek a federal waiver under the MO HealthNet Program to provide brain injury services. This section also proposes that upon granting of such a waiver, fifty percent of all moneys in the Brain Injury Fund (BIF) will be used as match for the waiver. This proposal has also deleted the language in section 304.028.2 and 304.028.3 which established a surcharge fee of two dollars on all violations of an ordinance or state law be collected and deposited to the credit of the BIF.

#### Assumptions and Methodology in calculating fiscal impact:

Based on the average of past year collections into the BIF, it is assumed that \$750,000 per year is collected into the BIF. Since the only source of revenue to the BIF will be eliminated through this proposal, general revenue sources would be needed to replace this funding to maintain the program. The BIF money is currently appropriated to DHSS and used for services provided through the Adult Brain Injury (ABI) program.

The services provided through a waiver will not replace the need for services provided through the ABI Program. The waiver can only provide services to those meeting MO HealthNet eligibility and institutional level of care (per federal regulations). The services provided through the ABI Program are provided to those who may or may not meet MO HealthNet eligibility but whose income is at or below 185% of the federal poverty level. The services provided through the ABI Program are community-based rehabilitation services that focus on independent living, community integration and vocational supports. The ABI Program does not provide medical rehabilitation or in-home personal care support services. Therefore, the majority of participants receiving services and through the ABI Program would not meet institutional level of care requirements. Therefore, it is assumed that funding no longer available through the BIF would need to be requested from general revenue to continue to provide ABI Program services at the current level.

Writing and seeking approval for a federal waiver would be accomplished in FY 14; and, as a result, services through the waiver would not begin until FY 15. The waiver is estimated to draw approximately 60% match of federal funds. Because revenues to the BIF will be eliminated, the amount of state matching funds for the waiver is unknown. Waivers by design have capped slots based on total funding available. In addition, depending on the size of the waiver, DHSS may need additional staff to administer it. Therefore, the cost to general revenue and the federal match are unknown.

ASSUMPTION (continued)

The DHSS estimates, for fiscal note purposes, the proposal will have an unknown, greater than \$750,000 cost to the General Revenue Fund each year and a \$750,000 cost to the Brain Injury Fund each year.

**Oversight** assumes funding lost through the cancellation of criminal case surcharge will be replaced with General Revenue funds. In addition, Oversight assumes since the DSS-MHD indicates that much of the waiver-related work will be performed by their organization, the DHSS will not need to hire additional staff to administer the waiver and can absorb the additional duties with existing staff.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state this proposal will create a new waiver. Each waiver generates the same amount of oversight requirements, which would require one full-time FTE for MHD, at the Program Development Specialist level. The activities this staff will perform includes development of the waiver application, submission to the Centers for Medicare and Medicaid Services (CMS) of all applications, renewals and amendments to the waiver, tracking of data for all performance measures outlined in the waiver and ensuring DHSS is identifying problems and conducting proper remediation, quarterly quality assurance meetings, quarterly waiver record reviews, annual reporting of expenditures to CMS and compilation of evidence after the first 18 months of the waiver to show compliance with Home and Community-Based Services (HCBS) assurances. Because the staff at DHSS who manage the Head Injury fund are not familiar with the waiver process, much of the work will fall on the MHD.

MHD assumes the cost for this FTE as follows:

FY 14 (10 months): \$60,554 (\$30,277 GR; \$30,277 Federal);  
FY 15: \$63,649 (\$31,824 GR; \$31,825 Federal); and,  
FY 16: \$64,321 (\$32,160 GR; \$32,161 Federal).

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation requires the Department of Health and Senior Services to seek waivers from the federal government to allow moneys from the brain injury fund to be used for brain injury services under the MO HealthNet Program.

Based on FY 12 data, there were approximately 754,734 criminal cases that had funds that went to the brain injury fund. This proposal would no longer assess the surcharge initiating an impact of \$0 to a loss of \$600,000 in any given year.

HWC:LR:OD

ASSUMPTION (continued)

Based on discussions with CTS personnel, **Oversight** determined the potential loss reported by CTS is an average loss. Therefore, Oversight will use the estimated loss determined by DOH in the presentation of costs for the fiscal note.

Officials from the **Office of State Treasurer (STO)** state removal of the \$2 surcharge fee results in an uncertainty in knowing if the fund will receive new/different revenues to be used for federal matching purposes.

In FY 12, interest earnings from the Brain Injury Fund totaled approximately \$4,315. This interest that was deposited in the General Revenue Fund. The STO, therefore, assumes a \$0 to unknown loss to GR in annual interest earnings from the Brain Injury Fund as a result of this proposal.

For fiscal note purposes, **Oversight** will assume the General Revenue Fund will experience a loss approximately equal to the interest earned in FY 12.

Officials from the **Office of Administration (OA) - Division of Budget and Planning (BAP)** state the proposal should not result in additional costs or savings to the BAP. However, the proposal eliminates the \$2 surcharge on all criminal cases, including county ordinance violations and state criminal and traffic law violations and infractions, which is currently deposited into the Brain Injury Fund. This proposal would decrease total state revenues by an unknown amount and could impact the calculation under Article X, Section 18(e). BAP defers to the Department of Health and Senior Services for an estimate of decreased revenue.

Officials from the **OA - Division of Purchasing and Materials Management**, the **Department of Mental Health** and **St. Louis County** each assume the proposal would not fiscally impact their respective agencies.

No additional counties or cities responded to **Oversight's** request for a statement of fiscal impact.

**This proposal will result in a decrease in Total State Revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DHSS</u>			
Adult brain injury program services	(\$625,000)	(\$750,000)	(\$750,000)
Waiver services	\$0	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Total Costs - DHSS</u>	<u>(\$625,000)</u>	<u>(Unknown, greater than \$750,000)</u>	<u>(Unknown, greater than \$750,000)</u>
<u>Costs - DSS-MHD</u>			
Personal service	(\$16,450)	(\$19,937)	(\$20,137)
Fringe benefits	(\$8,346)	(\$10,116)	(\$10,217)
Equipment and expense	(\$5,481)	(\$1,771)	(\$1,806)
<u>Total Costs - DSS-MHD</u>	<u>(\$30,277)</u>	<u>(\$31,824)</u>	<u>(\$32,160)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE
<u>Loss - STO</u>			
Reduction in interest earnings from the Brain Injury Fund	(\$3,596)	(\$4,315)	(\$4,315)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$658,873)</u></b>	<b><u>(Unknown, greater than \$786,139)</u></b>	<b><u>(Unknown, greater than \$786,475)</u></b>
Estimated Net FTE Change for the General Revenue Fund	0.5 FTE	0.5 FTE	0.5 FTE
<b>BRAIN INJURY FUND</b>			
<u>Loss - DHSS</u>			
Cancellation of criminal surcharge fees	(\$750,000)	(\$750,000)	(\$750,000)
<b>ESTIMATED NET EFFECT ON BRAIN INJURY FUND</b>	<b><u>(\$750,000)</u></b>	<b><u>(\$750,000)</u></b>	<b><u>(\$750,000)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>FEDERAL FUNDS</b>			
<u>Income - DHSS</u>			
Brain Injury Waiver reimbursements	\$0	Unknown	Unknown
<u>Income - DSS-MHD</u>			
Program reimbursements	\$30,277	\$31,825	\$32,161
<u>Costs - DHSS</u>			
Brain Injury Waiver expenditures	\$0	(Unknown)	(Unknown)
<u>Costs - DSS-MHD</u>			
Personal service	(\$16,450)	(\$19,938)	(\$20,138)
Fringe benefits	(\$8,346)	(\$10,116)	(\$10,217)
Equipment and expense	<u>(\$5,481)</u>	<u>(\$1,771)</u>	<u>(\$1,806)</u>
<u>Total Costs - DSS-MHD</u>	<u>(\$30,277)</u>	<u>(\$31,825)</u>	<u>(\$32,161)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated Net FTE Change on Federal Funds	0.5 FTE	0.5 FTE	0.5 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal adds consumer-based consumer services in comprehensive brain injury day rehabilitation therapy, vocational, and home and community support to the list of services that the Department of Health and Senior Services must expend funds collected by the Brain Injury Fund to individuals with brain injury.

FISCAL DESCRIPTION (continued)

The department, in cooperation with the Department of Social Services, must seek a federal waiver from the federal Department of Health and Human Services to allow moneys in the fund to be used for brain injury services under the MO HealthNet Program. Upon the granting of a waiver, 50% of all moneys in the fund must be designated as MO HealthNet federal match moneys. Any approved federal waiver must provide parity in funding for each eligible program service area to create a balance for access to all brain injury services.

A 10-member committee must be established to develop service descriptions, regulations, and parity of funding for the eligible service areas, as needed. The committee must meet at least annually to review services using the most current Department of Health and Senior Services brain injury needs assessments and to address any modifications needed in the program services to ensure services are meeting the needs of brain injury consumers.

The proposal repeals the \$2 surcharge that is assessed on all criminal cases which is deposited into the Brain Injury Fund.

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 Administration -  
    Division of Budget and Planning  
    Division of Purchasing and Materials Management  
Office of State Courts Administrator  
Department of Mental Health  
Department of Health and Senior Services  
Department of Social Services  
Office of State Treasurer  
St. Louis County



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