

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0091-01
Bill No.: SB 117
Subject: Consumer Protection; Health Care; Health Care Professionals; Health, Public; Hospitals; Insurance - Medical; Liability; Medical Procedures and Personnel; Physicians
Type: Original
Date: February 16, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
All Funds*	(Unknown)	(Unknown)	(Unknown)
Insurance Dedicated	\$1,450	\$0	\$0
Total Estimated Net Effect on All State Funds*	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

*Costs expected to exceed \$100,000.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

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

Missouri Consolidated Health Care Plan (HCP) officials assume that three 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 this risk, may transfer these additional costs to the members through an increase in premiums. HCP states it is extremely difficult to estimate this cost. For example, an increase of premium by 1% would result in additional premiums of \$2,713,597 for calendar year 2001 of which the state would absorb \$2,012,675 and the state employees would absorb \$700,922.

Secondly, HCP states that allowing obstetricians and gynecologists to participate as PCPs should have little fiscal impact although there will be some types of primary services that may be more appropriately treated by more traditional primary care physicians. However, having direct access to specialty services provided by OB/GYN physicians could have an unknown fiscal impact.

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

The total fiscal impact of the proposal is very hard to project. However, it could be significant and in excess of \$100,000, especially considering the potential impact of the provisions relating to the clinical trials and litigation cases.

HCP states the cost to the Public Entities at one percent of premium would be \$426,637 in calendar year 2001.

Officials from the **Department of Transportation (DHT)** state that currently the Highway and Patrol Medical Plan does not cover services that are part of a clinical trial, or drugs and devices that are approved by the FDA but are not approved by the FDA for use in treating a patient's particular condition. DHT assumes this proposal would have a very large fiscal impact on the Medical Plan. However, without knowing specific treatments, drugs, or devices that would be required to be covered services, a fiscal impact to the Medical Plan can not be calculated.

ASSUMPTION (continued)

MW:LR:OD (12/00)

Department of Insurance (INS) officials state that health insurers and HMOs would be required to amend policy forms in order to comply with this proposal. INS states that they 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 29 HMOs that offer health insurance coverage. INS estimates that 29 HMOs would each submit one policy form amendment resulting in revenues of \$1,450 to the Insurance Dedicated Fund. If multiple proposals pass during the legislative session which would require form amendments to be filed, the insurers would probably file one amendment for all required mandates. INS states this would result in increased revenue of \$1,450 for all proposals.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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ALL FUNDS

Costs - All Funds*

Increased premiums/state contributions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON ALL FUNDS*

	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
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***Costs expected to exceed \$100,000.**

INSURANCE DEDICATED FUND

Income - Department of Insurance

Form filing fees	<u>\$1,450</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND

	<u>\$1,450</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2002
(10 Mo.)

FY 2003

FY 2004

LOCAL POLITICAL SUBDIVISIONS

Costs - Local Political Subdivisions

Increased premiums/state contributions

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
LOCAL POLITICAL SUBDIVISIONS**

(UNKNOWN)

(UNKNOWN)

(UNKNOWN)

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal addresses four areas of the federal Patient's Bill of Rights which Missouri has not previously enacted. The following four areas being addressed are: 1) Direct access to an obstetrician/gynecologist - Section 354.618.4 of the proposal 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 of the proposal 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 of the proposal would prohibit health maintenance organizations from entering into any compensation agreement with a provider that would induce the provider to limit medical care; and 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 would not apply to employer-based plans.

MW:LR:OD (12/00)

DESCRIPTION (continued)

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



Jeanne Jarrett, CPA
Director

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