COMMITTEE ON LEGISLATIVE RESEARCH OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0471-05

Bill No.: CCS for HCS for SCS for SB 139

Subject: Pharmacy; Drugs and Controlled Substances; Health and Senior Services

Department

Type: Original

<u>Date</u>: May 11, 2017

Bill Summary: This proposal modifies provisions relating to health care.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	
General Revenue	\$6,474,850	\$6,737,010	\$6,971,262	
Total Estimated Net Effect on General Revenue	\$6,474,850	\$6,737,010	\$6,971,262	

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	
MO Rx Plan	(\$3,879,438)	(\$4,655,326)	(\$4,655,326)	
Insurance Dedicated	Up to \$7,500	\$0	\$0	
Board of Pharmacy	(Unknown)	(Unknown)	(Unknown)	
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$3,879,438)	(Greater than \$4,655,326)	(Greater than \$4,655,326)	

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 15 pages.

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ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	
Federal*	\$0	\$0	\$0	
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	

^{*}Income, savings, costs and losses exceed \$22.4 million annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	
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 2018	FY 2019	FY 2020	
Local Government	\$0	\$0	\$0	

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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.

§196.990 - Epinephrine auto-injectors

Due to time constraints, the following responses from HB 761 were used:

Officials from the **University of Missouri** assume this proposal would have a financial impact that would exceed \$100,000 annually on the University. While the information provided makes it somewhat difficult to determine the total number of locations requiring inventory of pens, the University estimate that to be well above 1,000, thereby, resulting in a cost of a minimum of \$300,000 before, training, storage, administering the program, maintaining expired inventory, etc.

Oversight assumes since the provisions regarding the prescription of epinephrine auto-injectors by a physician to an authorized entity and the acquiring of a stock supply of epinephrine auto-injectors by the authorized entity are permissive, no university, county or local health department would incur additional costs unless the entity chooses to incur them.

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the need arises.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

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

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ASSUMPTION (continued)

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.

Officials from the Department of Social Services, Divisions of: Legal Services, Youth Services, MO HealthNet and Children's, Office of Administration, General Services Division, the Office of State Courts Administrator, Callaway County, Mississippi County, St. Louis County, Missouri State University, Northwest Missouri State University and the University of Central Missouri each assume the proposal would not fiscally impact their respective agencies.

§208.227 - Pharmaceutical case management/Polypharmacy program

Due to time constraints, the responses from the previous version of this proposal were used:

Officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** and the **Division of Legal Services (DLS)** provide the following assumptions:

§208.227.1 requires MO HealthNet to establish a pharmaceutical case management or polypharmacy program for high-risk MO HealthNet participants with numerous or multiple prescribed drugs or medications.

MHD officials state that MHD currently employs several tools as part of its behavioral health pharmacy and opioid surveillance program:

Care Management Technologies (CMT) – CMT has a contract with DHSS and other partners (DMH, the Missouri Coalition for Community Behavioral Healthcare) to provide healthcare data analytics services, in particular through their Behavioral Pharmacy Management (BPM), and Opioid Prescription Intervention (OPI) programs. BPM is designed to optimize therapeutic outcomes of pharmacological treatment for behavioral health conditions. CMT reviews pharmacy claims and applies proprietary algorithms to identify prescribing practices that deviate from evidence-based best practice standards, including polypharmacy, dosing outside of therapeutic ranges, and patient medication nonadherence. Once identified, CMT communicates directly with providers to alert them of these concerns and the need for further clinical review. Separate interventions exist for adults and for children under age 18.

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<u>ASSUMPTION</u> (continued)

OPI was developed to help balance a desire to improve access to evidence-based analgesic therapies for chronic pain sufferers with the urgent need to assist prescribers in addressing narcotic misuse and associated adverse events. The OPI uses pharmacy claims data to identify patients whose patterns of obtaining and filling opioid prescriptions is suspicious (e.g., obtaining opioid prescriptions from a large number of different providers, or filling opioid prescriptions at a large number of different pharmacies), and identifies providers whose opioid prescribing patterns deviate from evidence-based best practice standards (e.g., prescribing opioids to persons without supporting diagnoses, giving opioid-containing cold medication to children). At present the top 2,000 providers (based on the cost of flagged prescriptions) receive a direct communication from CMT explaining the OPI program and identifying patients and/or prescribing habits that warrant further attention.

MHD proposes expanding this contract to address a larger provider group and to also identify patient populations that could benefit from education about opioids. The polypharmacy utilizes the ProAct technology environment provided by CMT to supply compliance measures specific to comorbid disease states. The capabilities include utilization patterns, pharmacy indicators, gaps in care, adherence, compliance measures and other elements. MO HealthNet proposes expansion of this program to cover an additional provider participation of 25%.

- BPM: MO HealthNet assumes 35,023 new participants will be impacted at a per-member-per-year (PMPY) cost savings of \$1,026 each, for a total cost savings of \$35,934,102 (35,023 X \$1,026 rounded). This anticipated cost savings would be offset by pharmacy rebates that would not be earned in the amount of \$13,834,629, with an assumed net cost savings of \$22,099,473. Further, MHD anticipates an increased cost for the BPM program of \$192,000. The net BPM cost savings is estimated to be \$21,907,473.
- OPI: MO HealthNet assumes 96,000 new participants will be impacted at a PMPY cost savings of \$142.44 each, for a total cost savings of \$13,674,240. This anticipated cost savings would be offset by pharmacy rebates that would not be earned in the amount of \$5,264,582, with an assumed net cost savings of \$8,409,658. Further, MHD anticipates an increased cost for the OPI program of \$438,000. The net OPI cost savings is estimated to be \$7,971,658.
- Polypharmacy: MO HealthNet assumes the current polypharmacy contract would be expanded to include additional provider participation of an estimated 25%. This would result in an increase in contract cost of \$562,500. MO HealthNet assumes an annual cost savings from the contract expansion of \$2,812,500 for a net annual cost savings of \$2,250,000.

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ASSUMPTION (continued)

- MO HealthNet anticipates annual net savings of \$32,129,131 [(\$21,907,473 + \$7,971,658 + \$2,250,000 = \$32,129,131); GR \$11,312,902; \$20,816,230 Federal]. MHD assumes that 9 months of that savings will be realized in FY 2018; therefore, FY18 savings will be \$8,484,677 GR and \$15,612,172 Federal (\$24,096,849 total for 9 months).
 - 1. **Cyber Access** Cyber Access is MHD's Electronic Health Records (EHR). Cyber Access is claims-based and allows one to view the services a patient has received and where those services were provided. This includes all pharmacy claims, including for opioids. Thus a provider can review services that they provide as well as services that others provide to their patients to have a better understanding of the entire patient experience. All enrolled providers have access to Cyber Access. Primary Care Health Homes are required to use Cyber Access as part of their patient care management initiatives.
 - 2. MHD has opportunities to collaborate with local jurisdictions and state and local public health agencies in their surveillance effort.
 - 3. MHD is updating its clinical edits for opioid prescribing along the Centers for Disease Control and Prevention (CDC) guidelines for opioid naive patients. As part of routine surveillance of opioid prescribing guidelines and evidence-base, this will update MHD's pharmacy protocol to the most recent evidence-based guidelines. MHD can then perform data analysis to monitor prescribing patterns against the new guidelines and develop indicated interventions.

Division of Legal Services (DLS) officials provide that section 208.227.1 requires DSS to partner with the Department of Mental Health through a Memorandum of Understanding (MOU). DLS assumes MHD would require legal assistance to help draft and complete a legal review of the MOU.

 $\underline{\$208.227.3}$ - The division shall issue a provider update no less than twice annually to enumerate treatment and utilization principles for MO HealthNet providers.

MHD will issue provider blasts (similar to bulletins). It is assumed the cost of this section can be absorbed within the existing MO HealthNet budget. No fiscal impact.

 $\underline{\$208.227.4}$ - If the division implements any new policy or clinical edit for an antipsychotic drug, the division shall continue to allow the MO HealthNet participant's access to any antipsychotic drug that they utilize and are stable.

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ASSUMPTION (continued)

MHD assumes these provisions will have no fiscal impact as section 208.227.1 states no restrictions to access will be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression.

§208.227.5 - The division's medication policy and clinical edits shall provide MO HealthNet participants initial access to multiple Food and Drug Administration-approved antipsychotic drugs that have substantially the same clinical differences and adverse effects that are predictable across individual patients and whose manufacturers have entered into a federal rebate agreement with the Department of Health and Human Services.

MHD assumes the provisions will have no fiscal impact as section 208.227.1 states no restrictions to access will be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression.

§208.227.7 and .8 - Requires DSS implement rules/regulations to enact this proposal and also submit state plan amendments and waivers to CMS.

DLS assumes MHD will require legal assistance to help draft and complete a legal review of the regulations and/or state plan amendments. DLS assumes no additional FTE will be needed as the additional duties can be absorbed with existing staff.

§208.229 - Pharmaceutical manufacturers shall pay to the state, in accordance with 42 U.S.C. Section 1396r-8, rebates on drugs dispensed to MO HealthNet participants.

MHD states MO HealthNet collects rebates on drugs dispensed to MO HealthNet participants under the Medicaid Drug Rebate Program which is authorized by Section 1927 of the Social Security Act. This section will not have a fiscal impact on MHD.

§208.790 - Extends MO Rx Program for dual eligibles

Due to time constraints, responses from the previous version of this proposal were used:

MHD officials state this section of the legislation extends the MO Rx program for Medicaid dual eligible individuals. Currently the MO Rx program is available for dual (Medicare and Medicaid) and non-dual (Medicare only) participants.

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ASSUMPTION (continued)

If this legislation is enacted, the program will only be available for dual participants. The projected average number of non-duals in FY 18 is 63,670. Using a per member per year cost of \$303, the projected annual cost savings would be \$19,281,685 (10 months of cost savings in FY18 represents \$16,068,071). In addition, MO HealthNet would have a loss of rebate revenue into the MORx fund of (\$2,992,195) in FY 18. Because MORx rebates are earned 6 months in arrears, the FY19 impact would be (\$5,984,391) which would reflect a full 12 months loss in rebates. The FY 18 net cost savings would be \$13,075,876 and the FY19 net cost savings would be \$13,279,294.

§208.798 - Extension of termination date for MO Rx Plan program

Due to time constraints, responses from the previous version of this proposal were used:

In response to similar provisions from the current session (SB 423/1945-03), officials from the **DSS, MHD** and **DLS** assumed the proposal will have no fiscal impact on their organization.

Oversight assumes extending the termination date for section 208.798 to 08-28-22 (currently 08-28-17) will result in <u>a continuation</u> of costs to the State. Oversight notes the Governor's recommendations for FY18 includes funding for the MO Rx Drug Program of \$22,758,170 (General Revenue \$18,102,844 and Other State Funds (MO Rx Plan Fund # 0779) of \$4,655,326).

For fiscal note purposes, Oversight will assume funding for the MO Rx Drug Program will be \$22,758,170 (GR \$18,102,844; Other State Funds \$4,655,326) for each FY18, FY19 and FY20. Oversight will reflect 10 months of impact in FY 2018.

Expenditures for the program have been: \$22,287,547 in FY 2016;

\$22,127,661 in FY 2015; and \$21,529,983 in FY 2014

§334.506 - Referral from doctor no longer needed by physical therapists

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume policy amendments must be submitted to the department for review along with a \$50 filing fee for all companies that currently require referrals for physical therapists. One time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$7,500.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department will need to request additional staff to handle increase in workload.

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ASSUMPTION (continued)

§338.700 - 710 - Rx Cares for Missouri Program

Officials from the **Department of Insurance**, **Financial Institutions and Professional Registration (DIFP)** state the proposal would have an unknown fiscal impact to the Missouri Board of Pharmacy contingent on potential future appropriations made by the General Assembly to fund the Rx Cares for Missouri Program.

Oversight notes the balance of the Board of Pharmacy Fund on November 30, 2016 was \$7,165,391. Oversight assumes the Board of Pharmacy has the funds available to make the appropriation for the Rx Cares for Missouri Program without raising licensing fees. However, Oversight also assumes if the operation of this program reduces the cash balance of the Board of Pharmacy Fund below the operating cash needs of the Board, the Board would have the ability to raise licensing fees. This program expires on August 28, 2019 (FY 2020).

In response to the previous version of this proposal, officials from the **DSS**, **MHD** assumed the proposal would not fiscally impact their agency.

Bill as a Whole

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Department of Corrections** defer to the Department of Social Services for a statement of the potential fiscal impact of this proposal.

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

Due to time constraints, the following responses from the previous version of this proposal were used:

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from the proposal could be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in referrals.

Officials from the **Office of State Courts Administrator** assume the proposal would not fiscally impact their agency.

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ASSUMPTION (continued)

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.

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FISCAL IMPACT - State Government	FY 2018 (9 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND	(2 -1-2-1)		
Savings - DSS (§208.227.1) Program savings	\$8,931,864	\$12,138,810	\$12,373,062
Savings - DSS (§208.790) MO Rx program savings	<u>\$16,068,071</u>	<u>\$19,281,685</u>	<u>\$19,281,685</u>
Total <u>Savings</u> - DSS	\$24,999,935	\$31,420,495	\$31,654,747
Costs - DSS (§208.227.1) Increased contractor costs	(\$447,187)	(\$596,250)	(\$596,250)
Costs - DSS (extension of §208.798 termination date) On-going MO Rx Drug Program expenditures	(\$15,085,703)	(\$18,102,844)	(\$18,102,844)
Total Costs - DSS	(\$15,532,890)	(\$18,699,094)	(\$18,699,094)
Loss - DSS (§208.790) Reduction in rebate revenue	(\$2,992,195)	(\$5,984,391)	(\$5,984,391)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$6,474,850</u>	<u>\$6,737,010</u>	<u>\$6,971,262</u>
MO Rx PLAN FUND			
Costs - DSS (extension of §208.798 termination date) On-going MO Rx Drug Program			
expenditures	(\$3,879,438)	(\$4,655,326)	(\$4,655,326)
ESTIMATED NET EFFECT ON THE MO Rx PLAN FUND	(\$3,879,438)	<u>(\$4,655,326)</u>	(\$4,655,326)

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FISCAL IMPACT - State Government INSURANCE DEDICATED FUND	FY 2018 (9 Mo.)	FY 2019	FY 2020
Income - DIFP (§334.506) Form filing fees	<u>Up to \$7,500</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE INSURANCE DEDICATED FUND	<u>Up to \$7,500</u>	<u>\$0</u>	<u>\$0</u>
BOARD OF PHARMACY FUND (#637)			
Costs - DIFP Rx Care for MO Program expenditures (§§338.700-338.710)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON BOARD OF PHARMACY FUND	(Unknown)	(Unknown)	(Unknown)
FEDERAL FUNDS			
Income - DSS (§208.227.1) Contractor cost reimbursements	\$447,187	\$596,250	\$596,250
Savings - DSS (§208.227.1) Reduction in program costs	\$16,059,359	\$21,825,404	\$22,246,586
Costs - DSS (§208.227.1) Contractor expenditures	(\$447,187)	(\$596,250)	(\$596,250)
<u>Loss</u> - DSS (§208.227.1) Reduction in program reimbursements	(\$16,059,359)	(\$21,825,404)	(\$22,246,586)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FISCAL IMPACT - Local Government	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

POLYPHARMACY AND ANTIPSYCHOTIC MEDICATIONS (Section 208.227)

This act replaces existing language relating to psychotrophic medications with new language relating to the establishment of a polypharmacy program and the prescribing of antipsychotic medications. The MO HealthNet Division shall establish a polypharmacy program for high-risk MO HealthNet participants with numerous or multiple prescribed drugs or medications. The Department shall also establish a behavioral health pharmacy and opioid surveillance program to encourage the use of best medical evidence-supported prescription practices. The Division shall issue provider updates to enumerate specified treatment and utilization principles for MO HealthNet providers, including treatment principles relating to antipsychotic drugs or medications.

MEDICAID DUAL ELIGIBLES (Section 208.790)

The provisions of this section mandate applicant household income limits for eligibility to only apply to Medicaid dual eligible individuals.

MO Rx PRESCRIPTION DRUG PROGRAM (Section 208.798)

This bill modifies provisions relating to the Missouri Rx Prescription Drug Program by extending the termination date of the program from August 28, 2017 to August 28, 2022.

PHYSICAL THERAPISTS NO LONGER NEED REFERRAL FROM DOCTOR (Section 334.506)

This proposal changes the laws regarding physical therapists so that physical therapists no longer need a prescription or referral from a doctor in order to treat a patient. Instead, a physical therapist is only required to refer any patient whose medical condition is beyond the physical therapist's scope of practice to a medical doctor.

Rx CARES FOR MISSOURI PROGRAM (Section 338.700)

This act creates the Rx Cares for Missouri Program to be administered by the Board of Pharmacy in consultation with the Department of Health and Senior Services. The goals of the program are to promote medication safety and prevent prescription drug abuse. The Board may expend funds appropriated to the Board to private and public entities for the development of programs and

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education in order to meet these goals.

FISCAL DESCRIPTION (continued)

The Board of Pharmacy may enter into interagency agreements with the Department of Health and Senior Services so that the Department may assist in the operation of the program. The program shall expire on August 28, 2019.

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 Insurance, Financial Institutions and Professional Registration

Department of Mental Health

Department of Corrections

Department of Revenue

Department of Social Services -

MO HealthNet Division

Division of Legal Services

Joint Committee on Administrative Rules

Office of Administration -

General Services Division

Office of State Courts Administrator

Office of Secretary of State

Office of State Treasurer

Callaway County

Mississippi County

St. Louis County

Missouri State University

Northwest Missouri State University

University of Central Missouri

University of Missouri

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Mickey Wilson, CPA

Mickey Wilen

Director

May 11, 2017

Ross Strope Assistant Director May 11, 2017