

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2534-01
BILL NO.: SB 645
SUBJECT: Consumer Protection;; Health Care; Health Care Professionals; Health, Public;
Hospitals; Insurance - Medical; Liability; Medical Procedures and Personnel;
Physicians
TYPE: Original
DATE: January 17, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
All Funds*	(Unknown)	(Unknown)	(Unknown)
Insurance Dedicated	\$1,500 to \$3,000	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds *	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

*Costs expected to exceed \$100,000.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri State Highway Patrol**, the **Department of Health**, the **Department of Conservation**, the **Department of Transportation**, and the **Office of Attorney General** assume this proposal would not fiscally impact their agencies.

Department of Social Services (DOS) officials assume this proposal would not fiscally impact their agency. DOS states the proposal exempts any policy, plan, or contract paid under Title XVIII or Title XIX. In addition, DOS states the contracts with the MC+ health plans include provisions that prohibit any financial incentives to induce providers to limit medically necessary services.

Officials from the **Department of Insurance (INS)** anticipate that current appropriations and staff would be able to absorb the work for implementation of this proposal. However, if additional proposals are approved during the legislative session, INS may need to request an increase in appropriations due to the combined effect of multiple proposals. INS states there are 30 HMOs that may be affected by this proposal. INS assumes each HMO may submit a policy form amendment for individual and one for group to comply. INS estimates a range of revenue of \$1,500 to \$3,000 to the Insurance Dedicated Fund in FY 2001.

Missouri Consolidated Health Care Plan (HCP) officials assume that two of the provisions in this proposal would result in costs. First, this proposal would require a health maintenance plan to cover Phase I, Phase II, Phase III, or Phase IV clinical trials for cancer and other life threatening conditions that could result in an increase in the plan's financial risk. HCP, to reduce risk, may transfer these additional costs to the members through an increase in premium. HCP states it is extremely difficult to estimate this cost. For example, an increase of premium by one percent would result in additional premiums of \$1,771,090 for calendar year 2001 of which the state would absorb \$1,175,185 and the state employees would absorb \$495,905. For public entities, an increase of one percent would result in additional premiums of \$491,760. HCP states this overall cost shift between the employers and the employees is not known.

In addition, HCP states that there would be additional costs incurred by HMOs as a result of increased litigation. HCP states it is likely that this cost would be passed through to members in the form of increased premiums. HCP states the direct fiscal impact is unknown but could be significant depending upon the nature of the cases.

HCP further states the total fiscal impact of the proposal is very hard to project. However, it ASSUMPTION (continued)

could be significant and in excess of \$100,000, especially considering the potential impact of the proposal dealing with clinical trials and litigation cases.

Officials from the **Department of Corrections (DOC)** did not respond to our fiscal impact request. However, in responding to a similar proposal last session, DOC assumed the proposal would not fiscally impact their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
ALL FUNDS			
Costs - All Funds *			
Increased premiums/state contributions	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON ALL FUNDS *	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>

***Costs expected to exceed \$100,000.**

INSURANCE DEDICATED FUND

Revenue - Department of Insurance			
Filing fees	<u>\$1,500 to</u> <u>\$3,000</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>\$1,500 TO</u> <u>\$3,000</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small health maintenance organizations (HMO) could be affected by this proposal.

DESCRIPTION

This proposal would address four areas of the federal Patient's Bill of Rights which Missouri has not previously enacted. The following four areas are addressed:

- 1) Direct Access to an obstetrician/gynecologist - Section 354.618.4 would require health carriers to allow a woman to designate her obstetrician/gynecologist as her primary care provider or, in the alternative, to have direct access to the services of her obstetrician/gynecologist without first obtaining a referral from her primary care provider.
- 2) Participation in Clinical Trials - Section 354.616 would require health carriers to permit enrollees with life-threatening or serious illnesses to participate in approved clinical trials, provided there is meaningful potential for significant clinical benefit.
- 3) Prohibiting Physician Financial Incentives - Section 354.443 would prohibit health maintenance organizations from entering into any compensation agreement with a provider that would induce the provider to limit medical care.
- 4) Enrollees May Sue Health Maintenance Organizations for Improperly Denying Care - This proposal would create a state cause of action for enrollees who are improperly denied care by their health maintenance organizations.

A health maintenance organization has the duty to exercise ordinary care when making health care treatment decisions and it would be liable to an enrollee when it fails to do so. However, a health maintenance organization would not be liable for improper care if it did not control, influence, or participate in the health care treatment decision and the health maintenance organization did not deny or delay payment for the enrollee's treatment. In addition, a health maintenance organization would not be obligated to provide an enrollee treatment which is not covered under the health plan. Under the Employee Retirement Income Security Act (ERISA), the states are preempted from regulating employer-provided health care coverage. This proposal would make it clear that the cause of action does not apply to employer-based plans.

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 Insurance
Department of Health
Department of Social Services
Department of Conservation

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Department of Transportation
Missouri Consolidated Health Care Plan
Department of Public Safety
Missouri State Highway Patrol
Office of Attorney General

NOT RESPONDING: Department of Corrections



Jeanne Jarrett, CPA
Director
January 17, 2000