

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1261-13  
Bill No.: SCS for HCS for HB 818  
Subject: Insurance - Medical; Insurance Dept.; Employees - Employers; Revenue Dept.;  
 Taxation and Revenue - General; Hospitals; Health Care Professionals  
Type: Original  
Date: May 7, 2007

Bill Summary: Establishes the Missouri Health Insurance Portability and Accountability Act and changes the laws regarding the Missouri Health Insurance Pool and small employer insurance availability.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |   |   |   |
|---|---|---|---|
| FUND AFFECTED   | FY 2008                                 | FY 2009                                 | FY 2010                                 |
| General Revenue   | (Could exceed<br>\$20,626,652)          | (Could exceed<br>\$29,942,044)          | (Could exceed<br>\$34,212,309)          |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>(Could exceed<br/>\$20,626,652)*</b> | <b>(Could exceed<br/>\$29,942,044)*</b> | <b>(Could exceed<br/>\$34,212,309)*</b> |

\* Excludes potential unknown administrative fee revenue to the Department of Health and Senior Services.

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2008    | FY 2009    | FY 2010    |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

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 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                                      | <b>FY 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
| General Revenue   | 42             | 42             | 42             |
|   |                |                |                |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>42</b>      | <b>42</b>      | <b>42</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> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission, Missouri Department of Conservation, Missouri Department of Transportation, and Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Public Safety (DPS) - Director's Office** defer to the Missouri Consolidated Health Care Plan for response regarding the fiscal impact of this proposal on their organization.

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

Officials from the **Department of Revenue (DOR)** state the Division of Taxation does not anticipate a fiscal impact due to this proposal.

DOR officials state the **Office of Administration Information Technology (ITSD DOR)** estimate the IT portion of this proposal can be accomplished within existing resources. However, if priorities shift, additional FTE/overtime would be needed to implement the provisions of this proposal. If priorities do shift, the ITSD DOR estimate the legislation could be implemented utilizing four (4) existing Computer Information Technologist IIIs for two (2) months at a cost of \$58,604.

Officials from the **DPS - Missouri Lottery Commission** assume, if the requesting agency (Department of Health and Senior Services) provides the Missouri Lottery with automated, easily accessible information, costs to perform debt offsets to the Lottery would be minimal and therefore, absorbable with current resources.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state the proposal does not fiscally impact HCP for state employees. However, as of now, the HCP only provides data to the Public Entities if they have 100 or more enrolled with a carrier. Therefore, this proposal may have some small administrative cost for those entities having between 50 - 100 covered lives, but it should not be significant.

Based on HCP's response, **Oversight** assumes the small administrative cost to Public Entities would be absorbable with existing resources.

ASSUMPTION (continued)

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 Social Services (DOS)** state this proposal makes changes to the Missouri Health Insurance Portability and Accountability Act, the Missouri Health Insurance Pool, and the Small Employer Health Insurance Availability Act. It is primarily a health insurance regulation bill. These statutory changes have no fiscal impact to the DOS.

There is a new provision in Section 143.790 et al which sets up a program in Department of Health and Senior Services (DOH) to help hospitals and other healthcare providers recover unpaid debts for healthcare they provide to uninsured individuals. Hospitals and other health care providers can refer unpaid bills to DOH. If DOH accepts the bill as legitimate, it can be converted to state debt due to DOH. Then DOH can use the power of the state, including the Department of Revenue, to intercept state income tax refunds and lottery winnings to pay the debt to DOH, who, in turn, funnels it to the hospital or healthcare provider who is owed the money.

Since DOH is the middleman, it does not directly effect DOS. Child support debts supersede a DOH debt. Also, it does not apply to Medicaid. Individuals who have insurance or who are eligible to receive benefits under the state's medical assistance program for needy persons are specifically excluded. For these reasons, there is no fiscal impact to DOS. The Division of Medical Services reviewed the proposal and concurs that it is unlikely there would ever be a savings to the uncompensated care program.

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** attempted to contact several other state high risk pools. So far the DIFP has received information from Illinois (IL) and Oregon (OR). IL and OR saw large increases in their pools when implementing HIPAA and HCTC compliance. OR went from 5,541 in 1999 to 15,264 in June 2006. IL data from 2005 shows their HIPAA compliant pool at 10,850 enrollees and their standard high risk pool at 5,950, for a total of 16,000.

The DIFP estimates, based upon discussions with several insurance actuaries, including the Missouri Health Insurance Pool actuary that 5% to 10% of those enrolled in individual major medical and HMOs will eventually enter the pool due to the 150% premium eligibility requirement, HIPAA and Health Coverage Tax Credit (HCTC) implemented by this proposal.

ASSUMPTION (continued)

This increase will not happen immediately in Missouri. The DIFP estimates that in the first year (FY08) pool membership will increase to 6,000+ enrollees (from approximately 3,000 members currently), the second year (FY09) pool membership will increase to 9,000+ and finally reach the lower end of department estimates by the third year (FY10). Over time, the department anticipates that pool enrollment could continue to grow towards the upper end of estimates.

Based on the information provided by IL and OR, the DIFP estimates the proposal will result in additional FY 08 costs of \$18,044,228; FY 09 additional costs of \$27,066,342; and FY 10 additional costs of \$31,549,917. These costs will be assessed to members of the pool, who then could take a credit against premium tax for the assessed amount (per section 376.975). This credit is taken from the General Revenue (GR) portion of premium tax only. The impact to GR is unknown as the credit would be limited to members' premium tax liability each year. Any excess credit not used can be carried forward against premium tax due in succeeding years until the excess is exhausted.

Officials from the **Department of Health and Senior Services (DOH)** provide the following assumptions:

Program Administration Costs:

The DOH Missouri Information for Community Assessment (MICA) system indicates there were an average of 32,261 hospital discharges coded as self-pay/no charge during the 5 calendar years from 2001 through 2005. For fiscal note purposes half of these, 16,131 (32,261/2) are assumed to be self-pay. The DOH further assume that half of these, 8,066, (16,131/2) were not paid within 90 days. Assuming one (1) hour is needed for processing each of the 8,066 claims, 3.88 FTE, (rounded to 4 FTE) would be required to process unpaid hospital admission claims (8,066 claims X 1hr. processing/2,080 hrs./yr. = 3.88 FTE).

The DOH MICA system also indicates there were an average of 273,840 emergency room visits coded as self-pay/no charge during the 5 calendar years from 2001 through 2005. For fiscal note purposes half of these, 136,920 (273,840/2) are assumed to be self-pay. The DOH further assumes that half of these, 68,460 (136,920/2) were not paid within 90 days. Assuming one (1) hour is needed for processing of each of the 68,460 claims, 32.91 FTE (rounded to 33 FTE) would be required for processing unpaid emergency room visit claims (68,460 claims X 1 hr. processing/2,080 hrs./yr. = 32.91 FTE).

The DOH is unable to determine the potential number of claims that might result from other types of healthcare providers. Therefore, at least the following 39 staff would be needed for the processing of unpaid hospital admission and emergency room claims: Health and Senior Services Manager – Broad Band 2 Manger (1 FTE) to oversee operations of the claims processing/offset activities. This person would also coordinate activities with hospitals/health care providers and the Department of Revenue (DOR).

ASSUMPTION (continued)

Health Program Representative II (37 FTE) to process claims as they come in. They would review each claim to determine if it is "meritorious", input tracking information and prepare documents necessary for transmission to the DOR. For claims sent to the DOR for which refund offset funds are received, staff will track and record the payment of monies to hospital/health care providers.

Accounting Analyst III (1 FTE) to perform analysis and tracking of claims as well as SAM II related receipt and payment activities.

Standard costs are included for each of the above staff.

ITSD Costs

Significant Information Technology Support Division (ITSD) support will be needed to develop the online application for submission of claims from Health Care Providers. The application will also need to electronically interact with the Missouri Department of Revenue and the Missouri Lottery.

It is assumed that the application will reside on servers at DOH ITSD. Due to the large amount of data that will be collected and stored, a Storage Area Network (SAN) will need to be leased (\$120,000 annually). The hardware costs included in this response assume the leasing of all hardware (\$38,000 - first year; \$11,000 annually subsequent years). The DOH assumes first year consultant costs of \$430,560 to develop applications to collect and store data and develop electronic data exchanges between state agencies will be needed. Second year consultant costs are estimated to be \$287,040. In addition, the DOH anticipates that 1.0 FTE Computer Information Technology Specialist II (\$52,356 annually) will be needed to provide project management, development support and maintenance of application; and 2.0 FTE Computer Information Technologists (\$44,472 each annually to provide development support, on-going maintenance of application and hardware server support installation and maintenance. Salaries for the above personnel are provided only for estimating purposes and do not include fringe, indirect, network fees, office supplies, or any other expenses. These costs have been added to the fiscal note at the same rates as other FTEs.

Increased General Revenue:

Section 143.790.5 would allow the DOH to charge each hospital or health care provider up to three percent (3%) of any amounts collected through the income tax/lottery winnings off-set process to cover administration expenses. It is not possible to determine how much would be collected through the off-set process and therefore, the 3% figure cannot be computed.

ASSUMPTION (continued)

Given the uncertainty of the actual number of claims that will be submitted for processing and the uncertainty of the amount of funds that will be collected from hospitals to help cover administration expenses, a range of Unknown to exceeding \$2.8 million is provided for year one if this proposal passes.

**Oversight** notes the DOH included information technology (IT) related costs in its fiscal note assumptions. For fiscal note purposes, **Oversight** separated the IT costs from DOH costs as IT costs would be budgeted to the Office of Administration - Information Technology Services Division (COA-ITSD).

**This proposal will impact total state revenue.**

| <u>FISCAL IMPACT - State Government</u>                 | FY 2008<br>(10 Mo.)                            | FY 2009  | FY 2010  |
|---|--|--|--|
| <b>GENERAL REVENUE FUND</b>                             |  |  |  |
| <u>Income - DOH</u>                                     |  |  |  |
| Administration fees                                     | Unknown  | Unknown  | Unknown  |
| <u>Costs - DOH</u>                                      |  |  |  |
| Personal service (39 FTE)                               | (Could exceed<br>\$1,068,980)                  | (Could exceed<br>\$1,321,260)                  | (Could exceed<br>\$1,360,897)                  |
| Fringe benefits   | (Could exceed<br>\$483,820)                    | (Could exceed<br>\$598,002)                    | (Could exceed<br>\$615,942)                    |
| Equipment and expense                                   | <u>(Could exceed<br/>\$497,892)</u>            | <u>(Could exceed<br/>\$298,480)</u>            | <u>(Could exceed<br/>\$307,435)</u>            |
| Total <u>Cost</u> - DOH                                 | <u>(Could exceed<br/>\$2,050,692)</u>          | <u>(Could exceed<br/>\$2,217,742)</u>          | <u>(Could exceed<br/>\$2,284,274)</u>          |
| FTE Change - DOH  | 39.0 FTE                                       | 39.0 FTE                                       | 39.0 FTE                                       |
| <u>Costs - COA-ITSD</u>                                 |  |  |  |
| Personal service (3 FTE)                                | (\$121,283)                                    | (\$149,905)                                    | (\$154,403)                                    |
| Fringe benefits   | (\$54,893)                                     | (\$67,847)                                     | (\$69,883)                                     |
| Equipment and expense                                   | <u>(\$625,556)</u>                             | <u>(\$440,208)</u>                             | <u>(\$153,832)</u>                             |
| Total <u>Cost</u> - COA-ITSD                            | <u>(\$801,732)</u>                             | <u>(\$657,960)</u>                             | <u>(\$378,118)</u>                             |
| FTE Change - COA-ITSD                                   | 3.0 FTE  | 3.0 FTE  | 3.0 FTE  |
| <u>Loss - DIFP</u>                                      |  |  |  |
| Increase in premium tax credits                         | <u>(\$18,044,228)</u>                          | <u>(\$27,066,342)</u>                          | <u>(\$31,549,917)</u>                          |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE FUND</b> |  |  |  |
|   | <b><u>(Could exceed<br/>\$20,626,652)*</u></b> | <b><u>(Could exceed<br/>\$29,942,044)*</u></b> | <b><u>(Could exceed<br/>\$34,212,309)*</u></b> |
| Estimated Net FTE Change for General<br>Revenue Fund    | 42.0 FTE                                       | 42.0 FTE                                       | 42.0 FTE                                       |

**\* Excludes potential unknown administrative fee revenue to the Department of Health and Senior Services .**



| <u>FISCAL IMPACT - Local Government</u> | FY 2008<br>(10 Mo.) | FY 2009    | FY 2010    |
|---|---------------------|------------|------------|
|   | <u>\$0</u>          | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

Health care providers that are small business may be positively impacted by this proposal if they receive payment for unpaid claims as a result of submitting them to the Department of Health and Senior Services (DOH). If the DOH collects funds on the unpaid claims, small business health care providers would likely incur a cost associated with the processing and submitting of the claims. However, this would be voluntary as they would not be required to submit the claims to the DOH.

FISCAL DESCRIPTION

This proposal establishes the Missouri Health Insurance Portability and Accountability Act and changes the laws regarding the Missouri Health Insurance Pool and small employer insurance availability.

**ACCESS TO TAX REFUNDS FOR DELINQUENT MEDICAL BILLS** - This proposal establishes a process for hospitals and other health care providers to levy a person's tax refund or lottery winnings. Under current law, sections 143.782 to 143.788, allow state agencies to submit an agency debt that a person owes to it to the department of revenue in order to set off the debt by the person's tax refund. Under section 143.790, a hospital or other healthcare provider may submit a claim to the department of health and senior services for any debt over 90 days old that is owed to it by a person who was not covered by health insurance or public aid at the time the health care services were administered. If the department of health determines that the claim is valid, the claim will become a "debt" of the agency for purposes of the proposal, and the department of health can submit the debt to the department of revenue to set off the person's tax refund. After receiving the funds from the department of revenue, the department of health will settle with the hospital or provider. The hospital or provider will be charged an administrative fee not to exceed 3% of the collected amount. The proposal also provides that lottery prize payouts are subject to the same procedure (sections 143.782, 143.790, and 313.321).

**MISSOURI HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT** - This proposal amends several provisions of law relating to group health insurance (large and small group market) and individual health insurance. The proposal (Sections 376.450 to 376.454) attempts to make Missouri "HIPAA compliant" for purposes of federal law.

FISCAL DESCRIPTION (continued)

Under the provisions of the proposal, an insurer may only exclude or limit coverage on persons if the insurer complies with Sections 376.450 to 376.454. Under the proposal, a health insurance issuer offering group coverage may impose a preexisting condition exclusion only if: (1) The exclusion relates to a condition for which medical advice, diagnosis, or treatment was recommended or received within the 6 month period ending on the enrollment date; (2) The exclusion extends for a period no more than 12 months, or 18 months in the case of a late enrollee; and (3) The period of exclusion is reduced by the aggregate period of creditable coverage.

MISSOURI HEALTH INSURANCE POOL (HIGH RISK) - The proposal modifies the definition section that governs the Missouri high risk pool provisions. The proposal adds several new definitions to the high risk pool provision to bring the Missouri Health Insurance Pool into compliance with the federal Health Insurance Portability and Accountability Act (HIPPA) (Section 376.960).

The proposal allows the board to administer separate accounts to separate federally defined eligible individuals and trade act eligible individuals from other pool eligible individuals (Section 376.964).

The proposal establishes criteria for determining the individuals eligibility for the high-risk pool and for determining when notifications need to be provided to pool members regarding underwriting, eligibility, premiums, and changes in coverage. The proposal also sets forth which individuals are not eligible for pool coverage.

Under the proposal, insurers are required to notify individuals of the existence of the pool and its eligibility requirements if the insurers take certain actions (rejection or cancellation of coverage or limitation of coverage) which are likely to render the individual eligible for pool coverage (Section 376.966.5).

The proposal requires the pool to establish premium rates for pool coverage. The standard risk rate shall be determined by considering the premium rates charged by other health insurers offering individual coverage. The initial rates for pool coverage shall not be less than 125% of rates established as applicable for individual standard risks (down from 150%). In no event shall pool rates exceed 135% of the standard rate charge (down from 200% of standard rate) (Section 376.986.4).

The proposal requires pool coverage to exclude expenses for 12 months for pre-existing conditions. The proposal excludes certain individuals (including federally defined eligible individuals and trade act eligible individuals) without significant gaps in coverage (63 days) from pre-existing condition exclusions (Section 376.986.6 and .7).

FISCAL DESCRIPTION (continued)

SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT - The proposal modifies the definition section that governs the Small Employer Health Insurance Availability Act to bring that portion of Missouri law into compliance with the federal Health Insurance Portability and Accountability Act (HIPPA) (Section 376.930).

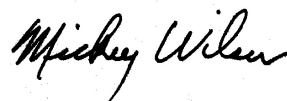
PRESCRIPTION DRUG COVERAGE CANCELLATION - Under the proposal, a health carrier is required to provide at least 30 days written or electronic notification prior to deleting any drugs from the carrier's prescription drug formulary (Section 376.392).

HEALTH CARRIER CLAIMS DATA - Beginning January 1, 2008, this proposal requires health carriers to provide a report of the total number and dollar amount of claims paid in the previous three years within 30 days of an employer's request. A health carrier, however, shall not be required to provide the report more than twice in any calendar year. When an employer has multiple plans, the total dollar amounts must be aggregated into one report.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements.

SOURCES OF INFORMATION

Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Missouri Department of Transportation  
Department of Insurance, Financial and Professional Regulation  
Department of Health and Senior Services  
Department of Revenue  
Department of Social Services  
Department of Public Safety -  
    Director's Office  
    Lottery Commission  
    Missouri State Highway Patrol  
Missouri Consolidated Health Care Plan  
Missouri Department of Conservation  
Office of Secretary of State



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Mickey Wilson, CPA  
Director  
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