

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5226-04
Bill No.: HCS for SS for SCS for SB 775
Subject: Health Care; Medicaid/MO HealthNet; Taxation and Revenue - General;
Hospitals; Nursing Homes and Long-term Care Facilities; Pharmacy
Type: Original
Date: March 19, 2018

Bill Summary: This proposal extends the sunset on certain health care provider reimbursement allowance taxes and modifies the hospital reimbursement allowance tax.

This legislation will expire on September 30, 2020.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$135,412)	\$35,163,132 to \$72,281,192	\$8,713,856 to \$17,993,371
Total Estimated Net Effect on General Revenue	(\$135,412)	\$35,163,132 to \$72,281,192	\$8,713,856 to \$17,993,371

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Ambulance Provider Tax*	\$0	\$0	\$0
Nursing Facility Reimbursement Allowance Tax**	\$0	\$0	\$0
Managed Care Provider Tax ***	\$0	\$0	\$0
Hospital Reimbursement Allowance Tax ****	\$0	\$0	\$0
Pharmacy Provider Tax*****	\$0	\$0	\$0
ICF/ID Provider Tax*****	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Revenues and expenditures of approximately \$11.3 million annually net to \$0.

**Revenues and expenditures of approximately \$193.7 million annually net to \$0.

*** Revenues and expenditures between \$52.0 million and \$101 million annually and net to \$0.

****Revenues and expenditures of approximately \$1.1 billion annually net to \$0.

*****Revenues and expenditures of approximately \$110.3 million annually net to \$0.

*****Revenues and expenditures of approximately \$6.0 million annually net to \$0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Revenues and expenditures of approximately \$2.6 billion annually net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	1	1	1
Federal	1	1	1
Total Estimated Net Effect on FTE	2	2	2

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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 190.839, 198.439, 208.431 - 208.437, 208.471, 208.480, 338.550 & 633.401:

Officials from the **Department of Social Services (DSS), Divisions of MO HealthNet (MHD) and Legal Services (DLS)** state the proposed legislation grants a two-year extension for the Managed Care Organization Reimbursement Allowance, the Hospital Federal Reimbursement Allowance, the Ambulance Reimbursement Allowance Tax, the Nursing Facility Reimbursement Allowance, the Pharmacy Tax and the Intermediate Care Facility for the Intellectually Disabled tax programs.

If the proposed legislation does not pass to extend the Hospital Federal Reimbursement Allowance, the Ambulance Reimbursement Allowance Tax, the Nursing Facility Reimbursement Allowance, the Pharmacy Tax and the Intermediate Care Facility for the Intellectually Disabled tax programs an additional \$1.4 billion in general revenue funds will be needed to maintain the current level of services.

§190.839 - Ambulance Provider Tax

The proposed legislation would allow the MHD to collect approximately \$11,293,934 in Ambulance Tax, which will allow MHD to draw in federal funds of approximately \$21,162,697 in fiscal year 2019. The FY 2019 budget submitted by the DSS assumed the ambulance tax would continue through FY 2019. If the proposed legislation does not pass, additional General Revenue funds of \$11,293,934 would be needed to continue the current level of services.

§198.439 – Nursing Facility Reimbursement Allowance Tax

The proposed legislation would allow the MHD to collect \$193,652,023 in Nursing Facility Tax, which will allow MHD to draw in federal funds of \$362,867,283 in fiscal year 2019. The FY 2019 budget submitted by the DSS assumed the nursing facility tax would continue through fiscal year 2019. If this proposed legislation does not pass, additional General Revenue funds of \$193,652,023 would be needed to continue the current level of services.

§§208.431 - 208.437 - Managed Care Provider Tax

The MO HealthNet Division (MHD) is not currently collecting the Medicaid Managed Care Organization Reimbursement Allowance under section 208.431, however, if the proposed legislation passes it would be applied to Managed Care Organizations (MCOs). As defined in this section, MCOs mean Health Maintenance Organizations (HMOs) defined in 354.400, including health maintenance organizations operating pursuant to a contract under 42 U.S.C. Section 1396b(m) to provide benefits to MO HealthNet managed care program eligibility groups.

ASSUMPTION (continued)

Federal regulations require that a tax be broad-based, be uniform, and not include a hold harmless clause. The proposed assessment would allow for either a uniform tax or a non-uniform tax to be implemented on HMOs.

A **uniform tax** would require approval from the Centers for Medicare and Medicaid Services (CMS). The tax would be imposed on all Medicaid and non-Medicaid HMOs. The language allows for the tax to be applied to either revenues or member months. If applied to revenues, Medicaid revenues are estimated to be \$1.5 billion and non-Medicaid commercial revenues are estimated at \$338 million based on 2016 reported revenues. The structure of this tax requires that a maximum tax of 6% could be applied; for the purposes of this fiscal note, the DSS assumes a 5.5% tax. Applying a **5.5% uniform tax on revenues generates \$101,090,000**, with **\$82,500,000** coming from **Medicaid** and **\$18,590,000** coming from **commercial**. DSS would need **\$28,707,525 of the collection to use as state share** in adjusting the Medicaid capitation payments to reimburse the cost assessment. Therefore, the **remaining assessment available** would be approximately **\$72,382,475**.

If the **tax is applied to member months** rather than revenues at a uniform tax of \$10 per member month, then the estimated **tax for Medicaid HMOs is \$85,701,840** (\$10 x 8,570,184 2017 Medicaid member months) and **Non-Medicaid HMOs is \$10,770,420** (\$10 x 1,077,024 non-Medicaid member months) for a **total of \$96,472,260**. DSS would need **\$29,821,669** of the collection **to use as state share** in adjusting the Medicaid capitation payments to reimburse the cost assessment. Therefore the **remaining assessment available** would be approximately **\$66,650,591**.

A **non-uniform tax** would have different rates for Medicaid member months and commercial member months. Additionally it would exempt Medicare member months as well as member months associated with the Federal Employee Health Benefits Program which is also exempt under federal law. As this tax is not uniform, DSS would apply for a waiver from CMS. In order to meet CMS requirements under the waiver with a non-uniform tax, the effective tax for HMO's must meet a B1/B2 test as required of all provider taxes approved by CMS. To meet the B1/B2 test, an analysis was performed utilizing a non-uniform rate structure by member months for both the non-Medicaid HMO's and the Medicaid HMOs. The assessment is estimated based on member months from commercial HMOs from calendar year 2016 and Medicaid HMOs from February 2018 to be inclusive of statewide managed care. Non-Medicaid HMOs were assumed to receive a **tiered tax on member months**: Tier 1 (0 to 250,000 member months) \$4.00 per member month, Tier 2 (250,000-500,000 member months) \$3.00 per member month, Tier 3 (500,000 to 750,000 member months) \$1.00 per member month. Medicaid HMOs were assumed to receive a tiered tax on member months: Tier 1 (0-250,000 member months) \$45 per member

ASSUMPTION (continued)

month, Tier 2 (250,000-800,000 member months) \$5.00 per member month, Tier 3 (greater than 800,000 member months) \$1.00 per member month. **Overall the assessment would be expected to be \$52,011,008** of which the **Medicaid Managed Care Organizations** tax collection would be **\$48,126,543** and the **commercial tax collection** would be **\$3,884,465**. DSS would **need \$16,746,593** of the collection to use **as state share** in adjusting the Medicaid capitation payments to reimburse the cost assessment. Therefore the **remaining assessment** available would be approximately **\$35,264,415**.

The Department assumes the remaining tax would be used to offset General Revenue.

MHD will require an additional 2 FTE (One Band I Manager (\$53,928 annually) and one Management Analysis Specialist (MAS) II (\$50,634 annually) to implement and maintain this new assessment. Staff would need to work closely and coordinate payment activities with the HMOs, State Actuary, and Department of Revenue.

MHD will need to conduct an actuarial study for \$50,000 general revenue. The study is needed to calculate and analyze the tax payments for each Managed Care Organization and incorporate this adjustment into the capitated rate methodology.

The DSS is providing a range based on the options allowed under the language of the bill.

GR 2019 \$72,102,411	GR 2019 \$34,984,351
GR 2020 \$72,121,623	GR 2020 \$35,003,563
GR 2021 \$72,119,019	GR 2021 \$35,000,959
Other* 2019 (\$101,090,000)	Other* 2019 (\$52,011,008)
Other* 2020 (\$101,090,000)	Other* 2020 (\$52,011,008)
Other* 2021 (\$101,090,000)	Other* 2021 (\$52,011,008)
Net State share 2019 (\$28,987,589)	Net State share 2019 (\$17,026,657)
Net State share 2020 (\$28,968,377)	Net State share 2020 (\$17,007,445)
Net State share 2021 (\$28,970,981)	Net State share 2021 (\$17,010,049)
Federal 2019 (\$55,961,617)	Federal (\$31,461,396)
Federal 2020 (\$55,977,315)	Federal (\$31,477,094)
Federal 2021 (\$55,978,175)	Federal (\$31,477,954)

* Other - **Oversight** will use the Medicaid Managed Care Organization Reimbursement Allowance Fund (#0160) for fiscal note purposes.

ASSUMPTION (continued)

Oversight assumes DSS would not need additional rental space for 2 new FTE for this single proposal. However, Oversight notes, depending on the number of proposals passed during the legislative session, that cumulatively, DSS may need additional rental space or capital improvements as determined by the Office of Administration, Facilities Management, Design and Construction.

Oversight notes the current provisions of 208.436 refers to the Medicaid Managed Care Organization Reimbursement Allowance Fund (#0160). Proposed changes removes “Medicaid” from the fund name. As there is no language in the proposal authorizing the Office of the State Treasurer to create the “Managed Care Organization Reimbursement Allowance Fund”, Oversight assumes all taxes collected on managed care organizations will be deposited to the Medicaid Managed Care Organization Reimbursement Allowance Fund. Oversight will transfer from the Medicaid Managed Care Organization Reimbursement Allowance Fund to General Revenue the amount of the taxes exceeding the amount DSS needs to pay to the managed care organizations.

§208.471 - Federal Reimbursement Allowance Levied not to Exceed 41%

The proposed legislation would limit the amount of federal reimbursement allowance levied not to exceed 41% of the total yearly fiscal payments to hospitals including payments made to hospitals from state contracted managed care organizations. If the 41% trigger is exceeded, the DSS will work through the budget process to adjust the payments in the subsequent years.

§208.480 - Hospital Federal Reimbursement Allowance

The proposed legislation would allow the MHD to collect approximately \$1,064,868,921 in Hospital Tax, which will allow MHD to draw in federal funds of approximately \$1,995,363,057 in fiscal year 2019. The FY 2019 budget submitted by DSS assumed the hospital tax would continue through FY 2019. If the proposed legislation does not pass, additional General Revenue funds of \$1,064,868,921 would be needed to continue the current level of services.

§338.550 - Pharmacy Provider Tax

The proposed legislation would allow the MHD to collect \$110,340,772 in pharmacy tax, which will allow MHD to draw in federal funds of \$126,537,924 in fiscal year 2019. The FY 2019 budget submitted by the DSS assumed the ambulance tax would continue through FY 2019. If the proposed legislation does not pass, additional General Revenue funds of \$67,529,717 would be needed to continue the current level of services.

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

The proposed legislation would allow the MHD to collect approximately \$6,028,975 in intermediate care facilities for the intellectually disabled tax, which will allow MHD to draw in

ASSUMPTION (continued)

federal funds of \$4,445,830 in fiscal year 2019. The FY 2019 budget submitted by the Department of Mental Health assumed the intermediate care facilities for the intellectually disabled tax would continue through FY 2019. If this proposed legislation does not pass, additional General Revenue funds of \$6,028,975 would be needed to continue the current level of services.

Officials from the **Department of Mental Health (DMH)** state the proposed legislation extends the expiration date on various federal reimbursement allowance taxes from 2018 to 2020. Included in this proposal is the extension for the provider assessment for Intermediate Care Facilities/Intellectual Disabilities (ICF/IDs) and hospitals. DMH assumes no fiscal impact should the sunset be extended to 2020. The provider assessment for ICF/IDs generates approximately \$5.6 million in revenue for DMH. The provider assessment for hospitals generates approximately \$12.9 million in additional revenues for DMH.

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

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assume the proposal would not fiscally impact their agency.

Oversight notes the provisions of sections 208.431 are effective July 1, 2019 (FY20), therefore, Oversight assumes the DSS will not collect the managed care provider tax for FY19. Sections 190.839, 198.439, 208.431 - 208.437, 208.480, 338.550 & 633.401 expire September 30, 2020 (FY 21). As a result, FY 2021 provider taxes are presented as 3 months of impact. Oversight assumes the same amount of provider allowance taxes will be collected by DSS for all years. FY19 is shown as 9 months of impact for all provider taxes currently being collected since the current provisions expire September 30, 2018. It is also noted that personal service, fringe benefit and E&E costs for new personnel are presented for 10 months.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (9 Mo.)	FY 2020	FY 2021 (3 Mo.)
GENERAL REVENUE FUND			
<u>Transfer-in</u> - from the Medicaid Managed Care Organization Reimbursement Allowance Fund (§§208.431 - 208.437)			
	\$0	\$35,264,415 to \$72,382,475	\$8,816,104 to \$18,095,619
<u>Costs</u> - DSS (§§208.431 - 208.437)			
Personal service	(\$43,568)	(\$52,804)	(\$53,332)
Fringe benefits	(\$30,920)	(\$37,259)	(\$37,416)
Equipment and expense	(\$10,924)	(\$11,220)	(\$11,500)
Actuarial study	(\$50,000)	\$0	\$0
Total <u>Costs</u> - DSS	<u>(\$135,412)</u>	<u>(\$101,283)</u>	<u>(\$102,248)</u>
FTE Change - DSS	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$135,412)</u>	<u>\$35,163,132 to \$72,281,192</u>	<u>\$8,713,856 to \$17,993,371</u>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE
AMBULANCE PROVIDER TAX FUND (§190.839)			
<u>Income</u> - DSS			
Assessment on Medicaid ambulance organizations	\$8,470,450	\$11,293,934	\$2,823,484
<u>Costs</u> - DSS			
Medicaid program costs	<u>(\$8,470,450)</u>	<u>(\$11,293,934)</u>	<u>(\$2,823,484)</u>
ESTIMATED NET EFFECT ON AMBULANCE PROVIDER TAX FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2019	FY 2020	FY 2021
	(9 Mo.)		(3 Mo.)

**NURSING FACILITY
 REIMBURSEMENT ALLOWANCE
 TAX FUND (§198.439)**

Income - DSS

Assessment on Medicaid nursing facility organizations	\$145,239,017	\$193,652,023	\$48,413,006
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Costs - DSS

Medicaid program costs	<u>(\$145,239,017)</u>	<u>(\$193,652,023)</u>	<u>(\$48,413,006)</u>
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**ESTIMATED NET EFFECT ON
 NURSING FACILITY
 REIMBURSEMENT ALLOWANCE
 TAX FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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**MEDICAID MANAGED CARE
 ORGANIZATION
 REIMBURSEMENT ALLOWANCE
 FUND**

Income - DSS (§§208.431 - 208.437)

Assessment on Managed Care Provider organizations	\$0	\$52,011,008 to \$101,090,000	\$13,002,752 to \$25,272,500
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Transfer-out - to General Revenue

Assessments on managed care organizations	\$0	(\$35,264,415 to \$72,382,475)	(\$8,816,104 to \$18,095,619)
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Costs - DSS (§§208.431 - 208.437)

Cost assessment reimbursement to Managed Care Organizations	<u>\$0</u>	<u>(\$16,746,593 to \$28,707,525)</u>	<u>(\$4,186,648 to \$7,176,881)</u>
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**ESTIMATED NET EFFECT ON
 THE MEDICAID MANAGED CARE
 ORGANIZATION
 REIMBURSEMENT ALLOWANCE
 FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2019 (9 Mo.)	FY 2020	FY 2021 (3 Mo.)
HOSPITAL REIMBURSEMENT ALLOWANCE FUND (§208.480)			
<u>Income - DSS</u>			
Assessment on Medicaid hospital organizations	\$798,651,691	\$1,064,868,921	\$266,217,230
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$798,651,691)</u>	<u>(\$1,064,868,921)</u>	<u>(\$266,217,230)</u>
ESTIMATED NET EFFECT ON HOSPITAL REIMBURSEMENT ALLOWANCE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
PHARMACY PROVIDER TAX FUND (§ 338.550)			
<u>Income - DSS</u>			
Assessment on Medicaid pharmacy organizations	\$82,755,579	\$110,340,772	\$27,585,193
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$82,755,579)</u>	<u>(\$110,340,772)</u>	<u>(\$27,585,193)</u>
ESTIMATED NET EFFECT ON PHARMACY PROVIDER TAX FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2019 (9 Mo.)	FY 2020	FY 2021 (3 Mo.)
ICF/ID PROVIDER TAX (§633.401)			
<u>Income - DSS</u>			
Assessment on Medicaid ICF/ID organizations	\$4,521,731	\$6,028,975	\$1,507,244
<u>Costs - DSS</u>			
Medicaid program costs	<u>(\$4,521,731)</u>	<u>(\$6,028,975)</u>	<u>(\$1,507,244)</u>
ESTIMATED NET EFFECT ON ICF/ID PROVIDER TAX FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FEDERAL FUNDS

<u>Income - DSS</u>			
Assessment on Medicaid ambulance organizations (§190.839)	\$15,872,023	\$21,162,697	\$5,290,674
Assessment on Medicaid nursing facility organizations (§198.439)	\$272,150,462	\$362,867,283	\$90,716,821
Assessment on Managed care organizations (§§208.431 - 208.437)	\$0	\$31,379,950 to \$55,880,171	\$7,844,988 to \$13,970,043
Assessment on Medicaid hospital organizations (§208.480)	\$1,496,522,293	\$1,995,363,057	\$498,840,764
Assessment on Medicaid pharmacy organizations (§ 338.550)	\$94,903,443	\$126,537,924	\$31,634,481
Assessment on Medicaid ICF/ID organizations (§633.401)	<u>\$3,334,372</u>	<u>\$4,445,830</u>	<u>\$1,111,458</u>
Total <u>Assessment Income - DSS</u>	<u>\$1,882,782,593</u>	<u>\$2,573,136,691</u> to <u>\$2,597,636,912</u>	<u>\$643,284,174</u> to <u>\$649,409,229</u>
<u>Income - DSS</u>			
Increase program reimbursements (§§208.431 - 208.437)	<u>\$75,548</u>	<u>\$91,367</u>	<u>\$92,084</u>

<u>FISCAL IMPACT - State Government</u>	FY 2019 (9 Mo.)	FY 2020	FY 2021 (3 Mo.)
FEDERAL FUNDS (continued)			
<u>Costs - DSS (§§208.431 - 208.437)</u>			
Personal service	(\$43,568)	(\$52,804)	(\$53,332)
Fringe benefits	(\$30,920)	(\$37,259)	(\$37,416)
Equipment and expense	<u>(\$1,060)</u>	<u>(\$1,304)</u>	<u>(\$1,336)</u>
Total <u>Costs- DSS</u>	<u>(\$75,548)</u>	<u>(\$91,367)</u>	<u>(\$92,084)</u>
FTE Change - DSS	1 FTE	1 FTE	1 FTE
 <u>Costs - DSS</u>			
Medicaid program costs	<u>(\$1,882,782,593)</u>	<u>(\$2,573,136,691</u> to <u>\$2,597,636,912)</u>	<u>(\$643,284,174</u> to <u>\$649,409,229)</u>
 ESTIMATED NET EFFECT ON FEDERAL FUNDS			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Federal Funds	1 FTE	1 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2019 (9 Mo.)	FY 2020	FY 2021 (3 Mo.)
	<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

Beginning July 1, 2019 managed care organizations will be required to pay a managed care organization reimbursement allowance for the privilege of engaging in business in the state of Missouri. The reimbursement allowance may be imposed on the basis of revenue or enrollment and may impose differential rates on Medicaid and commercial business.

ASSUMPTION (continued)

This act extends the sunsets from September 30, 2018, to September 30, 2020, for the Ground Ambulance, Nursing Facility, Medicaid Managed Care Organization, Hospital, Pharmacy, and Intermediate Care Facility for the Mentally Retarded Reimbursement Allowance Taxes.

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 -
MO HealthNet Division
Division of Legal Services
Department of Mental Health
Joint Committee on Administrative Rules
Office of Secretary of State

Ross Strope



Acting Director
March 19, 2018