

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0395-01  
Bill No.: SB 235  
Subject: Health Care Professionals; Physicians; Attorney General, State; Insurance - Medical  
Type: Original  
Date: February 11, 2005

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**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>       |                  |                  |                  |
|-----------------------------------------------------------|------------------|------------------|------------------|
| FUND AFFECTED                                             | FY 2006          | FY 2007          | FY 2008          |
| General Revenue                                           | (Unknown)        | (Unknown)        | (Unknown)        |
|                                                           |                  |                  |                  |
| <b>Total Estimated Net Effect on General Revenue Fund</b> | <b>(Unknown)</b> | <b>(Unknown)</b> | <b>(Unknown)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |                         |                          |                          |
|---------------------------------------------------------------|-------------------------|--------------------------|--------------------------|
| FUND AFFECTED                                                 | FY 2006                 | FY 2007                  | FY 2008                  |
| Insurance Dedicated                                           | (Up to \$97,340)        | (Up to \$110,488)        | (Up to \$113,288)        |
|                                                               |                         |                          |                          |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b> | <b>(Up to \$97,340)</b> | <b>(Up to \$110,488)</b> | <b>(Up to \$113,288)</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS                         |            |            |            |
|---------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                 | FY 2006    | FY 2007    | FY 2008    |
|                                                               |            |            |            |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| ESTIMATED NET EFFECT ON LOCAL FUNDS |            |            |            |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED                       | FY 2006    | FY 2007    | FY 2008    |
| <b>Local Government</b>             | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Economic Development - Division of Professional Registration, Department of Social Services, Missouri Department of Transportation, Department of Public Safety (DPS) - Director's Office, and Missouri Department of Conservation** assume the proposal would have no fiscal impact on their organizations.

Officials from the **DPS - 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 **Department of Health and Senior Services (DOH)** state the proposal would not be expected to fiscally impact the operations of the DOH. If an impact were to result, funds to support the program would be sought through the appropriations process.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state the concern with joint negotiations is that the reduced competition between providers can lead to an escalation of cost to the consumer for health care services. This would become increasingly true with the more providers that joined together. However, the proposal does require that this potential be taken into consideration prior to approving a contract reached through joint negotiations. The criteria ASSUMPTION (continued)

for making this determination, however, is not defined. Therefore, although there is concern about the potential for increased cost, under the assumption that strict criteria would be in place and that this issue would be a major concern as to whether or not a contract would be approved, there would be no fiscal impact to the HCP.

Officials from the **Office of Attorney General (AGO)** assume that this provision would place it in charge of a new program with duties that range from making market power and quality of care determinations to contract approvals of negotiations between independent physicians and health care carriers. The AGO would further be required to collect fees from applicants, conduct hearings if contracts were denied, and make reports to the Governor and General Assembly.

The AGO assumes that to implement this program, one Assistant Attorney General I per 25 contract applications would be necessary. However, the AGO has no basis for determining the number of contracts that would be submitted pursuant to the provision. Therefore, the AGO assumes that the fiscal impact of this proposal is unknown.

Officials from the **Department of Insurance (INS)** provide the following assumptions:

**Subsection 334.300.2(5)** would affect HMO access plans filed with the Managed Care Section. Referral procedures would be negotiable every time an HMO entered contract negotiations with a group of two or more physicians. This will result in more frequent filings and filings that are larger and more complex

**Subsection 334.300.2(11)** would affect HMO provider selection standards filed with the Managed Care Section. Selection standards would be negotiable every time an HMO entered contract negotiations with a group of two or more physicians. This will result in more frequent filings and filings that are larger and more complex.

One Planner II would be needed to handle the increased frequency, size and complexity of access plans and provider selection standards. The FTE would be responsible for reviewing HMO access plans and provider selection standards and communicating with the HMO regarding any potential areas of noncompliance.

**Subsection 334.300.3(2)** requires INS, with Department of Health and Senior Services, to annually report to the AGO on the accessibility of care and the price of coverage. The INS would need to begin collecting reimbursement and provider network data from each health carrier on a county-by-county basis in order to evaluate the effect over time on the areas required in the proposal.

ASSUMPTION (continued)

A Research Analyst III and a Research Analyst II would be needed to collect and process the necessary data for HMOs. The FTE would need to have skills and experience in statistical and geographic analysis software.

The INS estimates costs to the Insurance Dedicated Fund to implement the proposal to be \$93,994 to \$143,994 for FY 06; \$112,860 to \$162,860 for FY 07; and \$116,986 to \$166,986 for FY 08.

**Oversight** assumes the INS would require a Research Analyst III and a Planner II to perform the additional duties of the proposal.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the Planner II and Research Analyst III to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Office of Secretary of State (SOS)** state the proposal allows physicians to jointly negotiate with certain health carriers. This proposal will result in the Attorney General promulgating rules to implement the legislation. These rules will 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 Attorney General could require as many as 16 pages in the Code of State Regulations. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations 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, and withdrawn. The SOS estimates the cost of the proposal to be \$984 [(16 pgs. X \$27) + (24 pgs. X \$23)] for FY 06.

**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>FISCAL IMPACT - State Government</u>                                       | FY 2006<br>(10 Mo.)            | FY 2007                             | FY 2008                             |
|-------------------------------------------------------------------------------|--------------------------------|-------------------------------------|-------------------------------------|
| <b>GENERAL REVENUE FUND</b>                                                   |                                |                                     |                                     |
| <u>Costs - Office of Attorney General</u>                                     |                                |                                     |                                     |
| Salaries, fringe benefits, and equipment<br>and supplies for undetermined FTE | <u>(Unknown)</u>               | <u>(Unknown)</u>                    | <u>(Unknown)</u>                    |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE FUND</b>                       | <b><u>(Unknown)</u></b>        | <b><u>(Unknown)</u></b>             | <b><u>(Unknown)</u></b>             |
| <b>INSURANCE DEDICATED FUND</b>                                               |                                |                                     |                                     |
| <u>Income - Department of Insurance</u>                                       |                                |                                     |                                     |
| Form filing fees                                                              | Up to \$50,000                 | Up to \$50,000                      | Up to \$50,000                      |
| <u>Costs - Department of Insurance</u>                                        |                                |                                     |                                     |
| Personal service costs (2 FTE)                                                | (\$58,794)                     | (\$72,316)                          | (\$74,124)                          |
| Fringe benefits                                                               | (\$25,082)                     | (\$30,850)                          | (\$31,621)                          |
| Equipment and expense                                                         | <u>(\$13,464)</u>              | <u>(\$7,322)</u>                    | <u>(\$7,543)</u>                    |
| Total <u>Cost</u> - Department of Insurance                                   | (\$97,340)                     | (\$110,488)                         | (\$113,288)                         |
| <b>ESTIMATED NET EFFECT ON<br/>INSURANCE DEDICATED FUND</b>                   | <b><u>(Up to \$97,340)</u></b> | <b><u>(Up to<br/>\$110,488)</u></b> | <b><u>(Up to<br/>\$113,288)</u></b> |
| <u>FISCAL IMPACT - Local Government</u>                                       | FY 2006<br>(10 Mo.)            | FY 2007                             | FY 2008                             |
|                                                                               | <b><u>\$0</u></b>              | <b><u>\$0</u></b>                   | <b><u>\$0</u></b>                   |

FISCAL IMPACT - Small Business

This proposal could affect small business physicians' offices and medical clinics.

DESCRIPTION

This proposal allows two or more physicians to jointly negotiate with a carrier to engage in certain activities involving non-fee-related matters. These activities shall include: 1) defining

medical necessity; 2) utilization management procedures; 3) clinical practice guidelines; 4)

DESCRIPTION (continued)

preventive care policies; 5) patient referrals; 6) drug formularies; 7) liability of physicians; 8) method and timing of payments; 9) procedures for selecting and terminating participating physicians; and 10) terms of contracts.

If the Attorney General finds that a carrier has a substantial amount of market power in a particular area and that this is a threat to the quality of patient care, then two or more physicians may negotiate with the carrier regarding fees and fee-related matters.

Before entering into negotiations, a joint negotiation representative must submit certain information, including a fee, to the Attorney General for his approval. Physicians are permitted to communicate with each other and the representative regarding contractual terms. The representative shall have the sole authority to negotiate with the carrier on behalf of the physicians as a group.

After an agreement has been reached between the representative and the carrier, a copy of the proposed contract must be submitted to the Attorney General for his written approval or disapproval. If negotiations end, then the representative must report such information to the Attorney General within 14 days. All information disclosed to the Attorney General shall be confidential.

The Attorney General shall report to the Governor and the General Assembly by August 28, 2008 on the implementation of this proposal. The Attorney General shall have rule-making authority.

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 Attorney General  
Office of State Courts Administrator  
Department of Economic Development -  
    Division of Professional Registration  
Department of Health and Senior Services  
Department of Social Services  
Missouri Department of Transportation  
Department of Public Safety -  
    Missouri State Highway Patrol  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Missouri Department of Conservation  
Office of Secretary of State



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Director  
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