

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1188S.01I
 Bill No.: SB 26
 Subject: Department of Commerce and Insurance; Consumer Protection; Federal - State Relations; Insurance - Health; Pharmacy
 Type: Original
 Date: February 24, 2023

Bill Summary: This proposal enacts provisions relating to insurance coverage of pharmacy services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	(Unknown, could exceed \$10,980,000)	(Unknown, could exceed \$10,980,000)	(Unknown, could exceed \$10,980,000)
Total Estimated Net Effect on General Revenue	(Unknown, could exceed \$10,980,000)	(Unknown, could exceed \$10,980,000)	(Unknown, could exceed \$10,980,000)

* The fiscal impact is unknown, however, MCHCP estimates that it would be greater than \$18 million split between General Revenue, Other Funds and Federal Funds.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other Funds	(Unknown, could exceed \$2,520,000)	(Unknown, could exceed \$2,520,000)	(Unknown, could exceed \$2,520,000)
Total Estimated Net Effect on Other State Funds	(Unknown, could exceed \$2,520,000)	(Unknown, could exceed \$2,520,000)	(Unknown, could exceed \$2,520,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Federal Funds	(Unknown, could exceed \$4,500,000)	(Unknown, could exceed \$4,500,000)	(Unknown, could exceed \$4,500,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, could exceed \$4,500,000)	(Unknown, could exceed \$4,500,000)	(Unknown, could exceed \$4,500,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Consolidated Health Care Plan (MCHCP)** state MCHCP is not a health care plan under the definition of 376.1350. However, Section 104.801, requires MCHCP to follow any law which mandates coverage of specific health benefits, services, or providers. Since this legislation is mandating providers, MCHCP assumes it would apply to MCHCP.

Section 376.411, RSMO, mandates that every pharmacy and provider be treated the same when covering clinician-administered drugs. Today MCHCP uses several channel management programs to provide drugs at the lowest cost possible. This bill would restrict usage of these programs and, as a result, MCHCP costs could increase by limiting MCHCP's ability to direct coverage under the channel with the lower cost. MCHCP pharmacy benefit manager currently estimates that it saves around \$39 million from these programs. The fiscal impact is unknown, but MCHCP estimates that it would be greater than \$18 million.

Oversight assumes this legislation applies to MCHCP and therefore will reflect MCHCP's estimate of an unknown loss, possibly exceeding \$18 million to the General Revenue Fund, Other State Funds and Federal Funds.

General Revenue	\$10,980,000	61%
Federal Funds	\$4,500,000	25%
Other Funds	\$2,520,000	14%
Total	\$18,000,000	100%

Oversight assumes this provision could have a fiscal impact on local government health plans and therefore will reflect an unknown cost to local political subdivisions.

Officials from the **Department of Commerce and Insurance**, the **Department of Social Services**, the **Missouri Department of Conservation** and the **Missouri Department of Transportation** assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

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

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVEUE FUND			
<u>Loss – MCHCP</u> Elimination of channel management programs	<u>(Unknown, could exceed \$10,980,000)</u>	<u>(Unknown, could exceed \$10,980,000)</u>	<u>(Unknown, could exceed \$10,980,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Unknown, could exceed \$10,980,000)</u>	<u>(Unknown, could exceed \$10,980,000)</u>	<u>(Unknown, could exceed \$10,980,000)</u>
FEDERAL FUNDS			
<u>Loss – MCHCP</u> Elimination of channel management programs	<u>(Unknown, could exceed \$4,500,000)</u>	<u>(Unknown, could exceed \$4,500,000)</u>	<u>(Unknown, could exceed \$4,500,000)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>(Unknown, could exceed \$4,500,000)</u>	<u>(Unknown, could exceed \$4,500,000)</u>	<u>(Unknown, could exceed \$4,500,000)</u>
OTHER FUNDS			
<u>Loss – MCHCP</u> Elimination of channel management programs	<u>(Unknown, could exceed \$2,520,000)</u>	<u>(Unknown, could exceed \$2,520,000)</u>	<u>(Unknown, could exceed \$2,520,000)</u>
ESTIMATED NET EFFECT TO OTHER FUNDS	<u>(Unknown, could exceed \$2,520,000)</u>	<u>(Unknown, could exceed \$2,520,000)</u>	<u>(Unknown, could exceed \$2,520,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss – Elimination of channel management programs</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act provides that a health carrier or pharmacy benefits manager (PBM) shall not impose any penalty, impediment, differentiation, or limitation on participating providers for providing medically necessary clinician-administered drugs, regardless of whether the participating provider obtains the drugs from an in-network provider, including but not limited to refusing to approve or pay, or reimbursing less than the contracted payment amount.

Carriers and PBMs shall not impose any penalty, impediment, differentiation, or limitation on a covered person who is administered medically necessary clinician-administered drugs, regardless of whether the participating provider obtains the drugs from an in-network provider, including but not limited to: limiting coverage or benefits; requiring an additional fee, higher co-payment, or higher coinsurance amount; or interfering with a patient's ability to obtain a clinician-administered drug from the patient's provider or pharmacy of choice by any means, including but not limited to inducing, steering, or offering financial or other incentives.

Carriers and PBMs shall not impose any penalty, impediment, differentiation, or limitation on any pharmacy that is dispensing medically necessary clinician-administered drugs, regardless of whether the participating provider obtains the drugs from an in-network provider, including but not limited to requiring a pharmacy to dispense the drugs to a patient with the intention that the patient will transport the medication to a health care provider for administration.

These provisions shall not apply if the clinician-administered drug is not otherwise covered by the carrier or PBM.

Under this act, a health carrier or PBM shall not discriminate, lower the reimbursement, or impose any separate terms upon an entity in any contract based in whole or in part on the entity's participation in the 340B drug pricing program under federal law, as detailed in the act. A health carrier or PBM shall not limit a patient's freedom to use an entity that participates in the 340B

pricing program by any means, including but not limited to modifying a patient's payment limitations or cost-sharing obligations on the basis of participation in the 340B pricing program. A PBM shall not base drug formulary or drug coverage decisions on the 340B pricing status of a drug, including price or availability, or whether a dispensing entity participates in the 340B pricing program.

A pharmaceutical manufacturer shall not prohibit an entity from contracting or participating with an entity authorized to participate in the 340B pricing program by denying access to drugs that are manufactured by the pharmaceutical manufacturer, or by denying the entity the ability to purchase drugs at the 340B price by substituting a rebate discount.

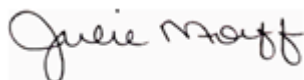
All pharmacy claims processed by a pharmacy participating in the 340B pricing program shall be final at the point of adjudication.

A health carrier or PBM providing coverage for a reference product or a biological product that is biosimilar to the reference product shall provide coverage for the reference product and all biological products that have been deemed biosimilar to the reference product. The scope, extent, and amount of the required coverage shall be the same, including but not limited to any payment limitations or cost-sharing obligations.


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 Commerce and Insurance
Department of Social Services
Department of Public Safety
 Missouri Highway Patrol
Missouri Department of Conservation
Missouri Department of Transportation
Missouri Consolidated Health Care Plan



Julie Morff
Director
February 24, 2023



Ross Strobe
Assistant Director
February 24, 2023