

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1169-01
Bill No.: HB 353
Subject: Health Care; Medicaid; Social Services Department
Type: Original
Date: January 29, 2007

Bill Summary: This proposal authorizes individuals to sue for Medicaid fraud.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$52,710 to \$152,710)	(\$58,099 to \$158,099)	(\$59,841 to \$159,841)
Total Estimated Net Effect on General Revenue Fund	(\$52,710 to \$152,710)	(\$58,099 to \$158,099)	(\$59,841 to \$159,841)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Office of the State Courts Administrator, Office of the State Public Defender, Office of the Governor** and the **Missouri Senate** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the State Auditor (SAO)** state this proposal contains two audit requirements. SAO states an annual financial audit of the Medicaid fraud unit within the Attorney General's Office is required. This audit requirement is primarily a cost/benefit analysis of the unit. SAO estimates that this audit will require 1 FTE at the Staff Auditor III level.

SAO states an annual financial audit of the program integrity unit of the Medicaid program within the Department of Social Services is required. This audit requirement is primarily a cost/benefit analysis of this unit. SAO estimates that this audit will require 1 FTE at the Staff Auditor III level.

Oversight assumes the SAO can carry out the requirements of this proposal with 1 FTE.

Officials from the **Department of Social Services (DSS) - Division of Medical Services (DMS)** assume this proposal will not have a fiscal impact to their agency. The DSS is required to annually report eight specific elements to the General Assembly and the Governor. This will require modifying some of the DSS's reports, but it should not cause a fiscal impact.

Officials from the **Department of Mental Health (DMH)** state a workgroup will be created to determine if an Office of Inspector General shall be established. The director of DMH or designee shall serve as ex officio members of the advisory workgroup. DMH would absorb any costs associated with the workgroup. This proposal does not appear to change the responsibilities or services of DMH. No fiscal impact to DMH

Officials from the **Missouri House of Representatives** assume the fiscal impact for this legislation is minimal and could be absorbed within existing resources. It is assumed that this would be paid from the Joint Contingent Fund. However, if similar bills with minimal fiscal impacts pass, collectively the costs may be in excess of what the House can sustain within the existing budget and would require additional funding.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General (AGO)** assumes that increasing the penalties associated with Medicaid fraud and providing mandated reports to the general assembly and governor will require additional staff. AGO assumes it would require 1/2 Assistant Attorney General II to meet the requirements of the proposal.

Oversight assumes the AGO could absorb a one-half FTE.

Officials from the **Department of Corrections (DOC)** state this proposal authorizes individuals to sue for Medicaid fraud. The penalty provision component of the bill resulting in potential fiscal impact for the DOC, is for a up to a class B felony when priors exist.

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

DOC currently has only one parole case in the system for existing charges for Medicaid fraud.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** have not responded to Oversight's request for fiscal information.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
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GENERAL REVENUE FUND

<u>Costs - Department of Corrections</u>			
Program Costs	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)

<u>Costs - Office of the State Auditor</u>			
Personal Services	(\$32,188)	(\$39,784)	(\$40,977)
Fringe Benefits	(\$14,568)	(\$18,006)	(\$18,546)
Equipment and Expense	(\$5,954)	(\$309)	(\$318)
<u>Total Costs - SAO</u>	<u>(\$52,710)</u>	<u>(\$58,099)</u>	<u>(\$59,841)</u>
FTE Change - SAO	1 FTE	1 FTE	1 FTE

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$52,710 to \$152,710)</u>	<u>(\$58,099 to \$158,099)</u>	<u>(\$59,841 to \$159,841)</u>
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Estimated Net FTE Change for General Revenue Fund	1 FTE	1 FTE	1 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This legislation changes the laws regarding fraud and abuse in the Missouri Medicaid Program. The legislation specifies that the use of the terms "knowing" and "knowingly" means "intentionally".

The legislation changes the penalty for making a false statement to a class C felony for a first conviction and a class B felony for subsequent convictions. A person will be guilty of a class D felony for willfully or attempting to prevent, obstruct, mislead, or delay the communication of information relating to a violation.

The legislation specifies that any person who is the original source of information regarding a violation will be compensated unless he or she participated in the fraud or abuse.

The legislation prevents an employer from discriminating against an employee for participating in a court action relating to a violation unless the employee files a frivolous claim, participated in the violation, or is convicted of criminal conduct related to the violation.

The legislation requires the Office of the Attorney General and the Department of Social Services to report information regarding violations to the Governor and General Assembly by January 1, 2008, and annually thereafter.

The legislation requires the State Auditor to complete a financial audit of the Medicaid fraud unit within the Office of the Attorney General and the program integrity unit within the Department of Social Services.

The legislation establishes a penalty for destroying or concealing records of claims submitted or payments received.

The legislation establishes a penalty for filing false reports or claims of alleged violations and receiving compensation for failure to report violations.

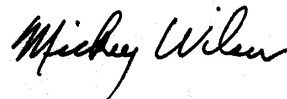
The legislation also creates an advisory working group, beginning September 1, 2007, to determine the need for an Office of Inspector General to oversee the state medical assistance programs.

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

Missouri Senate
Department of Health and Senior Services
Office of the State Public Defender
Office of the State Courts Administrator
Office of the State Auditor
Department of Social Services
Department of Mental Health
Office of the Governor
Missouri House of Representatives
Office of the Attorney General
Department of Corrections

Not Responding: Office of Prosecution Services

A handwritten signature in black ink that reads "Mickey Wilson". The signature is fluid and cursive, with the first name "Mickey" and last name "Wilson" clearly distinguishable.

Mickey Wilson, CPA
Director
January 29, 2007