

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3537S.01I
 Bill No.: SJR 76
 Subject: Constitutional Amendments; Health Care; Medicaid/MO HealthNet; Department of Social Services; Public Assistance; Health Care Professionals
 Type: Original
 Date: March 12, 2024

Bill Summary: This proposal modifies provisions relating to MO HealthNet.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|---|---|---|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| General Revenue* | \$0 or (More than \$8,000,000)** | \$0 or Unknown to (Unknown) and Up to \$60,455,245 | \$0 or Unknown to (Unknown) and Up to \$68,007,070 |
| Total Estimated Net Effect on General Revenue | \$0 or (More than \$8,000,000)** | \$0 or Unknown to (Unknown) and Up to \$60,455,245 | \$0 or Unknown to (Unknown) and Up to \$68,007,070 |

*The potential net positive fiscal impact is from net program savings stemming from work and community engagement non-compliance drops (Section 36). Actual savings could vary significantly.

The potential fiscal impact of “(More than \$8,000,000)” in FY 2025 would be realized **only if a special election were called by the Governor to submit this joint resolution to voters.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| Federal* | \$0 | \$0 | \$0 |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

*Savings and losses estimated at “\$0 or up to \$354 million” annually beginning in FY 2026 and net to \$0. Range is based on whether or not a waiver is granted and potential savings and losses of implementation.

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------|-----------|-----------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 |
| General Revenue | 0 | 16 | 16 |
| Total Estimated Net Effect on FTE | 0 | 16 | 16 |

- 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 2025 | FY 2026 | FY 2027 |
| Local Government | \$0* | \$0 | \$0 |

*Potential costs and state reimbursements net to zero in FY 2025 if a special election is called.

FISCAL ANALYSIS

ASSUMPTION

SJR - Provisions relating to MO HealthNet

Oversight notes the provisions of this proposal are subject to a vote of the people. In the event the proposal does not pass, the provisions would not be implemented and the fiscal impact to implement the changes would be \$0. Therefore, for fiscal note purposes, all costs will be ranged as “\$0 or...” for the appropriate agency and fund.

Officials from the **Department of Social Services (DSS), Family Support Division (FSD)** state Section 36 implements a monthly 80-hour work requirements into MO HealthNet (MHN) programs. Participants ages 18 to 49 not meeting an exemption or a good cause exemption are ineligible for MO HealthNet unless they are working, participating in a work program, volunteering, or any combination of work activities for at least 80 hours per month. The provisions of this section are subject to approval of an 1115 Demonstration waiver by the DHHS and requires the DSS to seek such waiver from DHHS.

Due to the Families First Coronavirus Response Act (HR 6201, Section 6008), MO HealthNet coverage was maintained at the same benefit level for all cases as of March 18, 2020 and coverage was only closed for voluntary requests, deceased participants, participants moving out of the state, or aging out of Children’s Health Insurance Program (CHIP) under Title XXI. The annual review process required in 42 CFR 435.916 and RSMo 208.147 was temporarily waived through May 31, 2023 while operating under the provisions of HR 6201, Section 6008. The number of MHN cases and individuals with school-age children may be higher as this resulted in a limited closings after March 18, 2020.

| | |
|---|-----------|
| Adults ages 18-49 on Medicaid for Families and Adult Expansion Group | 359,595 |
| Less individuals on SNAP or TANF not subject to work requirement under this legislation | (106,610) |
| Less caregivers for children under 6, disabled adult, or disabled child | (74,255) |
| Less individuals already determined disabled | (2,146) |
| Less individuals with earned income already meeting the work requirement | (63,896) |
| Number potentially subject to work requirement under this legislation | 112,688 |
| | |
| FSD assumes an additional 25% will claim a disability for Medicaid due to a disability | (28,172) |

| | |
|--|--------|
| Estimated number of individuals that will be subject to the work requirement | 84,516 |
| FSD estimates 35% will comply with work requirements | 29,581 |
| FSD estimates 65% will not comply and lose Medicaid | 54,935 |

As of October 31st, 2023, there were 359,595 individuals' ages 18-49 who were receiving MO HealthNet for Families (MHF) or Adult Expansion Group (AEG) coverage. It is unknown how many individuals age 18 years of age who are receiving other MO HealthNet categories would meet an exemption. For the purpose of this fiscal note, those individuals are not included in this population. Of the 359,595 individuals receiving MHF or AEG, 106,610 were also receiving Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) benefits. In order to receive SNAP or TANF benefits, these individuals must either meet current SNAP or TANF work requirements or be exempted from participating in SNAP or TANF work requirements. Individuals who receive SNAP or TANF benefits and are exempt from the work requirements of those programs are also exempt from the work requirements for MHF and AEG. Therefore, of the 359,595 MHF and AEG individuals, 252, 985 (359,595 – 106,610) would be remaining that are not currently provided work services or exempt from work requirements through another program.

The remaining individuals are required to comply with work requirements under this legislation unless they meet one of the following exemptions: pregnant individuals; all caregivers of a child under age six, a disabled child, or a disabled adult; and individuals with a disability, as defined in this legislation. Of those 252,985, there are 74,255 individuals identified as caregivers and 2,146 identified as disabled.

It was determined that the remaining 176,584 (252,985 - 74,255 - 2,146) includes 63,896 individuals with earned income. FSD made the assumption that those individuals with earned income are already meeting work requirements and the total number impacted was reduced by this amount.

The total number of individuals remaining that would potentially be affected by MHF and AEG work requirements would be 112,688 (176,584 non-exempt - 63,896 people with earned income).

It is assumed that 25% of the population that will be affected by MHF and AEG work requirements will claim a disability to be served under another MO HealthNet program for a total of 28,172 (112,688 * 0.25). The remaining 84,516 (112,688-28,172) will be subject to the MHF and AEG work requirements in this legislation. Of those 84,516, FSD assumes that 35% will comply with work requirements for a total of 29,581 (84,516 *.35, round up) and 65% will lose benefits for non-compliance for a total of 54,935 (84,516*.65, round down).

Oversight notes that in similar legislation from the previous session, DSS arrived at the compliance rate estimate by slightly increasing the current compliance rate for TANF work requirements and that DSS believes the compliance rate for this program may be higher.

DSS notes a total of 54,935 individuals are expected to no longer be eligible for MO HealthNet as a result of this legislation.

FSD estimates the total number of participants that will comply to be 29,581. FSD estimates expenditures could be up to \$29,581,000 (29,581 * \$1,000) to administer the work program. FSD estimates an additional 16 FTE will be needed, including 14 Program Specialists (29,581/2,113 = 13.999, rounded up) and 2 Program Coordinators (14/10 = 1.39, rounded up)).

Additional system programming will be needed to integrate work program compliance information, program sanctions, and alert staff when participants become age eligible and/or ineligible for work requirements so that a review for other possible exemptions can be made.

FSD defers to OA - ITSD for any costs associated with system changes.

On January 11, 2018, CMS released new policy guidance for states to test community engagement for able-bodied adults through 1115 Demonstration Waivers. **This guidance outlines that Medicaid work requirements will be implemented with general revenue money.**

DSS would request a waiver from CMS to implement the provisions of this legislation. FSD estimates that it would take approximately a year to obtain CMS approval of the waiver. Due to the time it takes to obtain the waiver, implementation of the work requirements could not begin until July 1, 2025. If the waiver is not approved, the provisions of this legislation require DSS to annually request the waiver until such waiver is approved.

Therefore, the fiscal impact to FSD is \$0 - \$29,581,000 and 16 FTE.

FSD assumes the projected FSD administrative costs will be offset by the savings to overall Medicaid coverage costs.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DSS, FSD.

Officials from **MHD** state the FSD estimated that there would be approximately 54,935 MHABD and AEG individuals that will not comply and lose MHN benefits, in result would be an assumed savings if these individuals did not comply and lost coverage.

The MHD found a per member per Month (PMPM) rate of \$594.61 for the MHABD individuals and a PMPM of \$764.80 for the AEG individuals.

MHD assumes no impact in FY 2025 due to the timing of obtaining a waiver for this legislation. The following savings (20.862% GR; 79.138% Federal) would only be realized if the estimated individuals did not comply with the work requirements and lost coverage. MHD would not realize these savings if these individuals did not lose MHN coverage. A 6.3% medical inflation rate was used to calculate the savings.

FY25: Total savings – Up to \$0 (GR - \$0; Federal - \$0)

FY26: Total savings – Up to \$447,789,438 (GR - \$93,416,671; Federal - \$354,372,767)

FY27: Total savings – Up to \$476,000,172 (GR - \$99,301,921; Federal - \$376,698,251)

MHD states the savings ratio is based on a combination of the MHABD and AEG Federal Medical Assistance Percentages (FMAP).

Oversight notes this proposal grants DSS the authority to seek a waiver for MO HealthNet work and community engagement requirements from DHHS, CMS. Oversight also notes the [Kaiser Family Foundation, Kaiser Health News \(KHN\)](#) reported that an [executive order](#) was issued on January 28, 2021, which mandates that DHHS “consider whether to suspend, revise, or rescind” the guidance, which has since been removed from the CMS website. CMS subsequently withdrew Medicaid work requirement waivers in all states that had approvals. KHN further reports that following those withdrawals, in April 2022 the Supreme Court dismissed pending appeals in cases that had found work requirement approvals unlawful.

Oversight also notes that Georgia’s work requirements for its Pathways to Coverage section 1115 demonstration program, which started on July 1, 2023, were permitted after the state won its lawsuit ([Georgia v. Brooks-LaSure](#)) in 2022. The program is currently set to expire on September 30, 2025 despite Georgia’s [extension request](#). As [reported by CNN](#) on August 9, 2023, this is not a fully expanded Medicaid program and is therefore, not eligible for the 10% GR; 90% Federal match.

Due to the variables and uncertainty of annual State Plan Amendment approvals, **Oversight** will reflect the estimates provided by DSS as a savings of “\$0 to Unknown” for the reduction of MO HealthNet coverage and a cost of “\$0 to (Unknown)” for potential penalties imposed by DHHS, CMS.

Officials from **OA, DSS/ITSD** state this proposal requires MO HealthNet participants age 18 through 49 to comply with work and community engagement requirements unless they are exempt. Updates to FAMIS and MEDES would be required for this section of the proposal.

Eligibility based on the new "work and community engagement requirements" for ages eighteen to forty-nine if involving FAMIS will need changes. FAMIS has the basic infrastructure for these requirements (for SNAP) and it is possible to build on that, especially since the proposal refers to SNAP and TANF combo cases and the related eligibility requirements.

OA, ITSD/DSS assumes every new IT project/system will be bid out because all ITSD resources are at full capacity. IT contract rates for FAMIS are estimated at \$105/hour. It is assumed the necessary modifications will require 725.76 hours for a cost of \$76,205 ($725.76 * \105) in FY 2025 with ongoing costs of \$15,622 in FY 2026 and \$16,013 in FY 2027.

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

OA, ITSD/DSS states, minimally, the following new functionality would be needed in MEDES:

- Additional browser pages in Curam for the referral process
- New batch jobs and multiple interfaces to Missouri Work Assistance to transmit referrals and receive feedback that indicates the individual has attended initial meeting, conducting job search, been employed, number of hours worked, cooperating or is not cooperating, address change, etc.
- Additional database tables and/or fields for indicators to identify mandatory participants and fields to identify employment, employment level or work program participation status
- Additional database tables and/or fields for status codes for exemptions and denial reasons for failure to cooperate
- Several additional notices (advise of work requirements, referral to work program, schedule consultation with client, notice of failure to cooperate, etc.)
- Multiple tracking and management reports

Modifications for the MEDES system for this section are estimated to take a total of 6,272 hours for a total cost of \$1,436,288 in FY 2025 exclusively.

Therefore, the total FAMIS and MEDES upgrades for this section will cost \$1,569,647 FY 2025 with ongoing costs of \$15,622 in FY 2026 and \$16,013 in FY 2027.

Oversight does not have any information to the contrary. Oversight notes MHD assumes no impact in FY 2025 due to the timing of obtaining a waiver for this legislation. Therefore, Oversight will reflect the costs provided by ITSD/DSS as **beginning in FY 2026** for fiscal note purposes.

Officials from the **Department of Mental Health (DMH)** state the anticipated fiscal impact to DMH for Comprehensive Psychiatric Rehab (CPR), Comprehensive Substance Treatment and Rehabilitation (CSTAR) Certified Community Behavioral Health Clinics (CCBHO) and Developmental Disabilities (DD) waiver services are included in the DSS estimate.

Oversight notes DMH's deferral to DSS for a statement of fiscal impact; for fiscal note purposes, Oversight assumes no fiscal impact for DMH.

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Department of Health and Senior Services (DHSS)** and the **Office of Administration - Budget and Planning (B&P)** defer to the Department of Social Services (DSS) for the potential fiscal impact of this proposal.

Oversight notes DHSS's and B&P's deferral to DSS for a statement of fiscal impact; for fiscal note purposes, Oversight assumes no fiscal impact for DHSS or B&P.

Officials from the **Department of Economic Development, the Department of Higher Education and Workforce Development, the Department of Public Safety - Missouri Veterans Commission, the Jackson County Board of Election Commissioners, the Kansas City Board Of Election Commissioners, the Platte County Board of Elections, the St. Louis City Board of Election Commissioners and the St. Louis County Board of Elections** each 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.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other local elections authorities, local public health agencies, nursing homes and hospitals were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

Officials from **Office of the Secretary of State** assume, each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section

2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$8 million based on the cost of the 2023 primary and general election reimbursements.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

For the FY25 petitions cycle, the SOS estimates publication costs at \$60,000 per page. This amount is subject to change based on number of petitions received, length of those petitions and rates charged by newspaper publishers.

The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the SOS reserves the right to request funding to meet the cost of the publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Oversight has reflected, in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2025. This reflects the decision made by the Joint Committee on Legislative Research that the cost of the elections should be shown in the fiscal note. The next scheduled statewide general election is in November 2024 (FY 2025). It is assumed the subject within this proposal could be on this ballot; however, it could also be on a special election called for by the Governor (a different date). Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2025.

| <u>FISCAL IMPACT – State Government</u> | FY 2025 (10 Mo.) | FY 2026 | FY 2027 |
|---|---|---|---|
| GENERAL REVENUE FUND | | | |
| <u>Savings</u> – DSS, MHD (Article IV, Section 36) Reduction in state share of MO HealthNet expenditures from work and community engagement non-compliance drops p. 6 | \$0 | \$0 or Up to \$93,416,671 | \$0 or Up to \$99,301,921 |
| <u>Transfer Out</u> - SOS - reimbursement of local election authority election costs if a special election is called by the Governor p. 8-9 | \$0 or (More than \$8,000,000) | \$0 | \$0 |
| <u>Costs</u> – DSS, FSD (Article IV, Section 36) p. 3-6 | | \$0 or... | \$0 or... |
| Personal service | \$0 | (\$908,995) | (\$918,085) |
| Fringe benefits | \$0 | (\$592,631) | (\$596,154) |
| Equipment and expense | \$0 | (\$309,153) | (\$183,599) |
| Administrative costs for work activities | \$0 | (Up to \$29,581,000) | (Up to \$29,581,000) |
| <u>Total Costs</u> - DSS, FSD | \$0 | \$0 or (Up to \$31,391,779) | \$0 or (Up to \$31,278,838) |
| FTE Changes | 0 | 16 FTE | 16 FTE |
| <u>Costs</u> - OA, ITSD/DSS (Article IV, Section 36) MEDES system changes p. 7 | | \$0 or... | \$0 or... |
| FAMIS changes | \$0 | (\$76,205) | (\$16,013) |
| MEDES changes | \$0 | (\$1,493,442) | \$0 |
| <u>Total Costs</u> - OA, ITSD/DSS | \$0 | (\$1,569,647) | (\$16,013) |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND* | \$0 or (More than \$8,000,000) | \$0 or Unknown to (Unknown) and Up to \$60,455,245 | \$0 or Unknown to (Unknown) and Up to \$68,007,070 |
| Estimated Net FTE Change on the | 0 | 16 | 16 |

| General Revenue Fund | | | |
|---|---------------------|---------------------------------|---------------------------------|
| <u>FISCAL IMPACT – State Government</u> | FY 2025 (10 Mo.) | FY 2026 | FY 2027 |
| FEDERAL FUNDS | | | |
| <u>Savings</u> – DSS, MHD (Article IV, Section 36) Reduction in state share of MO HealthNet expenditures p. 6 | \$0 | \$0 or Up to \$354,372,767 | \$0 or Up to \$376,698,251 |
| <u>Loss</u> – DSS, MHD (Article IV, Section 36) Reduction in state share of MO HealthNet reimbursements p. 6 | \$0 | \$0 or Up to (\$354,372,767) | \$0 or Up to (\$376,698,251) |
| ESTIMATED NET EFFECT ON FEDERAL FUNDS* | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| *Range is based on potential savings and losses of implementation. | | | |

| <u>FISCAL IMPACT – Local Government</u> | FY 2025 (10 Mo.) | FY 2026 | FY 2027 |
|--|-----------------------------------|------------|------------|
| LOCAL POLITICAL SUBDIVISIONS | | | |
| <u>Transfer In</u> - Local Election Authorities - reimbursement of election costs by the State for a special election p. 8-9 | \$0 or More than \$8,000,000 | \$0 | \$0 |
| <u>Costs</u> - Local Election Authorities - cost of a special election if called for by the Governor p. 8-9 | \$0 or (More than \$8,000,000) | <u>\$0</u> | <u>\$0</u> |

| ESTIMATED NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
|--|------------|------------|------------|
| | | | |
| | | | |

FISCAL IMPACT – Small Business

Missouri Constitution Article IV, Section 36 provisions could have a direct, negative fiscal impact on small health care providers or clinics that accept MO HealthNet payments if recipients lose benefits because of not meeting the work requirements of the proposal. Yet it also may help small businesses that are looking for qualified applicants to fill vacant employment positions.

FISCAL DESCRIPTION

If approved by the voters, this constitutional amendment requires, subject to approval of a waiver, able-bodied adult MO HealthNet participants, ages 18 to 49, to participate in work and community engagement requirements. Participants shall complete at least 80 hours a month of any combination of specified work, education, job search, child care, and volunteer services. The Department of Social Services shall provide reasonable accommodations for individuals with disabilities who are not otherwise exempt from the work and community engagement requirements under this amendment to ensure that the participants are able to comply with the requirements, including exemptions, modifications of hours, and the provision of necessary support services.

MO HealthNet participants who shall not be required to comply with the work and community engagement requirements include: (1) those under 18 years of age or 50 years of age or older; (2) those who are medically frail, as defined in the amendment, including those with certain disabilities; (3) those who are pregnant or caring for a child under one year of age; (4) those who are primary caregivers of a dependent child under the age of six or a dependent adult; and (5) those who are also participants of Temporary Assistance for Needy Families or the Supplemental Nutrition Assistance Program and are exempt from work requirements under those programs. The Department may permit further exemptions in areas of high unemployment, limited economies or educational opportunities, or lack of public transportation, or for good cause, as defined in this amendment.

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

SOURCES OF INFORMATION

Attorney General’s Office

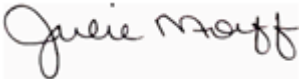
L.R. No. 3537S.011

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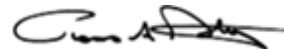
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Department of Economic Development
Department of Health and Senior Services
Department of Higher Education and Workforce Development
Department of Mental Health
Department of Public Safety - Missouri Veterans Commission
Department of Social Services
Joint Committee on Administrative Rules
Office of Administration - Budget and Planning
Office of the Secretary of State
Jackson County Board of Election Commissioners
Kansas City Board of Election Commissioners
Platte County Board of Elections
St. Louis City Board of Election Commissioners
St. Louis County Board of Elections



Julie Morff
Director
March 12, 2024



Ross Strobe
Assistant Director
March 12, 2024