COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1918-04
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 740
Subject: Health Care; Health Department; Department of Mental Health; Pharmacy; Department of Social Services
Type: Original
Date: May 20, 2009

Bill Summary: This legislation extends the sunsets of various federal reimbursement allowances from 2009 to 2011.

This legislation will sunset on September 30, 2011.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown but Greater than $24,725)	(Unknown but Greater than $30,547)	(Unknown but Greater than $31,463)
Total Estimated Net Effect on General Revenue Fund	**(Unknown but Greater than $24,725)**	**(Unknown but Greater than $30,547)**	**(Unknown but Greater than $31,463)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
ICF/MR Provider Tax Fund*	$0	$0	$0
Medicaid Managed Care Organization Reimbursement Allowance Fund**	$0	$0	$0
Federal Reimbursement Allowance Fund***	$0	$0	$0
Pharmacy Reimbursement Allowance Fund****	$0	$0	$0
In-Home Services Reimbursement Allowance*****	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

*Revenues and expenditures of approximately $5,000,000 net to $0.
**Revenues and expenditures of up to approximately $47,000,000 net to $0.
***Revenues and expenditures of approximately $886,000,000 net to $0.
****Revenues and expenditures of approximately $35,000,000 net to $0.
*****Income and costs of Unknown would net to $0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal Fund*	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

*Revenues and expenditures of approximately $1,741,000,000 net to $0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	.5 FTE	.5 FTE	.5 FTE
Federal	.5 FTE	.5 FTE	.5 FTE
Total Estimated Net Effect on FTE	**1 FTE**	**1 FTE**	**1 FTE**

☒ 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 2010	FY 2011	FY 2012
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services**, **Department of Revenue** and the **Office of Administration-Budget and Planning** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and 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 office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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.

Officials from the **Department of Mental Health** states Section 633.401 changes the sunset date of the provider tax for Intermediate Care Facilities for the Mentally Retarded (ICF MR) from June 30, 2009 to September 30, 2011. The FY '10 budget submitted by the DMH assumed that the ICF MR tax would continue. It is estimated this tax will generate approximately $2,884,000 annually in federal earnings. If this proposed legislation does not pass, additional General Revenue funds of $2,884,000 would be needed to continue the current level of services.

Oversight notes that the Department of Social Services (DSS) is the contact Department that works with the Federal government on Medicaid programs. Therefore, Oversight has decided to use DSS provider tax numbers for the ICF/MR provider tax program.

ASSUMPTION (continued)

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state the passage of the proposed legislation would not fiscally impact the DMS. However, if the proposed legislation does not pass, additional funding will be needed to maintain the current level of services.

Section 208.437 – Managed Care Organization Reimbursement Allowance:
Current federal law allows the MHD to collect medicaid managed care tax for the 3 month period July 1, 2009 through September 30, 2009 during SFY 2010. The proposed legislation allows the MHD to collect $ 15,405,524 in Medicaid managed care tax, which will allow MHD to draw in federal funds of $24,014,846 through the September 30, 2009. The FY 10 budget submitted by the DSS assumed that the Managed Care tax would continue through September 30, 2009. If this proposed legislation does not pass, additional General Revenue funds of $15,405,524 would be needed to continue the current level of services for the 3 month period July 1, 2009 through September 30, 2009.

As currently written, effective October 1, 2009, Federal Regulations will require that all Managed Care Organizations are taxed, commercial and medicaid. Assuming federal law is amended to allow tax on only medicaid managed care organizations, the proposed legislation will allow MHD to collect $31,109,610 for the 9 month period of October 1, 2009 through June 30, 2010 for the medicaid managed care tax. This will allow MHD to draw in federal funds of $56547,786. If the federal law is amended and this proposed legislation does not pass, additional General Revenue funds of $31,109,610 would be needed to continue the current level of services for the 9 month period of October 1, 2009 through June 30, 2010.

Section 208.480 – Hospital Reimbursement Allowance:
The proposed legislation allows the MHD to collect $885,560,378, in hospital FRA tax, which will allow MHD to draw in federal funds of $1,586,690,817 in fiscal year 2010. The FY 10 budget submitted by the DMH assumed that the hospital FRA would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of $885,560,378would be needed to continue the current level of services.

Section 338.550 – Pharmacy Provider Tax:
The proposed legislation allows the MHD to collect $34,700,000 in pharmacy tax, which will allow MHD to draw in federal funds of $57,636,349 in fiscal year 2010. The FY 10 budget submitted by the DSS assumed that the pharmacy tax would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of $34,700,000 would be needed to continue the current level of services.

ASSUMPTION (continued)

Section 633.401 - ICF/MR Provider Tax:
The proposed legislation allows the MHD to collect $5,025,902 in intermediate care facilities for the mentally retarded tax, which will allow MHD to draw in federal funds of $3,163,303 in fiscal year 2010. The FY 10 budget submitted by the DMH assumed that the intermediate care facilities for the mentally retarded tax would continue through fiscal year 2010. If this proposed legislation does not pass, additional General Revenue funds of $5,025,902 would be needed to continue the current level of services.

Sections 660.425 - 660.465:

In response to a similar proposal from this year (HB 1129), officials from the **Office of the Missouri State Treasurer** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and 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 office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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.

Officials from the **Department of Health and Senior Services** assumes the proposal states that each in-home services provider in the state shall pay an in-home services reimbursement allowance for the privilege of engaging in the business of providing in-home services in this state. Federal regulation, 42 CFR 433.55, defines health-care related taxes, including that they apply only to "health care services" and "health care providers" as defined in 42 CFR 433.56. In home-services providers are not included on the list of "health care services and providers". In addition, Federal regulation 42 CFR 433.56 (19) lists "Other health care items or services not listed above on which the State has enacted a licensing or certification fee", as being eligible for

ASSUMPTION (continued)

a health-care related tax. In-home services are not licensed and are exempt from falling under this category. It is the opinion of the Department that because in-home providers are not included on the list of "health care services and providers", that a federal reimbursement allowance would be in violation of Federal regulation. Therefore, DHSS has determined the cost of this fiscal note to be unknown.

Officials from the **Department of Social Services (DSS)** state this legislation requires in-home services providers who receive compensation for in-home services to pay a reimbursement allowance tax for the privilege of engaging in the business of providing services in Missouri. The MO HealthNet Division (MHD) must obtain approval from the federal Centers for Medicare and Medicaid Services (CMS) for the federal reimbursement allowance. At a minimum, MHD must submit for CMS's review and approval a Medicaid state plan amendment for the in-home services program. Approval of such an amendment is unlikely since in-home services providers are not a class of health care providers that can be taxed according to federal regulation (42 CFR 433.56).

However, if the state plan amendment was approved the tax would be similar to other provider taxes currently imposed on hospitals, nursing homes, pharmacies and managed care organizations. The assessment is general revenue equivalent and earns federal dollars when used to make valid Medicaid payments.

The MHD will need 1 full time equivalent staff to administer this reimbursement allowance program. This staff will establish the annual tax, perform monthly or cycle billings, reconcile receivables, handle appeals of tax amounts, and review quarterly tax adjustment requests. This staff person will also have frequent correspondence and communication with the in-home services provider regarding their assessments, payments, and other inquiries.

The FTE staff needed would be hired as an Auditor I the first year and would promote to an Auditor II in the subsequent years. The costs associated with this employee include their salary, equipment and expenses. Administrative costs receive a 50% match rate.

FY10 Total cost is $48,211 ($24,105 GR);
FY11 Total cost is $57,620 ($28,810 GR); and
FY12 Total cost is $59,348 ($29,674 GR).

FISCAL IMPACT - State Government	FY 2010	FY 2011	FY 2012
GENERAL REVENUE FUND			
Costs - Department of Health and Senior Services	(Unknown)	(Unknown)	(Unknown)
Costs - Department of Social Services			
Personal Service	($14,337)	($20,988)	($21,618)
Fringe Benefits	($6,530)	($9,281)	($9,559)
Equipment and Expense	($3,428)	($278)	($286)
Total Costs - DSS	($24,725)	($30,547)	($31,463)
FTE Change - DSS	.5 FTE	.5 FTE	.5 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Unknown but Greater than $24,725)**	**(Unknown but Greater than $30,547)**	**(Unknown but Greater than $31,463)**
Estimated Net FTE Change for General Revenue Fund	.5 FTE	.5 FTE	.5 FTE
MEDICAID MANAGED CARE ORGANIZATION REIMBURSEMENT ALLOWANCE FUND (Section 208.437)			
Income - Department of Social Services			
Assessment on Medicaid managed care organizations	$46,515,134	$0	$0
Costs - Department of Social Services			
Medicaid Program Costs	($46,515,134)	$0	$0
ESTIMATED NET EFFECT ON MEDICAID MANAGED CARE ORGANIZATION REIMBURSEMENT ALLOWANCE FUND	**$0**	**$0**	**$0**

FEDERAL REIMBURSEMENT ALLOWANCE FUND (Section 208.480)			
Income - Department of Social Services			
Assessment on Hospitals	$885,560,378	$0	$0
Costs - Department of Social Services			
Medicaid Program Costs	($885,560,378)	$0	$0
ESTIMATED NET EFFECT ON FEDERAL REIMBURSEMENT ALLOWANCE FUND	**$0**	**$0**	**$0**
PHARMACY REIMBURSEMENT ALLOWANCE FUND (Section 338.550)			
Income - Department of Social Services			
Assessment on Pharmacies	$34,700,000	$0	$0
Costs - Department of Social Services			
Medicaid Program Costs	($34,700,000)	$0	$0
ESTIMATED NET EFFECT ON PHARMACY REIMBURSEMENT FUND	**$0**	**$0**	**$0**

ICF/MR PROVIDER TAX (Section 633.401)			
Income - Department of Social Services Assessment on ICF's	$5,025,902	$0	$0
Costs - Department of Social Services Medicaid Program Costs	($5,025,902)	$0	$0
ESTIMATED NET EFFECT ON ICF/MR PROVIDER TAX	**$0**	**$0**	**$0**
IN-HOME SERVICES REIMBURSEMENT ALLOWANCE FUND			
Income - Department of Social Services	Unknown	Unknown	Unknown
Costs - Department of Social Services	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON IN-HOME SERVICES REIMBURSEMENT ALLOWANCE FUND	**$0**	**$0**	**$0**

FEDERAL

Income - Department of Social Services			
Assessment on Medicaid Managed Care Organizations	$80,562,632	$0	$0
Assessment on Hospitals	$1,586,690,817	$0	$0
Assessment on Pharmacies	$70,773,590	$0	$0
Assessment on ICF/MR	$3,163,303	$0	$0
Total Income - DSS	$1,741,190,342	$0	$0
Income - Department of Health and Senior Services			
Federal Assistance	Unknown	Unknown	Unknown
Income - Department of Social Services			
Federal Assistance	$24,725	$30,547	$31,463
Costs - Department of Social Services			
Medicaid program expenditures	($1,741,190,342)	$0	$0
Costs - Department of Health and Senior Services-In-Home Services	(Unknown)	(Unknown)	(Unknown)
Costs - Department of Social Services-In-Home Services			
Personal Service	($14,767)	($20,988)	($21,618)
Fringe Benefits	($6,530)	($9,281)	($9,559)
Equipment and Expense	($3,428)	($278)	($286)
Total Costs - DSS	($24,725)	($30,547)	($31,463)
FTE Change - DSS	.5 FTE	.5 FTE	.5 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**$0**	**$0**	**$0**
Estimated Net FTE Change for Federal Funds	.5 FTE	.5 FTE	.5 FTE

FISCAL IMPACT - Local Government	FY 2008 (10 Mo.)	FY 2009	FY 2010
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal extends the expiration date from June 30, 2009, to September 30, 2011, for the Missouri Medicaid Program's managed care organization reimbursement allowance in Sections 208.431 - 208.437, RSMo, and the pharmacy tax in Sections 338.500 - 338.550.

The expiration date of the federal reimbursement allowance assessment in Sections 208.453 - 208.480 is extended from September 30, 2009, to September 30, 2011, and the intermediate care facility for the mentally retarded provider assessment is extended from June 30, 2009, to June 30, 2011.

This proposal contains an emergency clause.

Sections 660.425 - 660.465:

The proposed legislation authorizes a federal reimbursement allowance for in home services. "In-home services" are defined as homemaker services, personal care services, chore services, respite services, consumer-directed services, and services required to keep children out of the hospital under a plan of care created by a physician. Each in-home services provider will be required to pay an in-home services reimbursement allowance based on a formula established by the Department of Social Services.

Each in-home services provider who is subject to the provisions of the legislation is required to register with the Department of Health and Senior Services and to keep records necessary to determine the total payments received for providing in-home services. Each provider is required to report the total payments received to the Department of Social Services. The Department of Health and Senior Services must provide the Department of Social Services with a list of all registered in-home services providers.

FISCAL DESCRIPTION (continued)

The Department of Social Services is required to determine and notify each provider of the amount of tax due. The tax may be adjusted quarterly on a prospective basis or more frequently for certain providers if the department identifies the need. If requested by the in-home services provider, the department may offset the tax owed against any MO HealthNet Program payment due the provider.

The In-Home Services Reimbursement Allowance Fund is created to provide payment to in-home services providers. All investment earnings of the fund must be credited to the fund.

For an in-home services provider with a tax due of more than 90 days, the Department of Social Services is required to send notification of the tax due. If a provider fails to pay its tax within 30 days of the notice, the tax is considered delinquent and the department may proceed with a lien against the provider's property; deny, suspend, or revoke his or her license; and cancel or refuse to issue, extend, or reinstate his or her MO HealthNet provider agreement.

The provisions of the bill will be effective upon authorization by the federal Centers for Medicare and Medicaid Services for a federal reimbursement allowance for in-home services. The provisions of the bill will expire September 30, 2015.

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 Social Services
Department of Health and Senior Services
Department of Mental Health
Office of the Secretary of State
Office of Administration-Budget and Planning
Department of Revenue
Office of the Missouri State Treasurer

Mickey Wilson

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