

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2416-01
Bill No.: SB 507
Subject: Corrections Department; Health Care; Insurance - Health; Medicaid/MO HealthNet; Mental Health; Mental Health Department; Public Assistance
Type: Original
Date: April 23, 2019

Bill Summary: This proposal establishes provisions relating to health coverage for substance abuse and mental health treatment.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|--|--|--|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| General Revenue | Greater than (\$11,854,117 to \$21,644,117) | Greater than (\$13,309,940 to \$25,057,940) | Greater than (\$12,809,940 to \$24,557,940) |
| Total Estimated Net Effect on General Revenue | Greater than (\$11,854,117 to \$21,644,117) | Greater than (\$13,309,940 to \$25,057,940) | Greater than (\$12,809,940 to \$24,557,940) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------------------------------|------------------------------------|------------------------------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| Other State (various) | Greater than (\$12,192) | Greater than (\$14,630) | Greater than (\$14,630) |
| Total Estimated Net Effect on <u>Other</u> State Funds | Greater than (\$12,192) | Greater than (\$14,630) | Greater than (\$14,630) |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------------------------------|------------------------------------|------------------------------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| Federal | Greater than (\$19,525) | Greater than (\$23,430) | Greater than (\$23,430) |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | Greater than (\$19,525) | Greater than (\$23,430) | Greater than (\$23,430) |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| | | | |
| 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 2020 | FY 2021 | FY 2022 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

§§191.1164 - 191.1168 - “Ensuring Access to High Quality Care for the Treatment of Substance Use Disorder Act”

Officials from the **Department of Mental Health (DMH)** state §191.1165 requires any treatment program to use American Society of Addiction Medicine (ASAM) criteria for patient placement and review of treatment. The DMH would estimate startup costs for implementation of the ASAM criteria for all contracted treatment providers to be \$2 million for FY 2020. This cost would include proprietary materials, changes to provider electronic medical records, DMH system updates, and provider trainings. This cost estimate is based on ASAM system set up cost for the state of Pennsylvania. The ongoing cost for this is estimated at \$1.5 million for FY 2021 and \$1 million for FY 2022 and beyond. These ongoing costs would include provider trainings and DMH system and program updates. There may be unforeseen costs of implementing this system would could make DMH’s overall cost increase.

Oversight notes according to the Center for Medicare and Medicaid Services SMD # 17-003, Strategies to Address the Opioid Epidemic, CMS would like to work with states on section 1115(a) demonstrations to improve access to and quality of treatment for Medicaid beneficiaries as part of a Department-wide effort to combat the ongoing opioid crisis. CMS stated in its letter that it would like to partner with states to support ways to progressively improve outcomes for Medicaid beneficiaries struggling with addiction in the context of 5-year demonstrations. The new initiative provided by CMS is aimed at giving states flexibility to design demonstrations that improve access to high quality, clinically appropriate treatment for opioid use disorder (OUD) and other substance use disorders (SUDs) while incorporating metrics for demonstrating that outcomes for Medicaid beneficiaries are improving under the demonstrations.

Under the demonstration authority granted by section 1115 of the Social Security Act, CMS can waive certain federal requirements so that states can test new or existing ways to deliver and pay for health care services in Medicaid. Section 1115 waivers must be budget neutral. States should demonstrate how they are implementing evidence-based treatment guidelines, such as those published by the American Society of Addiction Medicine (ASAM), including covering critical levels of care including outpatient, intensive outpatient (IOP), medication assisted treatment (MAT), residential, inpatient, and medically supervised withdrawal management.

The SMD #17-003 guideline indicates that states wishing to participate in the initiative can submit a demonstration application to CMS outlining the state’s strategy for achieving the goals of the demonstration opportunity, including a commitment to meet the milestones outlined in the

ASSUMPTION (continued)

guideline. State proposals need to articulate in the demonstration application how their proposal will apply evidence-based programs to meet the needs of people struggling with addiction to opioids in their state.

Oversight contacted DMH about the possibility of submitting an 1115(a) demonstration waiver application to the Centers for Medicare and Medicaid Services (CMS) for this program. In response to similar legislation (HB 904), DMH officials stated the DMH is exploring the potential of a waiver. However, whether or not a waiver is pursued, the costs for the implementation of the ASAM would remain. Oversight will reflect the costs provided by DMH for fiscal note purposes.

Officials from the **Department of Social Services (DSS)** state the proposed legislation establishes the "Ensuring Access to High Quality Care for the Treatment of Substance Use Disorders Act".

The bill adds language stating medication-assisted treatment (MAT) services shall include pharmacologic and behavior therapies. It states formularies used by a health insurer or managed by a pharmacy benefit management (PBM) shall include buprenorphine, methadone, naloxone, and injectable naltrexone. MAT medications shall be placed on lowest cost-sharing tier and shall not have lifetime dollar limits, facility limits, visit limits, or similar limits. Also, MAT services shall not include step therapy and prior authorization.

MO HealthNet is required to cover MAT medications and services and include MAT medications in its preferred drug lists for the treatment of substance use disorders and prevention of overdose and death.

The bill states all health insurers and other payers providing health coverage shall disclose which providers in its network provide MAT services and what level of care is provided. The legislation continues with further requirements concerning health insurers.

This legislation adds any health benefit plan shall provide coverage for mental health, including chemical dependency benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

194.1164

This section establishes the "Ensuring Access to High Quality Care for the Treatment of Substance Use Disorders Act". In addition, in section 2 several terms are defined.

ASSUMPTION (continued)

191.1165.1-2

These sections state medication-assisted treatment (MAT) services shall include pharmacologic and behavioral therapies. The section states a formulary used by a health insurer or managed PBM or medications dispensed through an opioid treatment program shall include all current and new formulations approved by the USDA. MO HealthNet does not have a formulary and therefore, this section would not have a fiscal impact to MO HealthNet.

191.1165.3

This section of the legislation states MAT services shall not be subject to prior authorization. MO HealthNet would need to revise the existing prior authorization system to meet the requirements of this section. The estimated system cost would be \$25,000. These changes would be split 50%/50% General Revenue Fund/Federal Funds.

Oversight contacted DSS to determine which system(s) would be need to be updated for this proposal. Updates will be needed to the Medicaid Management Information System (MMIS) and the Smart PA (Prior Authorization) system which feed into each other. Oversight notes DSS has a contract with Wipro for MMIS system modifications.

191.665.6

This section requires MO HealthNet to cover the MAT medications and services provided for in this section and include those MAT medications in its preferred drug list for the treatment of substance use disorders (SUD) and prevention of overdose and death. MO HealthNet currently has a preferred drug list for MAT drugs; therefore, this portion of the section will not have a fiscal impact.

191.1166.1-3

These sections require the Department of Insurance, Financial Institutions, and Professional Registration (DIFP) to establish provider network standards for MAT providers and requires health insurers to include descriptions of how their provider networks meet the requirements. Health insurers are also required to make accommodations for enrollees if there is not sufficient in-network coverage.

Currently, the health plans that contract with the state under the Managed Care Program are required to submit files to the DIFP on an annual basis demonstrating network adequacy. Part of this submission is a plan to provide access in areas where access is not available. Narratives are currently not required but should not add sufficient administrative burden to impact rates, therefore, no fiscal impact to the Managed Care Program or the rates paid to contracted health plans.

ASSUMPTION (continued)

191.1166.4

This section adds language requiring the enrollee's financial responsibilities for health care services received from an out-of-network provider to be treated as services received from an in-network provider when the health insurance plan is deemed inadequate. An enrollee's cost-sharing for services, such as the deductible and maximum out-of-pocket limitation, shall also be counted. MO HealthNet Managed Care members do not hold any financial responsibilities under the comprehensive benefit package with the Managed Care Organizations; therefore, it is assumed there is no fiscal impact.

191.1166.5

This section adds language requiring a health insurer to render a determination for covered benefits from an out-of-network provider and notify the enrollee and enrollee's health care provider of the determination within twenty-four hours from the time the request was received. Managed Care Organizations currently have procedures in place for non-emergent services provided by out-of-network providers through the prior authorization process. Currently, health plans have written reimbursement policies, protocols and standards in place. The health plans may need to revise some of their policies and processes to comply with this legislation. There would be no impact to the rates paid to the contracted health plans.

191.1166.6

This section adds language requiring a health insurer to render a determination for urgent care services and MAT related services from an out-of-network provider and notify the enrollee and enrollee's health care provider of the determination within twenty-four hours from the time the request was received. Managed Care Organizations currently have procedures in place for this and currently render a determination with 24 hours. It is assumed this will not have a fiscal impact for Managed Care Operations.

191.1166.7

This section states the health insurer shall submit reports to the commissioner biannually on the process outlined in subsections 4, 5, and 6. The MO HealthNet Managed Care health plans currently provide this information on a quarterly basis; therefore, reporting to the commissioner would not have a fiscal impact.

191.1166.8

This section proposes all payers providing health coverage in Missouri shall submit an annual report to the Department of Insurance on or before January 1, 2020. The report shall include processes and analyses regarding non-quantitative treatment limitations (NQTs). The health plans contracted with MO HealthNet Managed Care currently submit this information annually to maintain compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (45 CFR 146). It is assumed this will not have a fiscal impact.

ASSUMPTION (continued)

376.1552.1-9

These sections add new language that states any health benefit plan issued by a health carrier shall provide coverage for mental health, including chemical dependency benefits, and shall not be denied for care for confinement provided in a hospital owned or operated by the state.

§§ 376.1552.2-4 outline the responsibilities and requirements for the DIFP so they may ensure compliance as related to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (45 CFR 146). §376.1552.6 proposes the health carrier's chief executive officer and chief medical officer sign a certification that the health carrier completed a review of its administrative practices for the prior calendar year.

Currently, the health plans contracted with the state to provide services to MO HealthNet Managed Care members must comply with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. They have written reimbursement policies, protocols and standards in place regarding parity in mental health coverage. Therefore, there will be no impact to the rates paid to the contracted health plans.

Officials from the **Department of Corrections (DOC)** state this legislation establishes provisions relating to health coverage for substance abuse and mental health treatment.

The average cost to deliver Medication Assisted Treatment (MAT) services per opioid user is \$500 - \$1,000 per month (depending on the medication prescribed).

Upon intake to the DOC, 1,958 offenders self-reported they had an opioid use history.

It is likely that this number represents a drastic under-reporting of opioid users in DOC's system. Nonetheless, given the information available we have, the estimated annual cost to provide MAT to all the offenders that self-reported a history of opioid use would be \$11,748,000 - \$23,496,000 annually. This amount could either increase or decrease based on the number of offenders who are actually diagnosed with an opioid disorder and the number of these offenders that would take the medication.

The current contract for healthcare services does not cover Medication Assisted Treatment, therefore, the costs for this treatment will likely be disputed by our contractor and, eventually, passed along to the DOC.

Oversight contacted DOC officials to try to determine how they came up with the range of \$500 - \$1,000 costs per month/per offender for MAT treatment services and the number of offenders that had self-reported opioid use history. In response to similar legislation (HB 904),

ASSUMPTION (continued)

DOC indicated they had contacted various community providers used by the department to get the range for MAT services. The number of offenders that self-reported an opioid use history was a snapshot of a single day of offenders in DOC custody. Oversight was not able to obtain which data was used by DOC.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DOC for fiscal note purposes but will present the range of costs for FY 2020 for 10 months.

Officials from the **Missouri Consolidated Health Care Plan (MCHCP)** state the proposed legislation would require the MCHCP to cover additional medications not currently covered by the plan. The fiscal impact is unknown, but projected to be greater than \$100,000 annually.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by MCHCP, split approximately 62% General Revenue, 23% Federal Funds, and 15% Other State Funds, for fiscal note purposes.

Officials from the **Missouri Department of Transportation (MoDOT)** state the services outlined in this bill are already covered by the MoDOT and Highway Patrol health plan so no fiscal impact is anticipated. MoDOT also states they do utilize prior authorizations and step therapy as mechanisms to avoid waste and to contain costs. If this bill were to pass prohibiting those strategies, it could result in a negative fiscal impact. MoDOT contacted their pharmacy consultant to do a more thorough analysis of their specific drug utilization. As it is now, MoDOT does not have a high member count utilizing these specific medications. However, that could change if some members develop the need for substance abuse and/or mental health treatment.

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

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** anticipates no fiscal impact. However, the DPS, 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 State Courts Administrator (OSCA)** state the proposed legislation may result in some fiscal impact but there is no way to quantify the amount at the current time. Any significant changes will be reflected in future budget requests.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs for the OSCA as \$0 to (Unknown) for fiscal note purposes.

ASSUMPTION (continued)

Oversight notes that the **Department of Insurance, Financial Institutions and Professional Registration** has stated the proposal is not anticipated to have a direct fiscal impact on their organization. However, should the extent of the work be more than anticipated, the DHSS would request additional appropriation and/or FTE through the budget process. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

Oversight notes that the **Department of Health and Senior Services, the Missouri Department of Conservation, the Springfield Police Department, the St. Louis County Department of Justice Services and the St. Louis Police Department** 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 this organizations.

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 **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 only reflects the responses that we have received from state agencies and political subdivisions; however, other sheriff and police departments 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.

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|---|---|---|
| GENERAL REVENUE FUND | | | |
| <u>Costs - DMH (§191.1165) p. 3</u> Start-up, implementation, and materials | (\$2,000,000) | (\$1,500,000) | (\$1,000,000) |
| <u>Costs - DSS (§191.1165) p. 4</u> MMIS and Smart PA system modifications | (\$12,500) | \$0 | \$0 |
| <u>Costs - DOC (§191.1165) p. 5</u> Increase in drug costs for MAT services | (\$9,790,000 to \$19,580,000) | (\$11,748,000 to \$23,496,000) | (\$11,748,000 to \$23,496,000) |
| <u>Costs - MCHCP (§191.1165) p. 5</u> Increase in state share of prescription drug costs | Greater than (\$51,617) | Greater than (\$61,940) | Greater than (\$61,940) |
| <u>Costs - OSCA (§191.1165) p. 6</u> Increase in court costs | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | <u>Greater than</u> <u>(\$11,854,117 to</u> <u>\$21,644,117)</u> | <u>Greater than</u> <u>(\$13,309,940 to</u> <u>\$25,057,940)</u> | <u>Greater than</u> <u>(\$12,809,940 to</u> <u>\$24,557,940)</u> |
| OTHER STATE FUNDS (various) | | | |
| <u>Costs - MCHCP (§191.1165) p. 5</u> Increase in state share of prescription drug costs | Greater than (12,192) | Greater than (14,630) | Greater than (14,630) |
| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | <u>Greater than</u> <u>(12,192)</u> | <u>Greater than</u> <u>(14,630)</u> | <u>Greater than</u> <u>(14,630)</u> |

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|--|--|--|
| FEDERAL FUNDS | | | |
| <u>Income</u> - DSS (§191.1165) p. 4 Reimbursement for MMIS and Smart PA system modifications | \$12,500 | \$0 | \$0 |
| <u>Costs</u> - MCHCP (§191.1165) p. 5 Increase in state share of prescription drug costs | Greater than (\$19,525) | Greater than (\$23,430) | Greater than (\$23,430) |
| <u>Costs</u> - DSS (§191.1165) p. 4 MMIS and Smart PA system modifications | (\$12,500) | \$0 | \$0 |
| ESTIMATED NET EFFECT ON FEDERAL FUNDS | <u>Greater than</u> <u>(\$19,525)</u> | <u>Greater than</u> <u>(\$23,430)</u> | <u>Greater than</u> <u>(\$23,430)</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|---------------------|-------------------|-------------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

This will directly impact small businesses that provide insurance to their employees if the cost of the insurance increases.

FISCAL DESCRIPTION

This bill establishes the "Ensuring Access to High Quality Care for the Treatment of Substance Use Disorders Act."

This bill requires that medication-assisted treatment (MAT) services shall include pharmacologic and behavioral therapies. Any formulary used by a health insurer or pharmacy benefits manager shall include all current and new formulations and medications approved by the Food and Drug

FISCAL DESCRIPTION (continued)

Administration for the treatment of substance use disorder.

All MAT medications must be placed on the lowest cost-sharing tier of the formulary managed by the health insurer or the pharmacy benefits manager.

MAT services shall not be subject to: (1) Annual or lifetime dollar limitations; limitations to a predesignated facility, a specific number of visits, days of coverage, days in a waiting period, scope or duration of treatment, or other similar limits; (2) Financial requirements and quantitative treatment limitations that do not comply with the Mental Health Parity and Addition Equity Act of 2008; (3) Step therapy that conflicts with a prescribed course of treatment; and (4) Prior authorization for MAT services.

The health care benefits and MAT services required by the bill applies to all health insurance plans in the state. Any treatment program must use American Society of Addiction Medicine (ASAM) criteria for patient placement and review of treatment and disclose the MAT services it provides. MO HealthNet must cover the MAT medications and services provided for in this section.

The Department of Corrections, including drug courts and other diversion programs, must ensure that all persons under their care are assessed for substance use disorders and make available MAT services.

All health insurance companies must disclose online and in any print provider directories which providers in its network provide MAT services and what level of care is provided. Each health insurance plan must have a process to ensure that an enrollee obtains a covered benefit for MAT services at an in-network level of coverage.

The Department of Insurance, within the Department of Insurance, Financial Institutions and Professional Registration (DIFP), must require that provider networks meet time and distance standards and minimum wait time standards for providers of MAT services. When a health insurance plan is deemed inadequate under the requirements of the bill, the health insurer must treat the health care services an enrollee receives from an out-of-network provider as if the services were provided by an in-network provider. A health insurer must provide a determination to an enrollee for covered benefits for MAT services and for urgent care services for MAT from an out-of-network provider within 24 hours. All health coverage payers must submit an annual report to the DIFP.

The DIFP must periodically perform parity compliance market conduct examinations of all

FISCAL DESCRIPTION (continued)

health insurers that provide coverage for mental health and substance use disorder. The DIFP must make a website a mechanism to explain the requirements of this bill and have a feedback process.

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 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 State Courts Administrator
Office of Secretary of State
Springfield Police Department
St. Louis County Department of Justice Services
St. Louis County Police Department



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April 23, 2019

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Assistant Director
April 23, 2019