

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2244-01
Bill No.: SB 552
Subject: Medicaid; Workers Compensation
Type: Original
Date: April 2, 2009

Bill Summary: This legislation modifies provisions regarding MO HealthNet's authority to collect payment from third party payers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	Unknown Less than \$100,000	Unknown Less than \$100,000	Unknown Less than \$100,000
Total Estimated Net Effect on General Revenue Fund	Unknown Less than \$100,000	Unknown Less than \$100,000	Unknown Less than \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Third Party Liability Fund	Unknown but Greater than \$358,449	Unknown but Greater than \$358,449	Unknown but Greater than \$358,449
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown but Greater than \$358,449	Unknown but Greater than \$358,449	Unknown but Greater than \$358,449

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs of approximately Unknown but Greater than \$651,551 in FY10, FY11 and FY12 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

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

Sections 208.215 & 287.266:

Officials from the **Department of Health and Senior Services, Office of the State Courts Administrator, Office of the Missouri State Treasurer** and the **Department of Insurance, Financial Institutions & Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Mental Health (DMH)** state the requirement to process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims for a period of three years from the date services were provided does not appear to impact the DMH since it doesn't meet the definition of one of the entities required to do so.

The requirement that proceeds from certain settlements be used to reimburse the Department of Social Services for medical assistance received by an individual injured in an occupational or work related incident could result in some savings to the DMH if the injured individual received DMH services funded through Medicaid. If collections received were deposited to the credit of DMH the Department would recoup some money. What is unknown is whether DMH would serve many individuals in this population and also whether there would be very much revenue collected from this. Fiscal Impact is unknown less than \$100,000.

Officials from the **Department of Social Services - Division of Legal Services** assume the proposal would have no adverse fiscal impact on their agency.

Officials from the **Department of Social Services - MO HealthNet Division** state Section 208.215 requires health benefit plans to process MO HealthNet subrogation claims for a period of three years from the date of service, regardless of their timely filing requirements. This would significantly increase third party liability recoveries. The estimated increase in recoveries is unknown but greater than \$1,000,000.

Section 287.266 requires any settlement approved or judgment issued by the administrative law judge under workers' compensation shall require full repayment of MHD liens. The legislation also requires the employer or attorney for an injured worker to provide DSS with thirty days

ASSUMPTION (continued)

notice prior to a proceeding, settlement or judgment. The settlement or judgment may not be approved or issued by the administrative law judge without a release from MHD. This legislation will allow MHD to assert a lien on workers' compensation cases before they are finalized. Currently timely notification does not always occur so MHD has missed potential recovery opportunities. Current staff will be utilized to process the release notifications. The estimated increase in recoveries is unknown but greater than \$10,000.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state this proposed legislation will significantly slow down the processing of cases. Often times, the issue in dispute is whether a particular medical condition or treatment is related to the work-related accident. This legislation adds required statutory settlement terms that medical bills paid by MO Health Net flow from the work accident and that the amount of the lien as declared by MO Health Net is correct. Administrative Law Judges would have to wait to hear from the Dept. of Social Services (DSS) before making decisions, which will slow down the processing of cases.

If the legislation is enacted, the Department anticipates people will begin bringing settlements to the Labor and Industrial Relations Commission (LIRC) since they are not bound to protect the DSS lien on behalf of DSS. The fiscal impact is unknown at this time. Computer programming would be needed.

Creating a presumption that settlements violate federal lien laws is inappropriate.

Oversight assumes, because the potential for transferring settlements to DOLIR is speculative, that DOLIR will not incur significant costs related to this proposal. If a fiscal impact were to result, DOLIR may request additional funding through the appropriations process.

<u>FISCAL IMPACT - State Government</u>	FY 2010	FY 2011	FY 2012
	(10 Mo.)		

GENERAL REVENUE FUND

Savings - Department of Mental Health
 Program Savings

<u>Unknown Less</u>	<u>Unknown Less</u>	<u>Unknown Less</u>
<u>than \$100,000</u>	<u>than \$100,000</u>	<u>than \$100,000</u>

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE FUND**

<u>Unknown Less</u>	<u>Unknown Less</u>	<u>Unknown Less</u>
<u>than \$100,000</u>	<u>than \$100,000</u>	<u>than \$100,000</u>

THIRD PARTY LIABILITY FUND

Savings - Department of Social Services
 Program Savings

<u>Unknown but Greater than \$358,449</u>	<u>Unknown but Greater than \$358,449</u>	<u>Unknown but Greater than \$358,449</u>
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**ESTIMATED NET EFFECT ON
 THIRD PARTY LIABILITY FUND**

<u>Unknown but Greater than \$358,449</u>	<u>Unknown but Greater than \$358,449</u>	<u>Unknown but Greater than \$358,449</u>
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FEDERAL FUNDS

Savings - Department of Mental Health
 Program Savings

Unknown Less than \$100,000	Unknown Less than \$100,000	Unknown Less than \$100,000
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Savings - Department of Social Services
 Program Savings

Unknown but Greater than \$651,551	Unknown but Greater than \$651,551	Unknown but Greater than \$651,551
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Costs - Department of Mental Health
 Return Federal Assistance

(Unknown Less than \$100,000)	(Unknown Less than \$100,000)	(Unknown Less than \$100,000)
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Costs - Department of Social Services
 Return Federal Assistance

<u>(Unknown but Greater than \$651,551)</u>	<u>(Unknown but Greater than \$651,551)</u>	<u>(Unknown but Greater than \$651,551)</u>
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**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Sections 208.215 & 287.266:

The proposed legislation appears modifies provisions relating to the MO HealthNet Division's authority to collect from third party payers and from workers' compensation beneficiaries.

Under this legislation any third party administrator, administrative service organization, health benefit plan and pharmacy benefits manager shall process and pay all properly submitted MO HealthNet subrogation claims for a period of three years from the date services were provided or rendered, regardless of any other timely filing requirement. The entity shall not deny such claims on the basis of the type or format of the claim form, or a failure to present proper documentation of coverage at the point of sale.

Payments made by the Department to or on behalf of a MO HealthNet eligible individual as the result of any workers' compensation injury shall be presumed to be benefits incorrectly paid for purposes of Mo HealthNet estate recovery and shall be considered a debt due the state. Any settlement approved or judgment issued by the administrative law judge shall constitute a judgment of a court on account of benefits incorrectly paid for Mo HealthNet estate recovery purposes.

Any settlement approved or judgment issued by an administrative law judge shall require full repayment of all moneys paid by the Department to or on behalf of a person eligible for public assistance as the result of any workers' compensation injury. All moneys repaid to the Department shall be allocated as medical expenses in the settlement or judgment. The state shall have a right of subrogation to any funds for medical expenses owed to or received by the employee.

The employer and attorney for an injured worker who is eligible for public assistance as a result of a workers' compensation injury shall give the Department of Social Services thirty days notice of any institution of a proceeding, settlement, or judgment. No such settlement or judgment may

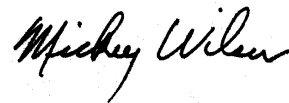
FISCAL DESCRIPTION (continued)

be approved or issued by the administrative law judge without the filing of a release from the MO HealthNet division evidencing full repayment of all moneys paid by the Department to or on behalf of the worker for the injury.

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 the Attorney General
Office of the State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Missouri State Treasurer
Department of Labor and Industrial Relations



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Director
April 2, 2009