

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3304-08
Bill No.: SCS for HCS for HB 1278
Subject: Insurance - General; Insurance Dept.; Insurance - Medical; Employees -
Employers
Type: Original
Date: May 3, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue*	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)
Total Estimated Net Effect on General Revenue Fund*	(Unknown exceeding \$100,000)*	(Unknown exceeding \$100,000)*	(Unknown exceeding \$100,000)*

* Does not include forgone savings estimated to be \$116,371 for FY 05; \$239,724 for FY 06; and \$246,916 for FY 07.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	(Unknown)	(Unknown)	(Unknown)
County Foreign**	\$0	\$0	\$0
MO Health Insurance Pool	Unknown	Unknown	Unknown
Patrol Highway	(Unknown)	(Unknown)	(Unknown)
Highway	(Unknown)	(Unknown)	(Unknown)
Other State***	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown)	(Unknown)	(Unknown)

****Decrease in unknown revenue is offset by an unknown decrease in transfers to school districts and nets to \$0.**

***** Forgone savings for all state funds except General Revenue estimated between \$1,406,999 to \$1,625,543 for FY 05; \$2,898,417 to \$3,348,618 for FY 06; and \$2,985,369 to \$3,449,077 for FY 07.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government#	(Unknown)#	(Unknown)#	(Unknown)#

Does not include forgone savings estimated to be between \$0 and \$407,195 for FY 05; \$0 to \$838,821 for FY 06; and \$0 to \$863,983 for FY 07.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration (COA) - Division of Budget and Planning, COA - Division of Accounting, COA Risk Management - Division of General Services, Office of State Courts Administrator, Department of Labor and Industrial Relations, Department of Social Services, Department of Health and Senior Services, , Missouri Department of Conservation and Office of State Treasurer** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Revenue (DOR)** state the proposal establishes health insurance pools, establishes health insurance premiums on HMO health plans and revises health insurance provisions. The proposal has no fiscal impact on the DOR. This assumes, however, that the returns on the two percent premium on HMO health plans is handled by the Department of Insurance, as is the case with other insurance taxes. If the DOR were required to handle all the job responsibilities, then the DOR would need an additional FTE and programming costs.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the fiscal impact of the proposal on their organization.

Officials from the **Missouri Department of Transportation (DOT)** state the proposal makes changes to several health insurance statutes such as establishing coverage similar to the Health Insurance Portability Accountability Act (HIPAA) and health pool and small employer coverage. While this proposal places certain eligibility requirements on health insurance issuers, the Highway and Patrol Medical plan does not fall within the definition of health insurance carrier. The Highway and Patrol Medical Plan does, however, follow the general HIPAA laws relative to eligibility for allowing coverage for members who were not enrolled but have lost coverage. This portion of the proposal will not have a fiscal impact on the MHTC or the Medical Plan.

In addition, the proposal changes the definition of “placement” regarding adoption from physical custody to assumption/retention of a legal obligation for total or partial support. This change occurs in a statute, which requires individual and group insurance policies to cover adopted children on the same basis as other dependents. Assuming that the Highway and Patrol Medical Plan would be considered a self-insurance group health benefit plan, this change would have a fiscal impact on the Medical Plan if coverage were required prior to physical custody. There would be no fiscal impact to the MHTC/DOT.

Currently, the Medical Plan covers foreign adopted children at the time physical possession is taken of the child. Domestic adopted children are eligible for coverage at the date of birth or date of placement, if the petition for adoption is in place within thirty days of the date of birth or

ASSUMPTION (continued)

placement. Under this proposal, the Medical Plan may have to allow coverage for foreign adopted children earlier than what is currently taking place assuming the adoptive parents have a legal obligation prior to physical custody of the child. Assuming this is true, the Medical Plan may have additional costs for the actual birth of the child, as well as other expenses if the child is born with complications. The Medical Plan has very few foreign adopted children enrolled in the Medical Plan. As a result, there would be a minimal impact due to the birth of the children with no complications. However, if a child has serious complications, the impact could be substantial.

Oversight is presenting DOT's unknown costs for General Revenue, the Patrol Highway Fund and the DOT Highway Fund. **Oversight** assumes all other funds would be minimally impacted and costs would be absorbable.

Officials from the **Department of Insurance (INS)** provide the following assumptions regarding the proposal:

Section 376.381 - HMOs currently pay corporate income tax rather than premium tax. The Premium tax is split 50/50 between General Revenue (GR) and the County Foreign Insurance Fund. The INS assumes that companies with both HMO and insurance company affiliates will move business from indemnity plans where premium taxes are paid to HMO deductible policies. These products will be taxed at the 2% premium tax rate but funds will be deposited into the MO Health Insurance Pool Fund. This will create an unknown loss of revenue to GR and the County Foreign Insurance Fund (distributed to school districts) where premium taxes for indemnity plans are currently deposited due to a shift from indemnity policies to HMO deductible policies. There will also be a loss to GR due to the shift from current HMO non-deductible policies that result in corporate taxes paid to HMO deductible policies that will be taxed at the 2% rate and deposited into the MO Health Insurance Pool Fund. This loss of revenue to these funds is estimated to exceed \$100,000. Mo Health Insurance Pool Fund will have unknown revenues exceeding \$100,000.

The INS estimates that many of the 160 insurers and HMOs would develop and file new products that are required to be submitted to the INS for review and approval. Policies and HMO contracts must be submitted to the department for review along with a \$50 filing fee. One-time additional revenues to the Insurance Dedicated Fund are estimated to be \$8,000. Additional staff are not being requested at this time, but if workload for policy form filings is increased enough to warrant additional staff, then resources will be requested.

Section 376.963, RSMO, would create the "MO Health Insurance Pool Fund," into which all moneys so designated would be placed, as well as any premium taxes collected as a result of section 376.381,

ASSUMPTION (continued)

RSMo. The INS would administer the fund, along with the Board of Directors of the MO health insurance pool. Remaining funds would not revert back to general revenue.

Creating a MO Health Insurance Pool Fund to be administered by the INS will require resources. The premium tax system will need to be modified to accept premium taxes collected from insurers offering these policies and track and certify funds which will be deposited into the newly created fund. Computer programming costs will be required to make necessary modifications. Costs cannot be estimated until additional information on the process is established. HMOs currently do not file premium tax returns. Additional work in auditing of premium tax returns may require one additional staff person in the Premium Tax Section. If workload is sufficient, this staff person along with computer programming costs, will be requested in the budget process. Unknown Costs to the Insurance Dedicated Fund could possibly exceed \$100,000.

Section 376.421-Section 376.816 No fiscal impact to the INS.

Section 376.841 No fiscal impact to the INS.

Section 379.930-Section 379.952 No fiscal impact to the INS.

Officials from the **Department of Mental Health (DMH)** state the proposal applies to health insurance insurers and insurance carriers of group health plans and individual health coverage. The DMH does not fit the definition of a health insurance insurer or insurance carrier. Therefore, there is no fiscal impact to the DMH.

Section 379.930(2)(25) defines "Medical Care" and this definition does not appear to include mental health.

If the sunset provision is not extended and the law expires, it appears that health insurers would no longer be bound by this requirement in policies offered to policy holders.

The majority of persons served by DMH do not have private commercial policies. For those who do, their benefits have usually been exhausted prior to receiving services from DMH facilities and/or community provider network. Under the provision of this proposal, the change in the number of clients who have insurance would be negligible. Therefore, the proposal will have no impact on the DMH.

The direct fiscal impact to DMH is zero. The proposal relates to the health insurance coverage of "Mental Health and Chemical Dependency."

ASSUMPTION (continued)

Oversight assumes if the Mental Health and Chemical Dependency Insurance Act is extended to January 1, 2011, the result will be potential forgone savings to General Revenue, Other State Funds, and Local Government Funds. **Oversight** assumes forgone savings for General Revenue and Other State Funds of approximately \$1,523,370 to \$1,741,915 for FY 05 (six months); \$3,138,141 to \$3,588,345 for FY 06; and \$3,232,285 to \$3,695,995 for FY 07. **Oversight** also assumes forgone savings to Local Government Funds of between \$0 and \$407,195 for FY 05; \$0 to \$838,821 for FY 06; and \$0 to \$863,986 for FY 07. These estimates were determined using the fiscal note impact for HCS for SS for SCS for SB 338 (1999) and applying a 3% growth factor.

This proposal will result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
<u>Costs - Missouri Department of Transportation</u>			
Additional adoption coverage	(Unknown)	(Unknown)	(Unknown)
<u>Loss - Department of Insurance</u>			
Shift from premium tax to corporate tax	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>(Unknown exceeding \$100,000)*</u>	<u>(Unknown exceeding \$100,000)*</u>	<u>(Unknown exceeding \$100,000)*</u>

* Does not include forgone savings estimated to be \$116,371 for FY 05; \$239,724 for FY 06; and \$246,916 for FY 07.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Form filing fees	\$8,000	\$0	\$0
<u>Costs - Department of Insurance</u>			
Programming costs	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
COUNTY FOREIGN INSURANCE FUND			
<u>Savings - Department of Insurance</u>			
Reduction in transfer-out to school districts	Unknown	Unknown	Unknown
<u>Loss - Department of Insurance</u>			
Reduction in premium taxes collected	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON COUNTY FOREIGN INSURANCE FUND**	<u>\$0**</u>	<u>\$0**</u>	<u>\$0**</u>
MO HEALTH INSURANCE POOL FUND			
<u>Income - Department of Insurance</u>			
Premium taxes	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON MO HEALTH INSURANCE POOL FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

****Decrease in unknown revenue is
 offset by an unknown decrease in
 transfers to school districts and nets to
 \$0.**

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
PATROL HIGHWAY FUND			
<u>Costs - Missouri Department of Transportation</u>			
Additional adoption coverage	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON PATROL HIGHWAY FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
HIGHWAY FUND			
<u>Costs - Missouri Department of Transportation</u>			
Additional adoption coverage	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
OTHER STATE FUNDS***	<u>0***</u>	<u>0***</u>	<u>0***</u>

*** Forgone savings for all state funds except General Revenue estimated between \$1,406,999 to \$1,625,543 for FY 05; \$2,898,417 to \$3,348,618 for FY 06; and \$2,985,369 to \$3,449,077 for FY 07.

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
SCHOOL DISTRICTS			
<u>Loss - School Districts</u>			
Reduction in premium taxes transferred- in from the County Foreign Insurance Fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS****	<u>(Unknown)#</u>	<u>(Unknown)#</u>	<u>(Unknown)#</u>
# Does not include forgone savings estimated between \$0 and \$407,195 for FY 05; \$0 to \$838,821 for FY 06; and \$0 to \$863,983 for FY 07.			

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal modifies several provisions of law relating to health insurance. Many of the provisions are modified so that the state of Missouri will be in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

DEDUCTIBLE PLANS BY HMOS - PREMIUM TAX - Under this proposal, any HMO may offer as an option, one or more health benefit plans which contain deductibles, coinsurance, coinsurance differentials, or variable copayments, as agreed to by the group or individual policy holder. Health benefit plans which contain deductibles may be combined with health savings accounts (HSAs), as described in the Medicare Reform Act. HMOs that offer such policies are not exempted from providing or covering the various mandated health insurance benefits required by Chapter 376, RSMo. Coverage and benefits provided by such policies for the various mandated health insurance benefits required by Chapter 376, RSMo, shall be subject to the dollar limits and copayments as prescribed in Chapter 376, RSMo.

HMOs that issue the optional health benefit plans shall pay a 2% premium tax on such plans. The moneys generated from this tax shall be credited to the Missouri Health Insurance Pool which is created by this act (Sections 376.381 and 376.963).

GROUP HEALTH INSURANCE (HIPAA COMPLIANCE)- The proposal amends several provisions of law relating to group health insurance. Under the provisions of the proposal, an insurer may only exclude or limit coverage on persons if the insurer complies with Sections 376.450 to 376.452 (Sections 376.421, 376.424, and 376.426). Sections 376.450 to 376.452 attempt to make Missouri "HIPAA" compliant for purposes of federal law. HIPAA is the Health Insurance Portability Accountability act which, amongst other things, relates to the crediting of prior health coverage for purposes of reducing preexisting condition exclusion periods. The new provisions define the terms "pre-existing condition exclusions" and "waiting period". The proposal prohibits group health insurance issuers from establishing enrollment eligibility requirements based on health status-related factors, which include medical history and genetic information (Section 376.451). Health insurance issuers, that offer group health insurance coverage, are prohibited from requiring any individual, as a condition of enrollment, to pay a premium or other contribution that is greater than that made by other similarly situated individuals enrolled in the plan on the basis of health status-related factors. The proposal requires health insurance issuers offering large group health plan coverage to renew or continue coverage in force at the option of the plan sponsor (Section 376.452). The health insurance issuer may

DESCRIPTION (continued)

nonrenew or discontinue health insurance coverage in connection with a group health plan if the plan sponsor fails to pay premiums, the plan sponsor has committed fraud or misrepresented facts in connection to the coverage, fails to comply with employer contribution requirements, or in the case of network plan, no enrollees in the group live, work or reside in the service area of the health insurance issuer.

Under the proposal, a health insurance issuer may not discontinue offering a particular type of group health insurance coverage offered in the large group market unless:

- (1) The issuer provides notice to each plan sponsor and participant at least 90 days prior to the date of the discontinuation of coverage;
- (2) The issuer offers to each plan sponsor the option to purchase any other health insurance coverage currently being offered in the market; and
- (3) The issuer acts uniformly without regard to claims experience of the plan sponsors or health-status related factors of its participants.

The proposal also provides that a health insurance issuer may not discontinue in the large group market unless it provides 180 day notice and all health insurance issued in Missouri is discontinued. A health insurance issuer discontinuing coverage pursuant to this provision may not issue health insurance coverage in the large group market for five years.

The proposal provides similar guidelines regarding the nonrenewal and discontinuance of health insurance coverage to the individual market (Section 376.771).

HEALTH INSURANCE COVERAGE FOR ADOPTED CHILDREN - This proposal changes the definition of the term "placement" as it pertains to coverage of adopted children. Under current law, health insurance coverage for adopted children is effective from the date of placement. Currently, placement means that the child is in the physical custody of the adoptive parent. The proposal changes the definition of "placement" to mean the assumption and retention by the insured of a legal obligation for total or partial support of a child in anticipation of adoption (Section 376.816).

MENTAL HEALTH AND CHEMICAL DEPENDENCY INSURANCE ACT - This proposal extends the sunset date upon the Mental Health and Chemical Dependency Insurance Act to January 1, 2010 (Section 376.841).

DESCRIPTION (continued)

SMALL EMPLOYER HEALTH INSURANCE - The proposal amends several provisions regarding the Small Employer Health Insurance Availability Act (Sections 379.930 - 379.952). The proposal adds the terms "creditable coverage," "excepted benefits", "health status-related factor", and "medical care" as they relate to the Small Employer Health Insurance Availability Act. The proposal modifies the definition of "small employer" as it pertains to a group health plan to include political subdivisions. A small employer is one who employs two to 50 eligible employees. Under current law, a small employer has three to 25 employees (Section 379.930).

The proposal modifies conditions under which small employer health benefit plans are not renewable (Section 379.938). The proposal modifies the conditions (notice, offering of other coverage, acting uniformly without regard to claims experience, etc.) under which small employer carriers can discontinue a particular type of small group health benefit plan and discontinue all small employer health insurance coverage (Section 379.938). The proposal allows small employer carriers offering coverage through a network plan not to offer coverage to an eligible person who no longer lives or works in the service area or to a small employer who no longer has an enrollee in the plan who lives or works in the service area. This proposal requires small employer carriers to offer all health benefit plans they actively market to small employers in the state. Current law requires small employer carriers to offer at least two health benefit plans: a basic and a standard health benefit plan (Section 379.940).

The proposal prohibits small employer carriers from imposing preexisting condition exclusions in certain cases. For example, the proposal specifies that a pregnancy existing on the effective date of coverage is not considered a pre-existing condition. The proposal also prohibits imposing a preexisting condition exclusion on adopted children before attaining the age of 18 and who, as of the last day of the thirty-day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.

ABOLISHMENT OF THE MISSOURI SMALL EMPLOYER HEALTH REINSURANCE PROGRAM - This proposal abolishes the Missouri Small Employer Reinsurance Program on December 31, 2005 (Section 379.942). The program will not take on any risk after October 1, 2004 (Section 376.943.13). Moneys and assets which are part of the Missouri Small Employer Health Reinsurance Program shall be transferred to the high risk pool (Section 376.943.14 and .15).

MARKETING OF HEALTH INSURANCE BY SMALL EMPLOYER CARRIERS - The proposal deletes the provision of law which currently provides that if a small employer denies coverage to a small employer on the basis of the health status or claims experience of the small

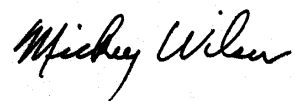
DESCRIPTION (continued)

employer and employees, the small employer carrier must offer the small employer the opportunity to purchase other basic health benefit plans (Section 379.952).

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

Office of Administration -
 Division of Budget and Planning
 Division of Accounting
 Division of Risk Management/General Services
Office of State Courts Administrator
Department of Mental Health
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Missouri Department of Transportation
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Department of Insurance
Missouri Department of Conservation
Office of State Treasurer



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