

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3385-05  
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SB 567 & 792  
Subject: Insurance - Medical; Health Care; Medical Procedures and Personnel  
Type: Original  
Date: May 25, 2006

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Unknown exceeding \$66,740)*	(Unknown exceeding \$133,480)*	(Unknown exceeding \$133,480)*
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown exceeding \$66,740)*</b>	<b>(Unknown exceeding \$133,480)*</b>	<b>(Unknown exceeding \$133,480)*</b>

\* Excludes unknown reduction in health care premium costs.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Insurance Dedicated	\$5,000	\$0	\$0
Conservation Commission	(Unknown expected to exceed \$50,000)	(Unknown expected to exceed \$100,000)	(Unknown expected to exceed \$100,000)
Highway - Highway Patrol	(Unknown)	(Unknown)	(Unknown)
Road	(Unknown)	(Unknown)	(Unknown)
All Other State*	(Unknown exceeding \$12,060)*	(Unknown exceeding \$24,120)*	(Unknown exceeding \$24,120)*
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(Unknown exceeding \$57,060)*</b>	<b>(Unknown exceeding \$124,120)*</b>	<b>(Unknown exceeding \$124,120)*</b>

\* Excludes unknown reduction in health care premium costs.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
Federal*	(Unknown exceeding \$21,200)*	(Unknown exceeding \$42,400)*	(Unknown exceeding \$42,400)*
<b>Total Estimated Net Effect on All Federal Funds</b>	(Unknown exceeding \$21,200)*	(Unknown exceeding \$42,400)*	(Unknown exceeding \$42,400)*

\* Excludes unknown reduction in health care premium costs.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government*</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\* Excludes unknown reduction in health care premium costs.

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Department of Public Safety (DPS) - Director's Office** and **Department of Labor and Industrial Relations** assume the proposal will have no fiscal impact on their organizations.

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 a fiscal impact were to result, funds to support the program would be sought through the appropriations process.

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

Officials from the **Department of Social Services (DOS)** state the requirement for health insurers to cover routine patient care costs incurred as a result of a patient's participation in phase II clinical trials for cancer treatment has no impact to DOS because Section 376.429.9 exempts any policy, plan, or contract paid under Title XVIII or Title XIX (Medicaid) of the Social Security Act.

ASSUMPTION (continued)

There is also no impact from the portion of the bill that requires health insurers to charge only one co-payment for a prescription drug if the required dosage is not available and a combination of dosage amounts must be dispensed to fill the prescription. Since the co-payment is not deducted on pharmacy claims, there is no fiscal impact on the Medicaid pharmacy program. There would be some non-fiscal impact related to system changes in relation to the Missouri Rx program and the coordinated benefits with the Part D program. However, there is no fiscal impact to the DOS - Division of Medical Services.

Officials from the **Department of Insurance (INS)** state the INS estimates approximately 100 insurers would be required to submit amendments to their policies to comply with this legislation. Policy amendments must be submitted to the INS for review along with a \$50 filing fee. One-time additional revenues to the Insurance Dedicated Fund are estimated to be \$5,000 .

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 INS will need to request additional staff to handle the increase in workload.

Officials from the **Missouri Department of Conservation (MDC)** state the legislation would have a significant impact to the medical insurance expenses of the MDC since the MDC's plan is self-funded and not individually written policies. The exact amount of the impact is unknown, but expected to exceed \$100,000 annually.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** provide the following assumptions for this proposal:

**Section 290.145 - Reduced Premiums/Co-Payments for Employees Who Don't Smoke**

The proposal would permit an employer to provide health insurance benefits at a reduced premium rate or reduced deductible level for employees who do not smoke or use tobacco products. Offering reduced health insurance premium rates may create an incentive for some employees to quit smoking. Therefore, over time, claims' costs could be reduced for this group. Those who do not currently smoke would also receive a lower premium but without any corresponding change in claim activity. However, an extra premium would also be required to cover the riskier population of those who do smoke. The fiscal impact of this proposal would require a consideration of the extra premium, the reduced premium for the nonsmokers, and the lower claim costs for those who quit smoking. Because HCP does not know the premium amounts or the number of employees eligible for the reduced rate, it is difficult to determine the fiscal impact of this proposal.

ASSUMPTION (continued)

**Sections 376.421 and 376.429 - Single Prescription Co-Payment**

Forecasting the financial impact of imposing one co-payment for a single prescription drug is extremely difficult and therefore, unknown. Currently HCP benefits require two co-payments be charged in the event that two prescriptions are required to fill a certain dosage. With this legislation, the health plan would take on the co-payment amount that would have been paid by the member for each dosage versus the single co-payment for two or more medications. Because it is not know how may prescriptions would require a combination of dosages, the fiscal impact cannot be determined. However, HCP assumes the impact would be less than \$100,000.

Public Entities choose their own plans and the pharmacy benefit varies between plans. Therefore, HCP cannot determine the fiscal impact to Public Entities and assumes an unknown cost for these entities.

**Section 379.952 - Phase II Clinical Trials for Cancer Treatment**

The HCP states many insurers believe requiring the medical plan to cover clinical trials for cancer and other life threatening conditions could result in an increase in the plan's financial risk. Insurers believe due to varying treatments, more physician visits, more expensive test and more pathology reports compared to those of non-participants, participants in early phase trials have substantially higher treatment cost. To reduce this risk, the plan may transfer these additional costs to the members through an increase in the premium.

In contrast, some research, although now a few years old, suggests that the cost of clinical trials may not significantly differ from the cost for standard cancer treatment. A study by the Association of American Cancer Institutes found that charges for patients in clinical trials were about the same, or even a little lower, than those for patients receiving standard care. The study tracked 35 patients in phase II cancer clinical trials and 35 patients receiving standard care who were similar, or matched, to the clinical trials patients.

As is evidenced by the contradicting research, forecasting the consequential financial impact of mandatory coverage of phase I and II cancer trials is extremely difficult and therefore, unknown. However, mandated coverage in general, ends up adding some costs to the plan. An increase in costs is assumed to be greater than \$100,000 annually.

Officials from the **Missouri Department of Transportation (DOT)** state as previously provided in the response to HB 1904, Section 376.392 was reviewed by DOT's pharmaceutical consultant, IPC, Inc. IPC, Inc. indicated the language in HB 1904 requires one copay to be spread over two

ASSUMPTION (continued)

or more claims for different NDC # drugs under certain situations. Every drug has an individual NDC# assigned, even the same drug prescribed in different strengths. This presents many important administrative concerns for a prescription drug benefit plan.

Compliance with this requirement of one copay for two or more medications would be a concern, especially for medications which the DOT has established maximum fixed copay amounts for more expensive and critical treatment medications. If this proposal becomes law, the DOT may want to review eliminating the maximum fixed copay feature from their benefit to allow for compliance with this provision, even though it would be considered a detriment to the member receiving the benefit of the maximum copay for those expensive life prolonging treatments.

There would not be a fiscal impact to the Missouri Highway Transportation Commission (MHTC). However, there would be a fiscal impact to the DOT and MHP Medical Plan. To try to calculate the fiscal impact, DOT's consultant took into account only those claims where the patient filled two or more strengths of the same medication on the same day, which does not take into account different strengths of the same medication filled on different days. In 2005, there were 2,516 claims totaling \$49,375.49 in co-payments for claims for patients receiving the same medications on the same day. The reductions in co-payments for the Plan would have been a minimum of \$24,687.75 (\$49,375.49 divided by 2) for 2005. The cost does not include the administrative fee of \$1.00 per claim for manual reimbursements or other administrative costs of processing manual reimbursements.

The State Board of Pharmacy requires each pharmacy to log each prescription for each drug for each patient within their prescription file within their store. These individual prescription drug records are the basis for billing prescription drug claims and assigning copays at the providing pharmacy. To require a common copay to be assigned to more than one prescription claim record is virtually an administrative impossibility, which may put many well intended health benefit plan sponsors at risk for non-compliance without a process to comply.

The DOT and Missouri State Highway Patrol (MHP) Medical Plan is in a better position than most plans with its percent copay per claim benefit design, compared to plans that have a fixed dollar copay for each claim. The DOT does have some medications on a maximum fixed copay that would be a concern, but generally the percent copay paid by the member for each claim is equal to a percentage of the combined claim cost of the covered medication, be it one drug or two different drugs, allowing DOT to comply with this administrative requirement, unless the legislation would only allow us to apply the percent copay to one medication strength if multiple strengths of the same medication are prescribed.

ASSUMPTION (continued)

This legislation mandates coverage for phases II of a clinical trial when undertaken for the purposes of the prevention, early detection or treatment of cancer. This legislation will have no fiscal impact on MHTC/DOT. The Highway and Patrol Medical Plan is not within the definition of health benefit plan, but section 104.801 RSMo would require the medical plan to offer similar coverage. Currently the Medical Plan is mandated to cover phases III and IV of a clinical trial and not phases I and II. As a result, this legislation will have a fiscal impact on the Highway and Patrol Medical Plan.

Based on information from the American Cancer Societies website, DOT found that phase I of clinical trials are the first studies of a new treatment or drug that involve people as participants. The studies usually include small numbers of people and are usually reserved for individuals who do not have good treatment options left to them. Phase I is to determine a treatment's safety. If a new treatment is found to be reasonably safe in phase I of a clinical trial, the treatment can then be tested for effectiveness in a phase II clinical trial. Phase II clinical trials include a somewhat larger group of patients and are used to determine a treatment's effectiveness. Currently, both phase I and II of clinical trials would be considered investigational under the Highway and Patrol Medical Plan and would not be a covered benefit.

The DOT is assuming that if health carriers are required to cover the costs of services and drugs in phase II of clinical trials that pharmaceutical and biotechnology companies and other cooperative groups that conduct and sponsor these studies would no longer pay for any of the related costs to conduct phase II of the trials. Assuming this is true, the DOT feels the fiscal impact to the Medical Plan would be very significant. Without knowing the type of drugs, device or services necessary to conduct the trials or how many individuals would participate, it is impossible to calculate a fiscal impact to the Medical Plan.

Between the fiscal impact of the phase II clinical trial and assessing only on co-payment for the prescription drugs, the fiscal impact would be unknown, however greater than \$100,000 to the medical plan.

Historically, the DOT and the plan members have shared in any premium increases necessary because of increases in benefits. The costs may be shared in the long run by being absorbed by the plan, using state appropriated funds, and/or costs to individuals covered under the plan. However, the Medical Plan, the MHTC, the DOT, and the Patrol must make a decision on how to fund the increase.

**Oversight** is presenting unknown costs for General Revenue, Highway Fund - Highway Patrol, Road Fund and All Other State Funds. Total costs to all funds are unknown expected to exceed \$100,000 annually.

**Oversight** assumes changes in health plan coverage would be effective January 1, 2007.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
<b>GENERAL REVENUE FUND</b>			
<u>Savings - Missouri Consolidated Health Care Plan</u>			
Reduction in health care premium costs (Section 290.145)	Unknown	Unknown	Unknown
<u>Costs - Missouri Consolidated Health Care Plan</u>			
Increase in state contributions (Section 379.952)	(Unknown exceeding \$33,370)	(Unknown exceeding \$66,740)	(Unknown exceeding \$66,740)
Increase in premium/drug co-payment costs (Sections 376.421 and 376.429)	(Unknown less than \$33,370)	(Unknown less than \$66,740)	(Unknown less than \$66,740)
<u>Costs - Missouri Department of Transportation</u>			
Increase in insurance contributions	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown exceeding \$66,740)*</u></b>	<b><u>(Unknown exceeding \$133,480)*</u></b>	<b><u>(Unknown exceeding \$133,480)*</u></b>
<b>*Excludes unknown reduction in health care premium costs.</b>			
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - Department of Insurance</u>			
Form filing fees	<u>\$5,000</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>\$5,000</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
<b>CONSERVATION FUND</b>			
<u>Costs - Missouri Department of Conservation</u>			
Increase in insurance contributions	<u>(Unknown expected to exceed \$50,000)</u>	<u>(Unknown expected to exceed \$100,000)</u>	<u>(Unknown expected to exceed \$100,000)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<b><u>(Unknown expected to exceed \$50,000)</u></b>	<b><u>(Unknown expected to exceed \$100,000)</u></b>	<b><u>(Unknown expected to exceed \$100,000)</u></b>
<b>HIGHWAY FUND - HIGHWAY PATROL</b>			
<u>Costs - Missouri Department of Transportation</u>			
Increase in insurance contributions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON HIGHWAY FUND - HIGHWAY PATROL</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>ROAD FUND</b>			
<u>Costs - Missouri Department of Transportation</u>			
Increase in insurance contributions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON ROAD FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>



<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
<b>ALL OTHER STATE FUNDS</b>			
<u>Savings - Missouri Consolidated Health Care Plan</u>			
Reduction in health care premium costs (Section 290.145)	Unknown	Unknown	Unknown
<u>Costs - Missouri Consolidated Health Care Plan</u>			
Increase in state contributions (Section 379.952)	(Unknown exceeding \$6,030)	(Unknown exceeding \$12,060)	(Unknown exceeding \$12,060)
Increase in premium/drug co-payment costs (Sections 376.421 and 376.429)	(Unknown less than \$6,030)	(Unknown less than \$12,060)	(Unknown less than \$12,060)
<u>Costs - Missouri Department of Transportation</u>			
Increase in insurance contributions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON ALL OTHER STATE FUNDS</b>	<b><u>(Unknown exceeding \$12,060)*</u></b>	<b><u>(Unknown exceeding \$24,120)*</u></b>	<b><u>(Unknown exceeding \$24,120)*</u></b>

**\*Excludes unknown reduction in health care premium costs.**

<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
<b>FEDERAL FUNDS</b>			
<u>Savings - Missouri Consolidated Health Care Plan</u>			
Reduction in health care premium costs (Section 290.145)	Unknown	Unknown	Unknown
<u>Costs - Missouri Consolidated Health Care Plan</u>			
Increase in state contributions (Section 379.952)	(Unknown exceeding \$10,600)	(Unknown exceeding \$21,200)	(Unknown exceeding \$21,200)
Increase in premium/drug co-payment costs (Sections 376.421 and 376.429)	<u>(Unknown less than \$10,600)</u>	<u>(Unknown less than \$21,200)</u>	<u>(Unknown less than \$21,200)</u>

**ESTIMATED NET EFFECT ON FEDERAL FUNDS**

	<b><u>(Unknown exceeding \$21,200)*</u></b>	<b><u>(Unknown exceeding \$42,400)*</u></b>	<b><u>(Unknown exceeding \$42,400)*</u></b>
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\* Excludes unknown reduction in health care premium costs.

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
<b>ALL LOCAL GOVERNMENTS</b>			
<u>Savings - All Local Governments</u>			
Reduction in health insurance premiums (Section 290.145)	Unknown	Unknown	Unknown
<u>Costs - Local Governments</u>			
Increase in insurance premium contributions (Section 379.952)	(Unknown)	(Unknown)	(Unknown)
Increase in premium/drug co-payment costs (Sections 376.421 and 376.429)	(Unknown)	(Unknown)	(Unknown)

**ESTIMATED NET EFFECT ON ALL LOCAL GOVERNMENTS**

	<b><u>(Unknown)*</u></b>	<b><u>(Unknown)*</u></b>	<b><u>(Unknown)*</u></b>
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\* Excludes unknown reduction in health care premium costs.

### FISCAL IMPACT - Small Business

Small businesses could be expected to be fiscally impacted to the extent they incur increased health insurance premiums as a result of the requirements of this legislation.

### DESCRIPTION

#### HEALTH INSURANCE BENEFITS

Currently, an employer may provide or contract for health insurance at a reduced premium rate for employees who do not smoke or use tobacco products. This act allows the employer to also provide or contract for health insurance at a reduced deductible level for employees who do not smoke or use tobacco products. Insurers or small-employer carriers offering these policies will not be in violation of any unfair trade practice.

#### CLINICAL TRIALS HEALTH INSURANCE COVERAGE

This act requires health insurance companies to provide coverage for routine patient care costs incurred as the result of phase II clinical trials undertaken to treat cancer. Currently, Section 376.429, RSMo, requires coverage for phases III or IV only. In addition, health benefit plans may limit coverage for the routine patient care costs of patients in phase II of a clinical trial to those treating facilities within the health benefit plans' provider network; except that, this provision shall not be construed as relieving a health benefit plan of the sufficiency of network requirements under state statute.

Routine patient care costs coverage for phase II clinical trials shall apply if the trial is sanctioned by the National Institutes of Health (NIH) or National Cancer Institute (NCI) and conducted at an academic or National Cancer Institute Center and the person covered under this section is enrolled in the clinical trial and not merely following the protocol of phase II clinical trials. In addition, the provisions of this act regarding phase II of a clinical trial shall not apply automatically to an individually underwritten health benefit plan, but shall be an option to any such plan.

#### HEALTH INSURANCE CO-PAYMENTS FOR PRESCRIPTION DRUGS

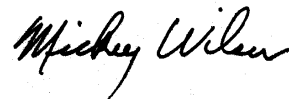
This act provides that health insurers will be required to charge only one co-payment on a prescription if the required single dosage is not available and a combination of dosage amounts must be dispensed to fill the prescription. This provision does not apply to prescriptions in excess of a one-month supply. If technology does not permit adjudication, the health carrier or health benefit plan will provide reimbursement forms for the patients.

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 Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Social Services  
Missouri Department of Transportation  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Missouri Department of Conservation

Mickey Wilson, CPA



Director  
May 25, 2006