

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4824-04
Bill No.: HCS for HB 1933, 1375, 1662, 1816, 1940, 1971, 2240, 2313, 2423 & 2435
Subject: Public Assistance; Medicaid; Department of Social Services
Type: Original
Date: April 23, 2008

Bill Summary: This legislation makes various changes to health care provisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown but Greater than \$16,243,644)	(Unknown but Greater than \$20,195,315)	(Unknown but Greater than \$21,062,324)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$16,243,644)	(Unknown but Greater than \$20,195,315)	(Unknown but Greater than \$21,062,324)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Workers Compensation	(\$44,718)	(\$54,192)	(\$55,817)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$44,718)	(\$54,192)	(\$55,817)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Workers Compensation Fund	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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator, Department of Revenue, Office of Prosecution Services, Department of Conservation, Missouri Consolidated Health Care Plan, Department of Public Safety, Missouri State Highway Patrol** and the **Department of Insurance, Financial Institutions & Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a similar proposal from this year (HB 1816), officials from the **Office of Administration** assume the proposal would have no fiscal impact to their agency.

In response to a similar proposal from this year (HB 2435), officials from the **Department of Highways and Transportation** assume the proposal would have no fiscal impact to their agency.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposed legislation (Section 208.152) would add a variety of services to the list of covered services under the MO HealthNet program. The DHSS assumes the Department of Social Services will calculate the fiscal impact associated with the addition of these services. DHSS does not anticipate any fiscal impact as a result of this proposal.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Labor and Industrial Relations** states Section 287.055 of the proposal states that by January 1, 2010, the Division of Workers' Compensation shall develop rules to provide a reduced workers' compensation insurance premium for hospitals that implement a "safe patient handling program." This section also requires the Division to complete an evaluation of the results of the reduced premium, including changes in claim frequency and costs and report the results of the evaluation to the appropriate committees of the General Assembly by December 1, 2013 and 2015.

In Missouri, the workers' compensation insurance market is a competitive file and use market. Rate making and premiums determinations are regulated by the Department of Insurance, Financial Institutions and professional Registration, not the Division of Workers' Compensation. The Division of Workers' Compensation believes it does not have jurisdiction to implement the provisions of this proposal and that such implementation should be appropriately assigned to the Department of Insurance, Financial Institutions and Professional Registration.

There are 154 hospitals in Missouri according to the Missouri Hospital Association. Assuming that all hospitals would implement a safe patient handling program and become eligible for a premium reduction, and also assuming that the Division of Workers' Compensation will maintain the responsibilities outlined in section 287.055, the Division estimates it will require an Insurance Financial Analyst II to evaluate the results of the reduced premium and the impact on claims frequency and costs.

The Division also assumes that premium reductions for hospitals under this program would reduce the amount of administrative tax and Second Injury Fund surcharge realized by the Division since the tax and surcharge rates and revenue are based on the amount of annual workers' compensation premium. However, since the proposal does not set limits on the amount of premium reduction, the Division is unable to determine the amount the total state-wide premium will be reduced.

Officials from the **Department of Mental Health (DMH)** assumes the proposal makes various changes to health care provisions. DMH assumes the proposal (Section 208.152) would have an Unknown but Greater than \$100,000 fiscal impact to their agency.

ASSUMPTION (continued)

Officials from the **Department of Social Services - MO HealthNet Division** states the following:

Section 208.148 - A physician enrolled in the Mo HealthNet program will receive an enhanced reimbursement on certain services if the physician does the following: become the health care home for a MO HealthNet patient; complete a patient history and consultation for the patient; and file a treatment plan for the patient.

In FY08 money was appropriated for MO HealthNet to contract with an enrollment broker to assist MO HealthNet participants select a health care home and money was also appropriated for health risk assessments to be completed jointly by the participant and the provider. Additional money was requested for in a new decision item for FY09. It is assumed that MO HealthNet will continue contracting with the enrollment broker and reimbursing for the health risk assessment.

Physicians who meet these requirements will be reimbursed 100% of the Medicare rate for new patients and 100% of the Medicare rate for established patients.

Claims data from FY07 was used to determine the fiscal impact of increasing the rates. The American Medical Association Current Procedural Terminology (CPT) codes 99201 to 99205 for new patients and CPT codes 99211 to 99215 for established patients were reviewed. The cost to increase office visit rates for new patients to 100% of the Medicare rate will be \$4,791,847. For FY09, it is assumed the cost will be for 10 months; therefore it is \$3,991,609. After applying a 4.5% medical inflation factor for each year, the cost for FY10 is \$5,007,480 and for FY11 it is \$5,232,817.

The annual cost to increase office visit rates for established patients to 100% of the Medicare rate will be \$34,646,388. For FY09, it is assumed the cost will be for 10 months; therefore it is \$28,860,441. After applying a 4.5% medical inflation factor for each year, the cost for FY10 is \$36,205,475 and for FY11 it is \$37,834,722.

The enhanced reimbursement is subject to appropriation and it is unknown how many physicians will meet these requirements, the total annual fiscal impact to the MO HealthNet Division for this legislation will be a range from \$0 to \$39,438,235. The fiscal impact for FY09 will be \$0 to \$32,852,050, FY10 it will be \$0 to \$41,212,955 and for FY11 it will be \$0 to \$43,067,537.

Section 208.152.1.(23) - Currently, chiropractic care is not covered by MO HealthNet. If this legislation passed and was funded MHD assumes that the state plan would be amended to allow the coverage and that the policy would follow current Medicare policy regarding chiropractic

ASSUMPTION (continued)

care. Medicare in Missouri limits coverage to only spinal manipulation to treat subluxation when performed by a chiropractor. Medicare covers only medically necessary acute and chronic subluxation and not maintenance therapy. Diagnostic x-rays when ordered by a chiropractor are not covered.

Studies that determined the utilization of chiropractic care in the general population were reviewed to determine the potential number of MO HealthNet participants who might receive chiropractic care if this legislation passed. It is assumed that utilization in the MO HealthNet population will be similar to the general population. The National Institutes of Health (May, 2004) found that 7.5% of adults used chiropractic care within the previous 12 months. The Southern Medical Journal (April, 2000) reported that 8.7% of adults used chiropractic care within the previous 12 months. Studies that analyzed usage among children were not readily available. MHD has chosen to use 8% as the estimate of the percentage of the MO HealthNet population that will use chiropractic services. It is assumed that the legislation intends for chiropractic care to be covered for adults and children.

The number of MHD participants in FY07 was 828,196. It is estimated that 66,256 ($828,196 \times 8\%$) participants will utilize chiropractic care.

The procedure codes that are currently used under Medicare in Missouri are 98940, 98941 and 98942. The Medicare rates paid when services are delivered in a private office versus a facility were chosen for the MHD rate estimate. An average rate for these procedure codes if used under MHD was calculated assuming that MHD would pay 55% of the rate paid by Medicare. The estimated average rate for these procedures is \$18.09 ($\$32.90 \times 55\%$).

The number of medically necessary chiropractic visits that will be prior authorized for each participant is not known. For the purpose of the fiscal note it is assumed that a series of 8 visits per year will be authorized. It is possible that some participants will receive more visits and some less. It is also possible that they may be authorized for 8 visits for one subluxation then another 8 visits for a different subluxation. This would be a new program and historical data for Missouri is not yet available. In addition, the legislation states that the program is subject to appropriation. Therefore, it must be noted that the cost estimate is based only on those parameters that are known. The impact will be zero to \$7,990,435 in the first year (10 months).

The FY09 total cost will be \$0 to \$7,990,435 (\$2,941,279 GR); FY10 \$0 to \$10,020,006 (\$3,688,364 GR); and FY11 \$0 to \$10,470,906 (\$3,854,340 GR). A 4.5% inflation factor per year was applied.

ASSUMPTION (continued)

Section 208.152.1.(24) - Requires services that can be defined as medically necessary as well as services that are not medically necessary. Currently, the MHD reimburses for services that are medically necessary and for some services with other specific criteria but does not reimburse for non-medically necessary services.

Medically Necessary Services or Services With Other Specific Criteria:

MHD provides home visits for medically fragile infants, low birth weight infants, infants diagnosed with failure to thrive and mothers with substance abuse diagnoses. Current programs are the Maternity and Post Discharge Home Visit program; the Healthy Children and Youth program; and the Children's Services Home Health program. In addition, the Department of Mental Health (DMH) provides substance abuse treatment through the Comprehensive Substance Treatment and Rehabilitation (CSTAR) program which is reimbursed by MHD.

With the exception of the Maternity and Post-Discharge and CSTAR programs Home Health services must be medically necessary.

The Maternity and Post Discharge Home Visit program allows a minimum of two visits, at least one of which shall be in the home in accordance with maternal and neonatal physical assessments by a registered nurse. This program is available for mothers whose hospital stay was less than 48 hours for a vaginal delivery or less than 96 hours for a cesarean section delivery.

The Healthy Children and Youth (HCY) Program offers Home Health services through the 1989 OBRA mandate expanding Medicaid services for children based on solely documented medical need.

The Children's Services Home Health program provides services for low birth weight babies and babies diagnosed with failure to thrive. These services are solely for medical need and are not reimbursable for social or emotional issues that may affect the participant's medical condition. Services include up to twelve visits over eight weeks without regard to homebound status and possible additional services based on certain criteria.

In addition, CSTAR services are available through the DMH and reimbursed by the MHD. CSTAR provides a specialized substance abuse treatment program for women and their children with services offered with or without residential support in accordance with eligibility criteria. Priority is given to women who are pregnant, postpartum or have children in their care or custody.

ASSUMPTION (continued)

Since these services are already available to MO HealthNet participants who meet either the medically necessary criteria or other specific criteria it is assumed there will be no additional fiscal impact unless there is increased utilization of these services. If there is an increase in utilization then an unknown cost is assumed.

Non-Medically Necessary Services

Services that are non-medically necessary are not covered under current programs. Therefore, there will be a fiscal impact for those services. At-risk infants or their mothers for whom services may not be available would have to receive services through a referral to another agency or program or under a waiver program through MO HealthNet.

For the sake of perspective if only one percent of the infants eligible for MO HealthNet born in 2006 met the at-risk descriptions in the bill aside from the medically fragile definitions there would be about 380 infants eligible annually for these non-medically necessary services. This minimum estimate is based on the number of infants born in Missouri who were MO HealthNet eligible in 2006 ($37,965 \times 1\% = 380$). It is assumed that this would be the fewest number of children who would participate.

It is assumed that these infants would receive five skilled nurse visits every twelve months for the two years they are in the program. This estimate is based on historical data published by existing programs in the private sector. It is further assumed that these 380 infants would remain in the program for two years and then exit the program. It is also assumed that in each successive year of the program a new group of 380 infants would enter the program. Therefore, in the first year of the program there would be a minimum of 380 infants and in subsequent years there would be a minimum of 760 ($380 \times 2 = 760$) infants participating. Skilled nurse home visits are currently reimbursed at a rate of \$63.27 per visit (15 minutes to 3 hours).

The FY09 cost includes five skilled nurse visits for 380 infants for the first twelve months of their participation in the program for a total cost in the first year of \$100,067. Since this is the fewest number of infants expected in the program and the utilization is not definitely known the cost will be unknown greater than \$100,067.

The FY10 cost includes five skilled nurse visits for the 380 infants from the previous year (their second twelve months of participation) as well as all first year costs for the new group of 380 infants. The cost would be unknown greater than \$250,967.

ASSUMPTION (continued)

The FY11 cost includes five skilled nurse visits for the 380 infants from the previous year (their second twelve months of participation) as well as all first year costs for the new group of 380 infants. The cost would be unknown greater than \$262,261.

It is assumed that the Department of Social Services will apply for a Section 1115 demonstration waiver to implement the portion of this program that requires non-medically necessary services and that DSS will receive a federal match for those services.

It is assumed the counties involved in the pilot project would be counties in which a high number of at risk infants live.

Total costs: The program is subject to appropriation so the fiscal impact is a range from \$0 greater than. FY09 (10 months) unknown greater than \$100,067 (\$36,835 GR); FY10 cost is unknown greater than \$250,967 (\$92,381 GR); and FY11 total cost is unknown greater than \$262,261 (\$96,539 GR). A 4.5% inflation factor was applied to FY10 and FY11 costs.

Oversight assumes there will be no federal funds available for the non-medically necessary services in FY09 because of the time it will take DOS to apply for and get approval for a Section 1115 demonstration waiver.

Section 208.152.1.(25) - The MHD currently provides telemonitoring service for selected counties. The current appropriation is \$800,000. The number of participants in the selected counties is 344,648. If MHD expanded services to all Missouri counties, it is assumed the increase in expenditures would be proportional to the increase in participants subject to appropriation.

Current appropriation is \$800,000 which serves 344,648 participants. If telemonitoring services were expanded to the entire MO HealthNet population of 840,605 participants, the cost would be \$1,951,220 ($\$800,000 \text{ current cost} / 344,648 \text{ current eligibles} = \$2.32 \text{ cost per eligible} \times 840,605 = \$1,951,220$).

For FY09, MHD assumed that we would only need 10/12th of this appropriation, or \$1,626,017. Since the services are "subject to appropriation", the fiscal impact is a range from \$0 to \$1.6 million for FY 09 and \$0 to \$1.95 million for FY10 and FY11.

Oversight has, for fiscal note purposes only, calculated the fiscal impact based on new eligibles being served. $\$1,150,620 (840,605 - 344,648 = 495,957. 495,957 \times \$2.32)$.

ASSUMPTION (continued)

Section 208.227 - The impact is unknown but estimated to be greater than \$1,000,000 each year.

Sections 1, 2 and 3 - Mo HealthNet fee for service is not included in the definition of a health benefit plan or a health carrier under chapter 376, but MHD managed care plans are included. The plans would likely have a cost from this proposed legislation, which in turn, result in a cost to the State. Plans pass that cost along to the state when contracts are re-bid. The cost to the MO HealthNet Division is unknown but greater than \$100,000.

Oversight has, for fiscal note purposes only, assumed this proposal will be appropriated and will reflexed the cost without a "\$0 to" range.

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures. The Social Security Act requires the Secretary of Health and Human Services to calculate and publish the actual FMAP each year. The FMAP is calculated using economic indicators from state and the nation as a whole. Missouri's FMAP for FY09 is a 63.19% federal match. The state matching requirement is 36.81%.

FISCAL IMPACT - State GovernmentFY 2009
(10 Mo.)

FY 2010

FY 2011

GENERAL REVENUE FUND**Costs - Department of Mental Health**

Section 208.152

(Unknown but
Greater than
\$100,000)(Unknown but
Greater than
\$100,000)(Unknown but
Greater than
\$100,000)**Costs - Department of Social Services**

Section 208.148

(Unknown up to
\$12,344,436)(Unknown up to
\$15,486,117)(Unknown up to
\$16,182,992)

Section 208.152.1(23)

(\$2,941,279)

(\$3,688,364)

(\$3,854,340)

Section 208.152.1(24)

(Unknown
Greater than
\$100,067)(Unknown
Greater than
\$92,381)(Unknown
Greater than
\$96,539)

Section 208.152.1(25)

(\$352,952)

(\$423,543)

(\$423,543)

Section 208.227

(Unknown but
Greater than
\$368,100)(Unknown but
Greater than
\$368,100)(Unknown but
Greater than
\$368,100)

Section 1, 2 & 3

(Unknown but
Greater than
\$36,810)(Unknown but
Greater than
\$36,810)(Unknown but
Greater than
\$36,810)**Total Costs - DSS**(Unknown but
Greater than
\$16,143,644)(Unknown but
Greater than
\$20,095,315)(Unknown but
Greater than
\$20,962,324)**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND****(Unknown but
Greater than
\$16,243,644)****(Unknown but
Greater than
\$20,195,315)****(Unknown but
Greater than
\$21,062,324)**

<u>FISCAL IMPACT - State Government</u>	FY 2009	FY 2010	FY 2011
(continued)	(10 Mo.)		

WORKERS COMPENSATION FUNDCosts - Department of Labor and Industrial Relations

Personal Service	(\$30,256)	(\$37,397)	(\$38,519)
Fringe Benefits	(\$13,379)	(\$16,537)	(\$17,033)
Equipment and Expense	<u>(\$1,083)</u>	<u>(\$258)</u>	<u>(\$265)</u>
<u>Total Costs - DOLIR</u>	<u>(\$44,718)</u>	<u>(\$54,192)</u>	<u>(\$55,817)</u>
FTE Change - DOLIR	1 FTE	1 FTE	1 FTE

**ESTIMATED NET EFFECT ON
WORKERS COMPENSATION FUND**

<u>(\$44,718)</u>	<u>(\$54,192)</u>	<u>(\$55,817)</u>
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Estimated Net FTE Change for Workers
Compensation Fund

1 FTE	1 FTE	1 FTE
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FEDERAL FUNDSIncome - Department of Social Services

Federal Assistance	Unknown but Greater than \$26,857,758	Unknown but Greater than \$33,639,233	Unknown but Greater than \$35,089,000
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Costs - Department of Mental Health

Section 208.152 Costs	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2009 (10 Mo.)	FY 2010	FY 2011
<u>Costs - Department of Social Services</u>			
Section 208.148	(Unknown up to \$20,507,614)	(Unknown up to \$25,726,838)	(Unknown up to \$26,884,545)
Section 208.152.1(23)	(\$5,049,156)	(\$6,331,642)	(\$6,616,566)
Section 208.152.1(24)		(Unknown Greater than \$0	(Unknown Greater than \$165,722)
Section 208.152.1(25)	(\$605,898)	(\$727,077)	(\$727,077)
Section 208.227	(Unknown but Greater than \$631,900)	(Unknown but Greater than \$631,900)	(Unknown but Greater than \$631,900)
Section 1, 2 & 3	(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)	(Unknown but Greater than \$63,190)
<u>Total Costs - DSS</u>	(Unknown but Greater than \$26,857,758)	(Unknown but Greater than \$33,639,233)	(Unknown but Greater than \$35,089,000)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(Unknown but Greater than \$100,000)</u>	<u>(Unknown but Greater than \$100,000)</u>	<u>(Unknown but Greater than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Providers of specific health care services that would now be covered under MO HealthNet will see an increase in the amount of reimbursement.

FISCAL DESCRIPTION

The proposed legislation adds medically necessary home telemonitoring services to the list of covered services under the MO HealthNet Program. An electronic web-based prior authorization system using guidelines consistent with national standards will be used to verify the medical need.

This legislation requires the Division of Workers' Compensation within the Department of Labor and Industrial Relations to develop rules to provide a reduced premium for hospitals that implement a safe patient handling program by January 1, 2010, and to complete an evaluation and report on the results of the reduced premium to the appropriate committees of the General Assembly by December 1, 2013, and December 1, 2015.

This legislation adds home nursing visits and follow-up care as needed until an infant's second birthday for certain at-risk newborns to the list of covered services under the MO HealthNet Program. The MO HealthNet Division within the Department of Social Services is required to request the appropriate waivers or state plan amendments from the federal Department of Health and Human Services to provide these services.

The proposed legislation specifies that under the MO HealthNet Program, the successor to the Missouri Medicaid Program, providers can receive enhanced reimbursement for certain services. The enhanced rate will be 100% of the federal Medicare reimbursement rate for new patients and 100% for established patients. In order to qualify for the enhanced reimbursement, the provider must:

- (1) Become the health care home for a MO HealthNet patient;
- (2) Complete a patient history and consultation for the patient; and
- (3) File a treatment plan for the patient.

The proposed legislation adds medically necessary chiropractic services to the list of covered services under the MO HealthNet Program. An electronic web-based prior authorization system using guidelines consistent with national standards will be used to verify the medical need.

This legislation adds home nursing visits and follow-up care as needed until an infant's second birthday for certain at-risk newborns to the list of covered services under the MO HealthNet Program. The MO HealthNet Division within the Department of Social Services is required to request the appropriate waivers or state plan amendments from the federal Department of Health and Human Services to provide these services.

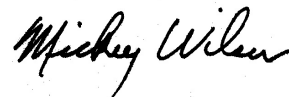
FISCAL DESCRIPTION (continued)

This legislation regulates the use of switch communications to encourage patients to switch from their current medication to a different medication.

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 Mental Health
Department of Health and Senior Services
Department of Social Services
Department of Labor and Industrial Relations
Office of Administration
Department of Insurance, Financial Institutions & Professional Registration
Office of the State Courts Administrator
Office of the Attorney General
Office of the Secretary of State
Department of Revenue
Office of Prosecution Services
Department of Conservation
Missouri Consolidated Health Care Plan
Department of Highways and Transportation
Department of Public Safety
Missouri State Highway Patrol



Mickey Wilson, CPA
Director
April 23, 2008