

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1175-05  
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SCS for SB 210  
Subject: Medicaid; Health Care; Taxation and Revenue-General; Federal-State Relations  
Type: Original  
Date: June 2, 2015

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Bill Summary: This proposal extends the expiration date on various federal reimbursement allowances for one year.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
General Revenue	(\$126,018)	(\$152,959)	(\$154,720)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$126,018)</b>	<b>(\$152,959)</b>	<b>(\$154,720)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 13 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Ambulance Provider Tax*	\$0	\$0	\$0
Nursing Facility Reimbursement Allowance Tax**	\$0	\$0	\$0
Hospital Reimbursement Allowance Tax ***	\$0	\$0	\$0
Pharmacy Provider Tax****	\$0	\$0	\$0
ICF/ID Provider Tax*****	\$0	\$0	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- \*Revenues and expenditures of approximately \$21.5 million annually net to \$0.
- \*\*Revenues and expenditures of approximately \$179 million annually net to \$0.
- \*\*\*Revenues and expenditures of approximately \$1.1 billion annually net to \$0.
- \*\*\*\*Revenues and expenditures of up to approximately \$57 million annually net to \$0.
- \*\*\*\*\*Revenues and expenditures of approximately \$7.2 million annually net to \$0.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
Federal*	\$0	\$0	\$0
<b>Total Estimated Net Effect on All Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Revenues and expenditures of approximately \$2.3 billion annually net to \$0.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
General Revenue	2.5	2.5	2.5
Federal	2.5	2.5	2.5
<b>Total Estimated Net Effect on FTE</b>	<b>5</b>	<b>5</b>	<b>5</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### **Sections 190.839, 198.439, 208.437, 208.480, 338.550 & 633.401 - Provider Taxes and Section 208.482 - DSH Recoupment:**

Officials from the **Department of Social Services (DSS)** provided the following with regards to provider taxes:

#### §190.839 - Ambulance Provider Tax

The proposed legislation allows the MO HealthNet Division (MHD) to collect \$21,522,747 in ambulance tax, which will allow MHD to draw in federal funds of \$37,159,116 in FY 2016. The FY 2016 budget submitted by the DSS assumed the ambulance tax would continue through FY 2016. If the proposed legislation does not pass, additional General Revenue funds of \$21,522,747 would be needed to continue the current level of services.

#### §198.439 – Nursing Facility Reimbursement Allowance Tax

The proposed legislation allows the MHD to collect \$179,230,616 in Nursing Facility Tax, which will allow MHD to draw in federal funds of \$309,442,438 in FY 2016. The FY 2016 budget submitted by the DSS assumed the nursing facility tax would continue through fiscal year 2016. If this proposed legislation does not pass, additional General Revenue funds of \$179,230,616 would be needed to continue the current level of services.

#### §208.437 - Managed Care Provider Tax

The MHD is not currently collecting the Managed Care Provider Tax. The federal sunset for the managed care organization reimbursement allowance was September 30, 2009. This section of the proposed legislation will not have an impact on MO HealthNet.

As the MHD is not currently collecting the Managed Care Provider Tax, **Oversight** is not including this tax in the fiscal note tables.

#### §208.480 - Hospital Reimbursement Allowance Tax

The proposed legislation allows the MHD to collect approximately \$1,091,408,539 in Hospital FRA (Federal Reimbursement Allowance) tax, which will allow MHD to draw in federal funds of approximately \$1,884,321,589 in FY 2016. The FY 2016 budget submitted by DSS assumed the hospital tax would continue through FY 2016. If the proposed legislation does not pass, additional General Revenue funds of \$1,091,408,539 would be needed to continue the current level of services.

ASSUMPTION (continued)

§208.482 - DSH Recoupment:

MHD assumes this proposed language applies to hospitals that are Tier 1 and Safety Net Hospitals. There is an estimated state impact in Fiscal Years (FYs) 2016 through 2018 because MHD would not be able to recoup the Disproportionate Share Hospital (DSH) liabilities from such facilities, but would be required to reimburse the federal government for the federal share of the liabilities. The estimated impact for each FY is based on the results of the FY 2011 Independent DSH Audit; however, the federal share is calculated at a different percentage for each FY based on the year to which the DSH liability is related. Thus, the FY 2016 General Revenue (GR) impact is estimated at \$17,179,371; the FY 2017 impact is estimated at \$16,767,565; and the FY 2018 impact is estimated at \$16,760,792. MHD assumes the General Assembly will appropriate non-general revenue state funding to pay the federal government the federal share of these liabilities.

§338.550 - Pharmacy Provider Tax

The proposed legislation allows the MHD to collect \$57,039,249 in pharmacy tax, which will allow MHD to draw in federal funds of \$98,478,511 in FY 2016. The FY 2016 budget submitted by the DSS assumed the ambulance tax would continue through FY 2016. If the proposed legislation does not pass, additional General Revenue funds of \$57,039,249 would be needed to continue the current level of services.

§633.401 - Intermediate Care Facility for the Developmentally Disabled Provider Tax

The proposed legislation allows the MHD to collect approximately \$7.2 million in intermediate care facilities for the intellectually disabled tax, which will allow MHD to draw in federal funds of \$6.8 million in fiscal year 2016. The FY 2016 budget submitted by the Department of Mental Health assumed the intermediate care facilities for the developmentally disabled tax would continue through FY 2016. If this proposed legislation does not pass, additional General Revenue funds of \$7.2 million would be needed to continue the current level of services.

Officials from the **Department of Mental Health (DMH)** state this proposed legislation extends the sunset on certain health care provider reimbursement allowance taxes from 2015 to 2016. Included in this proposal is the extension for the provider assessment for ICF/ID (Intermediate Care Facilities for the Intellectually Disabled) and hospitals. The DMH assumes no fiscal impact should the sunset be extended to 2016. The provider assessment for ICF/IDs generates approximately \$6.8 million in revenue for the DMH. The provider assessment for hospitals generates approximately \$15.6 million in additional revenues for DMH.

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

ASSUMPTION (continued)

**§208.152 - MMAC Interpretations**

Officials from the **DSS, Missouri Medicaid Audit and Compliance Unit (MMAC)** assume the provisions of this proposal will result in a significant increase in the number of appeals of MMAC overpayment determinations. This increase in appeals is estimated to be approximately 50%.

Currently, a MMAC Medicaid Specialist (analyst) completes an audit of a provider's Medicaid claims within 10 hours. MMAC has 22 FTE analysts conducting reviews. An appeal, which includes preparation, discovery and testimony, may take as long as 40 hours, resulting in 30 hours per FTE lost due to appeals. MMAC's average number of completed audits per year is 2,554, with this legislation it is assumed that there will be approximately 164 less audits and possibly 41 more additional appeals which will cause a 6.4% reduction in the number of audits conducted. The two year average of accounts receivables from overpayments in calendar years 2013 and 2014 was \$7,380,638 as a result of provider audits. Therefore, the time spent on appeals will result in the inability to conduct approximately 164 audits per year or 6.4% (164/2,554), resulting in a loss of recoverable funds of \$472,360 ( $\$7,380,638 \times 6.4\%$ ).

With enactment of the legislation MMAC analysts will be required to reallocate time away from auditing which will result in the inability to generate the current average recoverable overpayments. Therefore, MMAC would need the following additional 5 FTE to support this legislation, totaling \$252,036 including fringe along with associated E&E expenses for FY 2016 (10 months):

MMAC Attorney - \$39,984 annually  
Administrative Analyst II (legal) - \$33,018 annually  
Senior Office Support Assistant (SOSA) - \$24,906 annually  
Medicaid Specialist (2) – (40,642 annually X 2) = \$81,284

Expenses are split 50/50 between federal and state funds.

**Oversight** notes the additional FTE requested by MMAC will allow the unit to maintain the current number of audits being performed each year. In effect, the new FTE will be used to absorb the increase in provider appeals that will be generated by as a result of this proposal.

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

ASSUMPTION (continued)

Bill as a Whole

Officials from the **Office of Administration, Division of Budget and Planning (B&P)** state this proposal will not impact Total State Revenue and the proposal will not impact the calculation under Article X, Section 18(e). The proposal extends the sunset on various provider taxes to September 30, 2016 and prohibits MO HealthNet from recovering disproportionate share hospital audit recoupments from a Tier I Safety Net Hospital and stipulates General Revenue shall not be used to offset the recoupments.

The proposal also stipulates that the Missouri Medicaid Audit and Compliance Unit must notify provers of any changes in the interpretation or application of the requirements for reimbursement five days before the effective date of the change.

B&P defers to DSS for any fiscal impact.

Officials from the **Department of Health and Senior Services**, the **Department of Revenue, Division of Taxation** and the **Office of State Treasurer** each assumed the proposal would not fiscally impact their respective agencies.

In response to the previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** stated 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.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (9 months)	FY 2017 (3 months)	FY 2018
<b>GENERAL REVENUE FUND</b> (§208.152)			
<u>Costs - DSS- MMAC</u>			
Personal service	(\$74,663)	(\$90,492)	(\$91,397)
Fringe benefits	(\$38,828)	(\$47,060)	(\$47,531)
Equipment and expense	<u>(\$12,527)</u>	<u>(\$15,407)</u>	<u>(\$15,792)</u>
<b>Total Costs - DSS-MMAC</b>	<b><u>(\$126,018)</u></b>	<b><u>(\$152,959)</u></b>	<b><u>(\$154,720)</u></b>
FTE Change - DSS	2.5 FTE	2.5 FTE	2.5 FTE
 <b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	 <b><u>(\$126,018)</u></b>	 <b><u>(\$152,959)</u></b>	 <b><u>(\$154,720)</u></b>
 Estimated Net FTE Change on the General Revenue Fund	 2.5 FTE	 2.5 FTE	 2.5 FTE
 <b>AMBULANCE PROVIDER TAX FUND</b> (§190.839)			
<u>Income - DSS</u>			
Assessment on Medicaid ambulance organizations	\$16,142,060	\$5,380,687	\$0
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$16,142,060)</u>	<u>(\$5,380,687)</u>	<u>\$0</u>
 <b>ESTIMATED NET EFFECT ON AMBULANCE PROVIDER TAX FUND</b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>



<u>FISCAL IMPACT - State Government</u>	FY 2016 (9 months)	FY 2017 (3 months)	FY 2018
<b>NURSING FACILITY REIMBURSEMENT ALLOWANCE TAX FUND (\$198.439)</b>			
<u>Income - DSS</u>			
Assessment on Medicaid nursing facility organizations	\$134,422,962	\$44,807,654	\$0
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$134,422,962)</u>	<u>(\$44,807,654)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON NURSING FACILITY REIMBURSEMENT ALLOWANCE TAX FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>HOSPITAL REIMBURSEMENT ALLOWANCE FUND (\$208.480)</b>			
<u>Income - DSS</u>			
Assessment on Medicaid hospital organizations	\$818,556,404	\$272,852,135	\$0
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$818,556,404)</u>	<u>(\$272,852,135)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON HOSPITAL REIMBURSEMENT ALLOWANCE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2016 (9 months)	FY 2017 (3 months)	FY 2018
<b>PHARMACY PROVIDER TAX FUND (§ 338.550)</b>			
<u>Income - DSS</u>			
Assessment on Medicaid pharmacy organizations	\$42,779,437	\$14,259,812	\$0
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$42,779,437)</u>	<u>(\$14,259,812)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON PHARMACY PROVIDER TAX FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>ICF/ID PROVIDER TAX (§633.401)</b>			
<u>Income - DSS</u>			
Assessment on Medicaid ICF/ID organizations	\$5,400,000	\$1,800,000	\$0
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$5,400,000)</u>	<u>(\$1,800,000)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON ICF/ID PROVIDER TAX FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2016 (9 months)	FY 2017 (3 months)	FY 2018
<b>FEDERAL FUNDS</b>			
<u>Income - DSS</u>			
Assessment on Medicaid ambulance organizations (§190.839)	\$27,869,337	\$9,289,779	\$0
Assessment on Medicaid nursing facility organizations (§198.439)	\$232,081,829	\$77,360,610	\$0
Assessment on Medicaid hospital organizations (§208.480)	\$1,413,241,192	\$471,080,397	\$0
Assessment on Medicaid pharmacy organizations (§ 338.550)	\$73,858,883	\$24,619,628	\$0
Assessment on Medicaid ICF/DD organizations (§633.401)	<u>\$5,100,000</u>	<u>\$1,700,000</u>	<u>\$0</u>
Total <u>Income</u> - DSS	<u>\$1,752,151,241</u>	<u>\$584,050,414</u>	<u>\$0</u>
<u>Income - DSS-MMAC (§208.152)</u>			
Increase in federal reimbursements	\$126,018	\$152,959	\$154,720
<u>Costs - DSS</u>			
Medicaid program costs	(\$1,752,151,241)	(\$584,050,414)	\$0
<u>Costs - DSS- MMAC</u>			
Personal service	(\$74,663)	(\$90,492)	(\$91,397)
Fringe benefits	(\$38,828)	(\$47,060)	(\$47,531)
Equipment and expense	<u>(\$12,527)</u>	<u>(\$15,407)</u>	<u>(\$15,792)</u>
Total <u>Costs</u> - DSS-MMAC	<u>(\$126,018)</u>	<u>(\$152,959)</u>	<u>(\$154,720)</u>
FTE Change - DSS	2.5 FTE	2.5 FTE	2.5 FTE
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Federal Funds	2.5 FTE	2.5 FTE	2.5 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (9 months)	FY 2017 (3 months)	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact on small business healthcare providers that accept MO HealthNet payments if they are, or are not, notified of changes in interpretation or application of reimbursement requirements by the Department of Social Services.

FISCAL DESCRIPTION

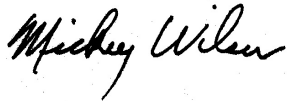
This proposal extends the sunsets from September 30, 2015 to September 30, 2016, for the Ground Ambulance, Nursing Facility, Medicaid Managed Care Organization, Hospital, Pharmacy, and Intermediate Care Facility for the Intellectually Disabled Reimbursement Allowance Taxes. The MO HealthNet division cannot recover disproportionate share hospital audit recoupments from Truman Hospital when an intergovernmental transfer was used for the nonfederal share of its disproportionate share hospital payments.

This proposal specifies that if Missouri Medicaid audit and compliance changes any interpretation or application of the requirements for reimbursement for MO HealthNet services from the interpretation or application that has been applied previously by the state in any audit of a MO HealthNet provider, Missouri Medicaid audit and compliance must notify all affected MO HealthNet providers five business days before the change takes affect. Failure of the Missouri Medicaid audit and compliance to notify a provider of the change entitles the provider to continue to receive and retain reimbursement until notification is provided and waives any liability of the provider for recoupment or other loss of any payments previously made five business days after such notice has been sent. Each provider shall provide the Missouri Medicaid audit and compliance unit with a valid email address and shall agree to receive communications electronically. The notification required by the proposal shall be delivered in writing by the United States Postal Services or electronic mail to each provider. (§208.152)

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  
Department of Health and Senior Services  
Department of Mental Health  
Department of Revenue  
Department of Social Services -  
    MO HealthNet  
Office of Administration -  
    Division of Budget and Planning  
Office of Secretary of State  
Office of State Treasurer



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