

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4996-02
Bill No.: SB 908
Subject: Health Care; Pharmacy
Type: Original
Date: February 10, 2016

Bill Summary: This proposal delineates procedures to be used by pharmacy benefit managers with regards to maximum allowable cost lists.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(Could exceed \$1,891,000)	(Could exceed \$2,086,200)	(Greater than \$2,086,200)
Total Estimated Net Effect on General Revenue	(Could exceed \$1,891,000)	(Could exceed \$2,086,200)	(Greater than \$2,086,200)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Other State Funds	(Could exceed \$465,000)	(Could exceed \$513,000)	(Greater than \$513,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$465,000)	(Could exceed \$513,000)	(Greater than \$513,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Federal Funds	(Could exceed \$744,000)	(Could exceed \$820,800)	(Greater than \$820,800)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Could exceed \$744,000)	(Could exceed \$820,800)	(Greater than \$820,800)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Officials from the **Department of Public Safety - Missouri Highway Patrol** defer to the Department of Transportation for fiscal impact.

In response to a similar proposal from last session, SB 325, officials from the **Department of Social Services**, the **Department of Health and Senior Services**, the **Missouri Department of Conservation**, the **Department of Mental Health** and the **Department of Insurance, Financial Institutions and Professional Registration** each assumed the proposal would not fiscally impact their agency.

In response to a similar proposal from last session, SB 325, officials from the **Missouri Consolidated Health Care Plan (HCP)** stated that the legislation would significantly impact HCP as it defines what can be placed on a Pharmacy Benefit Manger's MAC (maximum allowable cost) list. The proposal does not include drugs that are variously classified as NR- and NA-rated or Z-rated. These are drugs which predated the creation of the FDA's "Orange Book," thus they are not included in the Orange Book. If it is not permissible to MAC an NR-, NA- or Z-rated drug according to its actual generic pricing in the marketplace, then a pharmacy may bill, and a plan must pay, a brand reimbursement rate for that drug. For example, if one of those drugs is available in the marketplace at a generic price of \$10 but cannot be placed on a MAC list and the brand name AWP or price is \$30, then the pharmacy would need to be reimbursed \$30. This represents lost savings and increased costs to the plan.

This fiscal impact is therefore estimated to be \$2.73 million in FY16, \$3.1 million in FY 17, and \$3.42 million in FY 18.

ASSUMPTION (continued)

Oversight assumes the costs estimated by HCP would be distributed across state funds in the following percentages:

General Revenue	61%
Other State Fund	15%
Federal Funds	24%

Oversight assumes the provisions of this proposal would become effective August 28, 2016; therefore, we will reflect ten months of impact in FY 2017.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE FUND			
<u>Costs - HCP</u>			
Increased pharmacy costs	<u>(Could exceed \$1,891,000)</u>	<u>(Could exceed \$2,086,200)</u>	<u>(Greater than \$2,086,200)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Could exceed \$1,891,000)</u>	<u>(Could exceed \$2,086,200)</u>	<u>(Greater than \$2,086,200)</u>
FEDERAL FUNDS			
<u>Costs - HCP</u>			
Increased pharmacy costs	<u>(Could exceed \$744,000)</u>	<u>(Could exceed \$820,800)</u>	<u>(Greater than \$820,800)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(Could exceed \$744,000)</u>	<u>(Could exceed \$820,800)</u>	<u>(Greater than \$820,800)</u>
OTHER STATE FUNDS			
<u>Costs - HCP</u>			
Increased pharmacy costs	<u>(Could exceed \$465,000)</u>	<u>(Could exceed \$513,000)</u>	<u>(Greater than \$513,000)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>(Could exceed \$465,000)</u>	<u>(Could exceed \$513,000)</u>	<u>(Greater than \$513,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business pharmacies may be impacted by this proposal.

FISCAL DESCRIPTION

The proposal requires each contract between a pharmacy benefit manager (PBM) and a pharmacy or pharmacy's contracting representative to include sources utilized to determine maximum allowable cost and update such pricing information at least every seven days. A PBM shall maintain a procedure to eliminate products from the maximum allowable cost list of drugs (MAC list) or modify maximum allowable cost pricing within seven days if the drugs do not meet the standards as provided in the proposal.

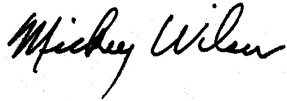
A PBM shall reimburse pharmacies for drugs subject to maximum allowable cost pricing based upon pricing information which has been updated within seven days. A drug shall not be placed on a MAC list unless there are at least two therapeutically equivalent multi-source generic drugs, or at least one generic drug available from only one manufacturer and is generally available for purchase from national or regional wholesalers.

All contracts shall include a process to internally appeal, investigate, and resolve disputes regarding MAC pricing as provided in the proposal. Appeals shall be upheld if the pharmacy being reimbursed for the drug on the MAC list was not reimbursed according to the proposal or the drug does not meet the requirements for being placed on the MAC list.

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 Insurance, Financial Institutions and Professional Registration
Missouri Consolidated Health Care Plan
Department of Transportation
Department of Social Services
Department of Mental Health
Department of Health and Senior Services
Department of Public Safety
Missouri Department of Conservation



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