

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0572-09
Bill No.: Perfected SS for SCS for SB Nos. 70 & 128
Subject: Disabilities; Elderly; Health Care; Health Care Professionals; Health and Senior Services Department; Medicaid; Public Assistance; Social Services Department
Type: #Updated
Date: May 6, 2019
 #Updated to provide agency responses (throughout), local government responses and impact (p. 14) and Addendum (p. 14).

Bill Summary: This proposal modifies provisions relating to the administration of health care services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	Could be greater than (\$766,344 to \$1,187,667)	Could be greater than (\$612,398 to \$848,243)	Could be greater than (\$618,899 to \$856,969)
Total Estimated Net Effect on General Revenue	Could be greater than (\$766,344 to \$1,187,667)	Could be greater than (\$612,398 to \$848,243)	Could be greater than (\$618,899 to \$856,969)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Department of Insurance Dedicated (0566)	Up to \$23,700	\$0	\$0
State Road (0320)	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds	Less than \$23,700 to (Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 23 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal Funds*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and expenses more than \$550,000 annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	7.5 to 10.3	7.5 to 10	7.5 to 10
Federal Funds	7.5	7.5	7.5
Total Estimated Net Effect on FTE	15 to 17.8	15 to 17.5	15 to 17.5

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 2020	FY 2021	FY 2022
#Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§192.007 - Education and experience qualifications for DHSS director

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposal would have no fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for the DHSS for fiscal note purposes.

Senate Amendment (SA) 3

Oversight assumes changing the education and experience of the director will not have a fiscal impact on the DHSS.

§192.667 - Infection reporting

Oversight notes officials from the **Department of Health and Senior Services (DHSS)** state the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

Oversight contacted DHSS officials and asked whether the Centers for Medicare and Medicaid Services (CMS) already requires hospitals to submit health care-associated infection data. Officials indicated that although not required by CMS, most hospitals already provide the data to CMS. DHSS assumes there would be no savings for the department because they still have to collect health care-associated infection data from abortion facilities, ambulatory surgical centers (ASCs) and other facilities.

§197.108 - Hospital inspectors/surveyors and Senate Amendment (SA) 1

Officials from the **Department of Health and Senior Services (DHSS)** states §197.108 prevents an individual from being an inspector or surveyor of a hospital if they were an employee of such hospital or another hospital within its organization in the preceding two years. It also requires newly hired inspectors or surveyors to disclose the name of every hospital they, or any immediate family member, had been employed by in the last ten years. Review and updates of conflict of interest policies and procedures are within the normal ebb and flow for the Division of Regulation and Licensure. The department anticipates being able to absorb these costs.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight assumes the DHSS will be able to implement the provisions of this proposal with existing staff and resources and will indicate no fiscal impact to the DHSS for this section for fiscal note purposes.

§198.082 - Training requirements for certified nursing assistants

Officials from the **Department of Health and Senior Services (DHSS)** state the required curriculum of the nurse aide training program is provided by CFR 483.152. DHSS is required to maintain the nurse aid registry and assessments of nurse aide training and competency evaluation programs.

This bill adds locations where a nurse aide training program can be placed (veteran's home or hospital). If these facilities establish training programs, the newly certified nurse aides will be added to the registry. These programs will increase the number of newly certified nurse aides who will be added to the registry. Since the Division of Regulation and Licensure (DRL) already maintains the certified nurse aide registry, passage of this proposal will not increase the workload of the staff in DRL, Therefore, DHSS assumes the proposal will have no fiscal impact.

Oversight notes provisions of §198.082.8 provide that the DHSS may offer additional training programs and certifications to students who are already certified as nursing assistants according to regulations promulgated by the department and curriculum approved by the board.

In response to similar legislation (SB 490), **DHSS** officials stated if they were to offer additional training programs and certifications as detailed in subsection 8, it is assumed 0.5 FTE of a Register Nurse Manager, 1.0 FTE Facility Advisory Nurse III, 0.1 FTE Attorney, and 1.0 FTE Senior Office Support Assistant would be needed. In addition, it is assumed there would be unknown Information Technology Services Division (ITSD) costs to develop and maintain an online test bank and automated test taking process. Therefore, the cost would be unknown greater than \$206,094 to the General Revenue Fund (GR) for FY 2020; unknown greater than \$210,845 to GR for FY 2021; and unknown greater than \$213,070 to GR for FY 2022.

For purposes of this fiscal note, **Oversight** will range potential costs as \$0 or the amount provided by the DHSS if they were to offer additional training programs and certifications to certified nurse aides.

Oversight notes officials from the **Department of Insurance, Financial Institutions and Professional Registration** state the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

ASSUMPTION (continued)

§208.935 - Interactive assessment tool/mobile assessments

Officials from the **Department of Health and Senior Services (DHSS)** state HCBS assessor staff conduct initial assessments to determine nursing home level of care (LOC) eligibility for services. In addition, assessors conduct annual reassessments on current participants to ensure continued eligibility for HCBS and aid in care plan changes. Currently, the assessments and reassessments are completed in the participant's home using a 13-page paper copy form which is manually filled out by DSDS staff and then manually entered into the Cyber Access Web Tool, resulting in a duplication of efforts. It is estimated DSDS assessor staff spend one hour of time for the manual data entry of initial assessments, as well as one hour of time for the manual data entry of annual reassessments in the Web Tool. Based on FY 2018 data, the manual data entry results in 38,002 hours of staff time per year (18,170 initial assessments + 19,832 annual reassessment = 38,002 x 1 hour of time = 38,002 hours).

This section would allow for the development of a mobile application to conduct both initial HCBS assessments as well as annual reassessments. This would equip assessor staff with tablets that could be preloaded each morning with assessments to be completed using a touch screen application rather than a hard paper copy. Staff could then upload or sync those assessments to the Cyber Access Web Tool using a secure Wi-Fi connection or "docked" at the office at the end of the day, thereby eliminating the need to manually enter the information at a desktop. Staff time will be reinvested in a variety of ways to improve integrity of the program, including: implementation of a certified assessor process which requires more stringent training guidelines and quality assurance for assessors to ensure quality and accuracy in HCBS assessments; and completion of additional annual reassessments in person. (Currently, reassessments may be completed via telephone when workload exceeds staff capacity.)

Eliminating the hard paper copy would also lead to cost savings in the amount of paper and toner used annually. The current hard paper copy assessment tool is 13 pages - seven pages front and back, resulting in 266,014 pieces of paper annually, or 532 reams (7 pages x 38,002 assessments = 266,014; 266,014 pieces of paper / 500 pieces of paper per ream = 532 reams). At a cost of \$2.77 per ream, the total savings for paper per year would be \$1,474 (532 x \$2.77 = \$1,474). It is estimated one toner cartridge can print 35,000 pieces of paper. The reduction in hard paper copies would also lead to \$1,314 in toner savings per year (266,014 pieces of paper / 35,000 pieces of paper per toner cartridge = 7.6 less cartridges used; 7.6 x \$172.90 cost per cartridge = \$1,314 savings - GR 50% / Fed 50%). Total cost savings per year are estimated to be \$2,788 (\$1,474 + \$1,314; GR 50% / Fed 50%).

ASSUMPTION (continued)

One-time development costs by the current Cyber Access contractor, Conduent, for the mobile assessment application are estimated to be \$500,000 (GR 50%/Fed 50% or could potentially be GR 10%/Fed 90% if approved by application to the Center for Medicare and Medicaid Services (CMS)), which would occur in State Fiscal Year (SFY) 2020, and annual maintenance fees of \$100,000 per year thereafter (GR 50% / Fed 50% or could potentially be GR 25%/Fed 75%). Due to the unknown of GR/Fed split at this time, the costs have been represented as a range. In addition, an initial investment of approximately \$50,750 will be required for the purchase of 125 tablets/iPads with related accessories (as quoted to by Office of Administration, Information Technology Services Department (ITSD) vendor as of 1/18/19) with an anticipated replacement cycle of every three years (GR 50% / Fed 50%).

Oversight notes, based on discussions with DHSS officials, it is possible the development of the mobile technology/interactive assessment tool (estimated at \$500,000) may qualify for a 90%/10% Federal/state match (\$450,000 Federal; \$50,000 GR) in FY 2020. However, the Center for Medicare and Medicaid Services (CMS) indicated DHSS would have to apply for the enhanced match. For fiscal note purposes, Oversight will range costs from the current 50/50 split to the 90/10 split.

In addition, DHSS officials are in the process of verifying a potential enhanced split for maintenance costs (\$100,000 annually beginning in FY 2021). It is possible these costs could be reimbursed at a 75%/25% Federal/state rate rather than the estimated 50%/50% split previously used. Therefore, for fiscal note purposes, Oversight will range the FY 2021 and FY 2022 maintenance costs between the 50/50 split and the 75/25 split.

§§208.909, 208.918, and 208.924 - Consumer directed services

Officials from the **Department of Health and Senior Services (DHSS)** state §208.918.2(3)(a) is interpreted to mean the DHSS would promulgate a rule to define the elements and frequency of the consumer-directed division provider certification manager course, and the Missouri Medicaid Audit and Compliance (MMAC) within the Department of Social Services would maintain responsibility for provisions of the course and administering the exam. This would be similar to the current certified manager course required of agency model in-home services providers and would follow the delineation of authorities granted through executive order to MMAC, specifically related to the responsibilities of provider education and oversight. Therefore, any fiscal costs outside of rule-making would impact MMAC rather than DHSS.

Director's Office

§208.918.2(3)(a) provides that the department of health and senior services shall promulgate by rule a consumer-directed division provider certification manager course for the implementation of this section.

ASSUMPTION (continued)

The proposed legislation requires the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. The DHSS, Office of General Counsel will need an additional .10 FTE for an attorney (salary of \$64,500 per year) to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility. Due to current workload being at maximum limits, these costs cannot be absorbed.

Oversight assumes 0.1 FTE would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the DHSS would not need additional rental space for 0.1 FTE. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

Oversight assumes since DHSS states their responsibility to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility, Oversight will range the cost of the partial FTE from \$0 to DHSS' estimate less fringe benefits over 7.65% and rental space costs.

Officials from the **Department of Social Services (DSS), Missouri Medicaid Audit Compliance (MMAC)** state §208.918 is part of the state statutes pertaining to Personal Care Assistance Services, more commonly known as Consumer Directed Services (CDS) which allow a physically-disabled Medicaid consumer to remain in his or her home and hire a personal care attendant to perform routine tasks for the consumer including, but not limited to, such tasks as dressing and undressing, moving into and out of bed, bathing and grooming, and meal preparation. Federal law (42 U.S.C. § 455.432) requires MMAC to conduct pre-enrollment and post-enrollment site visits of vendors that are designated as "moderate" risks to the Medicaid program. CDS vendors are considered "moderate" risks.

The Center for Medicare and Medicaid Services (CMS) is a federal agency within the U.S. Department of Health and Human Services that oversees many federal healthcare programs, including Medicaid. In a sub-regulatory guidance document, CMS told states that visits required by §455.432 could be combined as long as the verification activity for screening and enrollment was documented separately. MMAC has been able to take advantage of this directive from CMS by using site visits performed by either the Missouri Department of Health and Senior Services or the Missouri Department of Mental Health, thereby consolidating the work of the state

ASSUMPTION (continued)

agencies and staff positions necessary to perform site visits. If MMAC is made solely responsible for verifying vendors' compliance with 208.918.2(5), it will result in an increase in the number of Full Time Employees (FTEs) that MMAC will have to hire and train to carry out this work.

208.918.2(5) is added to require vendors to maintain a proper business location that complies with all applicable city, county, state, and federal regulations and is verified by Missouri Medicaid Audit and Compliance (MMAC). MMAC will need 15 FTE (Medicaid Specialists). The Department of Health and Senior Services (DHSS) interprets the statute to mean that DHSS will promulgate the rule and MMAC will provide the course.

Until the FY 20 budget is final, the Department cannot identify specific appropriations.

The Grand Total for the DSS is:

FY 2019 (10 mo.): \$1,015,436 (GR: \$507,718; FF: \$507,718);

FY 2020: \$1,107,317 (GR: \$553,657; FF: \$553,657); and,

FY 2021: \$1,118,912 (GR: \$559,456; FF: \$559,456).

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DSS for fiscal note purposes.

Oversight has inquired with DSS if there would be some amount of offsetting savings to DHSS and DMH, but have not received information yet. Upon the receipt of their response, 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.

§§217.930 and 221.125 - Suspension of MO HealthNet benefits when incarcerated

Officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** state currently, when the Family Support Division (FSD) is notified that an individual has become incarcerated, MHD eligibility is closed and a new application is required upon release. The FSD has a Memorandum of Understanding (MOU) in place with the Missouri Department of Corrections (DOC) to accept applications facilitated by the DOC when an individual is temporarily released to receive inpatient treatment for twenty-four hours or longer and when an inmate is expected to be permanently released. The DOC facilitates the application process on behalf of FSD for certain inmates within its custody who would appear to meet all factors for eligibility and coverage for MHD and assists in completing the necessary forms for application forms. FSD notifies the inmate in writing the outcome when eligibility determination is complete.

ASSUMPTION (continued)

In State Fiscal Year (SFY) 2018, the FSD closed MHD eligibility for 1,124 individuals due to incarceration and determined 461 individuals eligible for MHD benefits upon release. Of the 461 individuals determined eligible upon release, 155 were due to a temporary release of at least twenty-four hours for inpatient treatment and 306 were due to permanent release.

The proposed changes do not change MHD eligibility criteria established by Centers for Medicare & Medicaid Services (CMS) and participants will still need to meet all program eligibility requirements in order to keep active and/or suspended MHD benefits. To ensure the proper eligibility is determined, the FSD completes a review when there is a change in circumstances. An individual becoming incarcerated is a change in circumstance and when a participant with active or suspended coverage no longer meets the criteria for his or her current program benefits, FSD will explore an ex parte review to determine if the participant qualifies for coverage under another MHD program. If the individual does not qualify for coverage under another MHD program, their coverage will be closed. If the individual qualifies for coverage under another MHD program, they will be moved to the proper program. Therefore, "restored" coverage refers to the activation of coverage. However, this may not be at the same level as when the individual became incarcerated due to a change in circumstances. The FSD will continue to work with the DOC and will also work with county, city, and private jails to facilitate applications and eligibility reviews of incarcerated individuals to determine eligibility.

The provisions of this bill do not affect any provisions relating to eligibility for any benefits from any program FSD administers. Therefore, there is no fiscal impact to FSD. Because FSD only determines eligibility for covered services, FSD defers to MHD regarding any services or medical expenses the participant may incur during periods of suspended coverage.

Currently, MHD has a process for persons that are incarcerated, but it involves starting and stopping their eligibility. In order to add a process to suspend eligibility, new system work would need to be created. This system work would include creating lock in segments for all incarcerated members. MHD does not pay for services while individuals are incarcerated. When they are admitted into the hospital or when they are released from prison, the lock in would have to be ended and a new lock in created for the date when/if they return to prison. Also, MHD would have to update the eligibility verification responses sent to providers to reflect the lock in to prison. This would require Medicaid Management Information System (MMIS) system modifications costing up to \$500,000 to MHD. MMIS system work would be paid 25% GR/75% Federal (\$125,000 GR/\$375,000 Federal).

Additional staff time would be needed to manually add and close the lock-ins described above. This is estimated to be approximately 4 extra hours a month. These duties could be handled by a Management Analysis Specialist II (MAS II). At approximately \$22/hr for a MAS II, the total administrative costs associated with this legislation would be \$1,056 (\$22/hr*4 hrs*12 months) per year. It is assumed that MHD could absorb these costs with a MAS II already on staff.

ASSUMPTION (continued)

Oversight contacted DSS staff regarding the \$500,000 in system modifications that would be needed. DSS assumes it would have to issue a request for proposal and get bids for the modifications that would be needed. Oversight contacted officials with the Office of Administration, Division of Purchasing and Materials Management (DPMM). DPMM officials indicated that a request for proposal would have to be submitted and bids received for these system modifications.

In addition, Oversight contacted DSS officials regarding any potential savings as a result of not having to process Medicaid applications for offenders being released from prison because benefits were suspended rather than terminated. Officials indicated the DSS would still need to go through a re-verification process to determine whether an individual would be eligible for benefits upon release. Any savings would be very small and there is no way to track the potential savings. Re-verification would still have to be performed manually for each offender being released from prison/jail to determine eligibility.

Oversight does not have any information to the contrary. Oversight assumes the MHD has sufficient staff and resources to absorb the additional duties required by this proposal to manually add and close the lock-ins described in their response. However, Oversight will reflect the costs for MMIS modifications provided by DSS for fiscal note purposes.

Officials from the **Department of Corrections (DOC)** defer to the DSS for any impact related to this proposal.

Oversight notes this legislation appears to require the DOC to notify DSS within 20 days of an offender on Medicaid coming to prison and to notify them within 45 days of the offender leaving prison. This will be less burdensome than the current process. This bill should provide qualifying offenders access to the medical and mental health care they need immediately upon release which may increase their probability of success in the community. This bill could immensely aid re-entry purposes and continuation of care.

The bill does not specify how the DOC determines if a person is receiving benefits under MO HealthNet. Therefore, it is unclear how this practice will be implemented.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact as provided by the DOC for fiscal note purposes.

Oversight notes in response to similar legislation (SB 393) that the **City of Kansas City**, the **Joplin Police Department**, the **Springfield Police Department**, the **St. Louis County Police Department**, and the **St. Louis County Department of Justice Services** stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other Sheriffs' Offices, Police Departments, and the City of Columbia were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Oversight notes this proposal could have positive benefits to the state (including savings related to not having to process MoHealthnet applications once prisoners are released from prison and the potential reduced recidivism rates if newly-released inmates have access to health insurance immediately upon release) and to certain persons recently released from confinement in a prison or jail. Oversight assumes these benefits are indirect impacts and will not reflect them in the fiscal note.

§334.030 - Licensing requirements for nursing home administrators

Officials from the **Department of Health and Senior Services (DHSS)** assume this legislation revises the criteria necessary to qualify for an initial nursing home administrator license or a temporary emergency license. Applicants applying for licensure or temporary emergency licensure under the proposed legislation would fall under the same process, fee and review as current applicants. Changing regulations and applicant licensure reviews are within the normal ebb and flow for the Division of Regulation and Licensure so minimal time and expense will be required to conduct the requirements of the proposed legislation. The department anticipates being able to absorb these costs. However, until the FY20 budget is final, the department cannot identify specific funding sources.

Oversight notes that the DHSS has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for this section on the fiscal note.

§376.690 - Unanticipated out-of-network health care services

Officials from the **Department of Social Services (DSS)** assume this legislation revises Chapter 376, which pertains to Health Maintenance Organizations (HMO). The health plans that contract with the state to provide health services in the MO HealthNet Managed Care Program are licensed as HMOs, therefore without a specific exemption, this legislation could pertain to these health plans.

This legislation revises legislation passed in FY 2018 that outlines reimbursement requirements and an arbitration system for reimbursement disputes for out-of-network providers providing "unanticipated out-of-network care" defined as services received in an in-network facility from an out-of-network provider when the patient presents with an emergency medical condition.

ASSUMPTION (continued)

The legislation passed in FY 2018 was permissive and allowed for this reimbursement and arbitration system, and required an effective date of January 1, 2019. The current bill requires this reimbursement, the arbitration process and removes the January 1, 2019 effective date.

Currently, the MO HealthNet Managed Care contract requires that non-participating providers be reimbursed at 90% of the Fee-for-Service fee schedule. There are exceptions to this requirement including emergency services and "other non-participating reimbursement rates required by law or in the contract". Currently, emergency services provided by an out-of-network provider must be paid at no lower than the current MO HealthNet program rates in effect at the time of service.

If the proposed legislation passes and the MO HealthNet Managed Care contract would need to be amended to align non-participating reimbursement with the legislation, it would be assumed that unanticipated out-of-network care would be reimbursed at a rate higher than the current FFS fee schedule reimbursement. Given the negotiation process outlined and the connection of "reasonable" reimbursement to commercial levels, the "reasonable" level of reimbursement in Medicaid is not aligned with the negotiation benchmarks. This is true whether the MCO Medicaid contract required reimbursement at 90% of Medicaid FFS for non-participating providers or if the Medicaid FFS was required. It is assumed that the Managed Care capitation rates would increase **at least \$100,000** for this change. DSS estimates the actuarial cost to evaluate this program change to the Managed Care capitation rates to be no more than \$50,000. The below splits are based on the FMAP rate with a 2.10% medical inflation rate for FY 2021 and FY 2022.

FY 2020: (\$150,000) - (GR \$59,412; FF \$90,588)
FY 2021: (\$102,100) - (GR \$35,135; FF \$66,9655)
FY 2022: (\$104,244.10) - (GR \$35,872; FF \$68,372)

Until the FY 2020 budget is finalized, the Department cannot identify specific appropriations.

Oversight notes that costs for capitation rate increases would be split 35.412% state funds and 65.588% federal funds. Costs for actuarial studies are split equally between state and federal funds.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Health and Senior Services** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for this section on the fiscal note.

ASSUMPTION (continued)

§376.1212 - Enrollment in a health benefit plan by a pregnant person (SA 4)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** estimate 158 companies will file one policy amendment each for a total of 158 filings submitted to the department for review along with a \$150 filing fee. One-time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$23,700 (158 * \$150 = \$23,700).

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 may need to request additional staff to handle increase in workload.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the one-time income provided by the DIFP for fiscal note purposes.

Officials from the **Department of Social Services**, the **Department of Health and Senior Services** and the **Department of Transportation** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

§376.1260 - Off-label usage for drugs (SA 2 and SA 1 to SA 2)

Officials from the **Department of Transportation (MoDOT)** state this version of the legislation could have a small unknown negative fiscal impact to MoDOT, as it adds language requiring health carriers to cover "off-label usage" of prescription drugs if that off-label usage is done to treat cancer. This is not projected to be a drastic increase to the plan, but it could increase costs if there aren't processes in place to ensure that FDA-approved drugs are tried before off-label drugs are.

Oversight notes that the MoDOT stated this version of the legislation could have a small unknown fiscal impact. Oversight does not have any information to the contrary. Therefore, Oversight will reflect an Unknown cost to the State Road Fund.

Officials from the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Social Services** each assume the proposal will have no fiscal impact on their organization.

ASSUMPTION (continued)

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight notes the provisions of SA 2 contain an emergency clause.

#Local governments (§§376.1212 and 376.1260 - SA 4, SA 2 and SA 1 to SA 2)

#Officials from the **Mississippi County Health Department (MCHD)** state this proposal will impact the health department because, at present, MCHD pays 100% of insurance premiums for employees. **Oversight** notes MCHD officials did not provide a statement of fiscal impact.

#Officials from the **Livingston County Health Center (LCHC)** state the health center pays 100% of employee health care premiums. **Oversight** notes LCHC officials did not provide a statement of fiscal impact.

#For fiscal note purposes, **Oversight** will present a \$0 to (Unknown) cost for All Local Governments for potential increases in insurance premiums.

#**Oversight** notes the **Columbia/Boone County Department of Public Health and Human Services**, the **Clay County Public Health Center** and **St. Louis County** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

#**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other Cities, Counties, Local Public Health Agencies, Nursing Homes, Sheriffs' Departments, Police Departments, Fire Departments, Ambulance Districts, Schools, Utilities, Hospitals, and Colleges were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Addendum (Oversight additional information)

#**Oversight** contacted officials from the **Department of Social Services (DSS)**, the **Missouri Consolidated Health Care Plan (MCHCP)** and the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** regarding the possibility the provisions of §§376.1212 and 376.1260 (SA 4, SA 2 and SA 1 to SA 2) would be considered additional insurance mandates under the Affordable Care Act. 45 CFR §155.170 provides that a benefit required by State action taking place on or before December 31, 2011 is considered an Essential Health Benefit (EHB). A benefit required by State action taking place on or after January 1,

ASSUMPTION (continued)

2012, other than for purposes of compliance with Federal requirements, is considered in addition to the essential health benefits. The State will identify which State-required benefits are in addition to the EHB. The State must make payments to defray the cost of additional required benefits.

#DSS does not believe the cost of off-label drug use will have a significant impact on their expenditures. DSS officials indicated it is currently common practice for them to pay for the use of off-label drugs. If the Food and Drug Administration (FDA) has approved a drug, MHD already covers the cost of the drug. DSS does not try to dictate to doctors how to use drugs in the treatment of their patients.

#MCHCP officials indicated the use of off-label drugs may be considered medical necessity. MCHCP currently pays for cancer treatment, which is already expensive, and the cost differential between paying for cancer treatment and the off-label use of drugs as another method to treat cancer will not significantly impact the cost of the treatments paid for by MCHCP.

#DIFP officials indicated the EHB benchmark needs clarification for the requirement of coverage of drugs to treat cancer. There may be some argument that the use of off-label drugs can be considered experimental or investigational. Experimental or investigational treatments are often not covered by insurance policies although DIFP does not believe the use of off-label drugs would constitute an additional required benefit.

#In addition, DIFP does not believe the requirements of this proposal to permit enrollment of a pregnant person on an insurance policy constitutes a new health benefit based on current information. EHBs already require maternity coverage, so this appears to be an enrollment issue.

#DIFP officials indicated Massachusetts may have added an additional health benefit after the January 1, 2012 date provided in 45 CFR §155.170. Oversight contacted the Massachusetts Health Care Access Bureau to obtain information regarding this additional benefit.

The Commissioner of the Massachusetts Health Care Access Bureau stated three mandates have passed in Massachusetts since 12-31-2011 in which the state defrays the cost. These benefits include pediatric hearing aids, treatment for cleft palate and lipodystrophy for AIDS patients. The two latter benefits deal with cosmetic procedures related to cleft palate and lipodystrophy.

The Commissioner indicated Massachusetts has covered the use of off-label drugs for cancer treatment since 1998 or 1999 so this mandate was in place prior to the Affordable Care Act. A legal analysis would be needed to determine whether implementing the use of off-label drugs to

ASSUMPTION (continued)

treat cancer would constitute mandated coverage in Missouri. The Commissioner provided a bulletin from 2003 that directs the reader to a pharmacopoeia of usage of off-label drugs for cancer treatment, particularly the Association of Community Cancer Center's *Compendia-Based Drug Bulletin* that provides guidelines for combinations of drugs. It could be possible that these combinations would not be classified as experimental or investigational since the drugs are already paid for by insurance companies.

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.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** assume the proposal will have no direct impact on the MHP. MHP defers to the Missouri Department of Transportation (MoDOT), Employee Benefits Section for response on behalf of the Highway Patrol. Please see MoDOT's fiscal note response for the potential fiscal impact of this proposal.

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 \$5,000. 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 require additional resources.

Oversight notes the **Department of Mental Health, the Missouri Consolidated Health Care Plan, the Missouri Department of Conservation** and the **Office of Administration** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Savings - DHSS (\$208.935)</u>			
Reduction in paper and toner p. 5	\$1,161	\$1,394	\$1,429
<u>Costs - DHSS (\$198.082) p. 4</u>			
Personal service	\$0 or... (\$100,576)	\$0 or... (\$115,383)	\$0 or... (\$116,537)
Fringe benefits	(\$57,972)	(\$66,687)	(\$67,039)
Equipment and expense	<u>(Greater than \$47,546)</u>	<u>(Greater than \$28,775)</u>	<u>(Greater than \$29,494)</u>
Total <u>Costs - DHSS</u>	<u>\$0 or (Greater than \$206,094)</u>	<u>\$0 or (Greater than \$210,845)</u>	<u>\$0 or (Greater than \$213,070)</u>
FTE Change - DHSS	0 or 2.6 FTE	0 or 2.5 FTE	0 or 2.5 FTE
<u>Costs - DHSS (\$208.918) p. 7</u>			
Personal service	(\$5,375)	\$0	\$0
Fringe benefits	(\$411)	\$0	\$0
Equipment and expense	<u>(\$3,657)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs - DHSS</u>	<u>\$0 to (\$9,443)</u>	<u>\$0</u>	<u>\$0</u>
FTE Change - DHSS	0 to 0.1 FTE	0 FTE	0 FTE
<u>Costs - DSS (\$208.918) p. 8</u>			
Personal service	(\$239,400)	(\$290,153)	(\$293,054)
Fringe benefits	(\$151,770)	(\$183,000)	(\$183,884)
Equipment and expense	<u>(\$116,548)</u>	<u>(\$80,504)</u>	<u>(\$82,517)</u>
Total <u>Costs - DSS</u>	<u>(\$507,718)</u>	<u>(\$553,657)</u>	<u>(\$559,455)</u>
FTE Change - DSS	7.5 FTE	7.5 FTE	7.5 FTE
<u>Costs - DHSS (\$208.935) p. 5 & 6</u>			
Personal service	\$ 0 to (\$5,375)	\$0	\$0
Fringe benefits	\$0 to (\$411)	\$0	\$0
Mobile access system changes	(\$50,000 or \$250,000)	(\$25,000 or \$50,000)	(\$25,000 or \$50,000)
Mobile assess tablets & accessories	<u>(\$25,375)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs - DHSS</u>	<u>(\$75,375 to \$281,161)</u>	<u>(\$25,000 or \$50,000)</u>	<u>(\$25,000 or \$50,000)</u>
FTE Change - DHSS	0 or 0.1 FTE	0 FTE	0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
GENERAL REVENUE FUND			
(continued)			
<u>Costs - DSS (§§217.930 and 221.125)</u>			
MMIS system modifications p. 9	(\$125,000)	\$0	\$0
<u>Cost - DSS (§376.690)</u>			
Increase in Managed Care capitation rates p. 12	(\$34,412)	(\$35,135)	(\$35,873)
Actuarial Study p. 12	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could be greater than (\$766,344 to \$1,187,667)</u>	<u>Could be greater than (\$612,398 to \$848,243)</u>	<u>Could be greater than (\$618,899 to \$856,969)</u>
Estimated Net FTE Effect on the General Revenue Fund	7.5 to 10.3 FTE	7.5 to 10 FTE	7.5 to 10 FTE
DEPARTMENT OF INSURANCE DEDICATED FUND (0566)			
<u>Income - DIFP (§376.1212) (SA 4)</u>			
Form filing fees p. 13	<u>Up to \$23,700</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON THE DEPARTMENT OF INSURANCE DEDICATED FUND	<u>Up to \$23,700</u>	<u>\$0</u>	<u>\$0</u>
STATE ROAD FUND (0320)			
<u>Cost - MoDOT (§367.1260) SA 2</u>			
Off-label usage of prescription drugs p. 13	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE STATE ROAD FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
FEDERAL FUNDS			
<u>Income - DSS (§208.918)</u>			
Program reimbursements p. 8	\$507,718	\$553,657	\$559,455
<u>Income - DHSS (§208.935) p. 5 &6</u>			
Mobile access system changes	\$250,000 or	\$50,000 or	\$50,000 or
reimbursement	\$450,000	\$75,000	\$75,000
Mobile assess tablets & accessories	\$25,375	\$0	\$0
<u>Income - DSS (§§217.930 and 221.125)</u>			
Program reimbursements for MMIS modifications p. 9	\$375,000	\$0	\$0
<u>Income - DSS (§376.690)</u>			
Increase in Managed Care capitation rates p. 12	\$65,588	\$66,965	\$68,371
Actuarial Study p. 12	<u>\$25,000</u>	<u>\$0</u>	<u>\$0</u>
Total <u>All Income</u>	<u>\$1,248,681 or</u> <u>\$1,448,681</u>	<u>\$670,622 or</u> <u>\$695,622</u>	<u>\$677,826 or</u> <u>\$702,826</u>
<u>Costs - DSS (§208.918) p.8</u>			
Personal service	(\$239,400)	(\$290,153)	(\$293,054)
Fringe benefits	(\$151,770)	(\$183,000)	(\$183,884)
Equipment and expense	<u>(\$116,548)</u>	<u>(\$80,504)</u>	<u>(\$82,517)</u>
Total <u>Costs - DSS</u>	<u>(\$507,718)</u>	<u>(\$553,657)</u>	<u>(\$559,455)</u>
FTE Change - DSS	7.5 FTE	7.5 FTE	7.5 FTE
<u>Costs - DHSS (§208.935) p. 5 & 6</u>			
Mobile access system changes	(\$250,000 or	(\$50,000 or	(\$50,000 or
reimbursement	\$450,000)	\$75,000)	\$75,000)
Mobile assess tablets & accessories	(\$25,375)	\$0	\$0

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
FEDERAL FUNDS (continued)			
<u>Costs - DSS (§§217.930 and 221.125)</u>			
MMIS system modifications p. 9	(\$375,000)	\$0	\$0
<u>Costs - DSS (§376.690)</u>			
Increase in Managed Care capitation rates p. 12	(\$65,588)	(\$66,965)	(\$68,371)
Actuarial Study p. 12	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>All Costs</u>	<u>(\$1,248,681 or \$1,448,681)</u>	<u>(\$670,622 or \$695,622)</u>	<u>(\$677,826 or \$702,826)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Effect on Federal Funds	7.5 FTE	7.5 FTE	7.5 FTE
 <u>FISCAL IMPACT - Local Government</u>			
#LOCAL GOVERNMENTS - ALL			
<u>#Costs - All local governments (§§376.1212 and 376.1260) p. 14</u>			
Increase in share of insurance premiums	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
#ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - ALL	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

FISCAL IMPACT - Small Business

This proposal could have a direct, negative fiscal impact on small business consumer-directed services programs as they will be required to have an annual audit or financial statement review performed by a Certified Public Accountant.

FISCAL DESCRIPTION

This act requires certified nursing assistant training programs to be offered at skilled nursing or intermediate care facility units in Missouri veterans homes and hospitals. Certified nursing assistants shall include certain employees at such units and hospitals who have completed the training and passed the certification examination. Training shall include on-the-job training at certain locations and the act repeals language pertaining to continuing in-service training. Persons who have completed the required hours of classroom instruction and clinical practicum for unlicensed assistive personnel under state regulations shall be allowed to take the certified nursing assistant examination and shall be deemed to have fulfilled the classroom and clinical standards requirements for designation as a certified nursing assistant. Finally, the Department of Health and Senior Services may offer additional training programs and certifications to students already certified as nursing assistants as specified in the act. (§198.082)

Under current law, vendors of consumer-directed services shall monitor the performance of personal care assistance service plans. This act requires the consumer to permit the vendor to comply with its quality assurance and supervision process, including bi-annual face-to-face home visits and monthly case management activities. During the home visits, the vendor shall document if the attendant was present and providing services as set forth in the plan of care and report the Department if the attendant is not present or providing services, which may result in a suspension of services to the consumer.

This act repeals language permitting the Department of Health and Senior Services to establish certain pilot projects for telephone tracking systems.

This act also requires vendors to notify consumers during orientation that falsification of personal care attendant time sheets shall be considered and reported to the Department as fraud.

Under this act, a vendor shall submit an annual financial statement audit or annual financial statement review performed by a certified public accountant to the Department. The Department shall require the vendor to maintain a business location in compliance with any and all city, county, state, and federal requirements. Additionally, this act requires the Department to create a consumer-directed services division provider certification manager course. No state or federal funds shall be authorized or expended if the owner, primary operator, certified manager, or any direct employee of the consumer-directed services vendor is also the personal care attendant, unless such person provides services solely on a temporary basis.

Currently, a consumer's services may be discontinued if the consumer has falsified records. This act adds language to include providing false information of his or her condition, functional capacity, or level of care needs. (§§208.909, 208.918 and 208.924)

FISCAL DESCRIPTION (continued)

Under this act, MO HealthNet benefits shall be suspended, rather than cancelled or terminated, for offenders entering into a correctional facility or jail if the Department of Social Services is notified of the person's entry into the correctional center or jail, the person was currently enrolled in MO HealthNet, and the person is otherwise eligible for MO HealthNet benefits but for his or her incarcerated status. Upon release from incarceration, the suspension shall end and the person shall continue to be eligible for MO HealthNet benefits until such time as he or she is otherwise ineligible.

The Department of Corrections shall notify the Department of Social Services within 20 days of receiving information that a person receiving MO HealthNet benefits is or will become an offender in a correctional center or jail and within 45 days prior to the release of such person whose benefits have been suspended under this act. City, county, and private jails shall notify the Department of Social Services within 10 days of receiving information that person receiving MO HealthNet benefits is or will become an offender in the jail. (§§217.930 and 221.1251)

This act specifies that health care professionals shall, rather than may, utilize the process outlined in statute for claims for unanticipated out-of-network care. (§376.690)

This act provides that any health benefit plan delivered, issued for delivery, continued, or renewed on or after January 1, 2020, in which a person may only enroll during an initial, open, or special enrollment period shall permit enrollment of a pregnant person at any time after the commencement of her pregnancy.

The health benefit plan may require that the pregnancy be certified by a health care practitioner who is licensed in the state and acting within the scope of his or her practice. Coverage shall be effective as of the first day of the month the pregnancy was certified, or if no certification is required, as of the first day of the month the self-attestation of the pregnancy was made by the pregnant person. (§376.1212)

This act specifies that each health benefit plan delivered, issued for delivery, or renewed in the state shall provide coverage for off-label usage, as defined in the act, of drugs for purposes of cancer treatment. Coverage shall be provided when at least two licensed physicians prescribe or recommend the drug and attest it may extend the enrollee's life.

This section contains an emergency clause. (§376.1260)

This legislation is not federally mandated, would not duplicate any other program but may require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Joint Committee on Administrative Rules
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of Secretary of State
City of Kansas City
Joplin Police Department
Springfield Police Department
St. Louis Police Department
St. Louis County Department of Justice Services
Clay County Public Health Center
Columbia/Boone County Department of Public Health and Human Services
Livingston County Health Center
Mississippi County Health Department
St. Louis County



Kyle Rieman
Director
May 6, 2019

Ross Strobe
Assistant Director
May 6, 2019