

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4980-01
Bill No.: HB 2180
Subject: Mental Health; Mental Health Dept.
Type: Original
Date: March 25, 2008

Bill Summary: Modifies various provisions regarding the provision of mental health services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(More than \$5,137,780)	(More than \$6,316,076)	(More than \$6,501,208)
Total Estimated Net Effect on General Revenue Fund	(More than \$5,137,780)	(More than \$6,316,076)	(More than \$6,501,208)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Income and costs of More than approximately \$6.9 million in FY09, \$10.7 million in FY10, and \$11 million in FY11 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	Unknown	Unknown	Unknown
Federal	Unknown	Unknown	Unknown
Total Estimated Net Effect on FTE	Unknown	Unknown	Unknown

☒ 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 State Courts Administrator** and **Department of Health and Senior Services** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration (COA) – Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Social Services (DOS) – MO HealthNet Division (MHD)** state the reimbursement system for community based Medicaid certified Intermediate Care Facilities for the Mentally Retarded (ICF/MRs) is a prospective system. Currently, the reimbursement system does not rebase based on costs. In the past, rates have been increased for each provider based on trend increases of either a percentage or a flat amount. It is not likely that the rates will be changed based on cost report data instead of trend increases. Trend increases must be approved by the legislature and are not given every year.

The MHD assumes there will be no change in the reimbursement methodology for community based Medicaid certified ICF/MRs and, therefore, assumes no impact.

Officials from the **Office of Attorney General (AGO)** state this proposal requires group homes and private mental health facilities to follow the same requirements as state-run facilities (Section 633.300). Under existing statute, the AGO may be directed to file petitions for the temporary care and protection of abused or neglected residents (Section 630.167.2). The AGO also has the responsibility to file for injunctions and penalties when violations at facilities occur (Section 630.755).

ASSUMPTION (continued)

The AGO assumes that because the facilities and programs to which state law now applies has increased, there will be a corresponding increase in caseload, research and travel time. As a result, the AGO assumes that it would need one (1) Assistant Attorney General (AAG) II to pursue these violations. The AGO assumes FY 09 costs of \$64,198; FY 10 costs of \$69,428; and FY 11 costs of \$71,509.

Oversight assumes the AGO is already performing the duties required by this proposal. Under current statute, the AGO may be directed to file petitions for the temporary care and protection of abused or neglected residents, as well as filing injunctions and penalties when violations occur at facilities. **Oversight** assumes this already includes residents in private facilities and that there will be no increase in the AGO's responsibilities or workload.

Officials from the **Department of Mental Health (DMH)** assume several provisions in the legislation will fiscally impact the department.

Section 630.115.1(16) entitles consumers within state-operated facilities the right to request and receive services only from employees of the State of Missouri rather than contracted private persons or entities.

DMH states the Divisions of Mental Retardation and Developmental Disabilities (MRDD) and Comprehensive Psychiatric Services (CPS) provide many services in the state-operated facilities with state employees, but some of the services are contractual. The DMH contracts for nursing, physician services and dental in some of the state-operated facilities. Some of these facilities also contract for other services such as pharmacy, dietary and laundry. Requiring DMH to make those services available with state employees would create a significant impact – unknown but over \$100,000.

Section 630.115.1(17) gives consumers who receive state-subsidized care or services the right to have their case managed by a state employee case worker.

ASSUMPTION (continued)

DMH states MRDD contracts with SB40 Boards to provide case management services (approximately 180 FTE) to some of its consumers. If MRDD is required to hire state employee case managers to replace the contract staff, MRDD estimates it will require at least 180 Case Manager II positions at an annual salary of \$32,448 each, plus \$14,349 fringe benefits, \$2,759 equipment, \$1,195 expenses, \$4,368 travel (estimated at 800 miles per month due to requirements of position), for a total of \$55,119 for each case manager, or \$9,921,331 for all case managers (all funds). These estimates reflect costs for twelve months. For start-up purposes, these new positions will require general revenue funding the first two months of FY 2009. After the first two months, funding for these positions will be transitioned to federal earnings (Targeted Case Management).

These case managers will need Office Support Assistants (OSAs). It is assumed the case managers will need one OSA for each 15 case managers, or 12 in total ($180/15=12$.) The cost for each OSA is \$20,748 salary, \$9,175 fringe benefits, \$2,663 equipment, \$1,087 expenses, for a total of \$33,673 for each OSA, or a total of \$404,073 for all OSAs (all funds). These estimates reflect costs for twelve months.

These staff costs will be offset by Targeted Case Management earnings for the 180 case managers. The annual earnings are estimated at \$8,515,886 ($180 \text{ case managers} \times \text{the targeted case management hourly rate of } \$89.40 \times 100 \text{ billable hours per month} \times 70\% \text{ clients eligible for Medicaid} \times 63\% \text{ Federal Financial Participation} = \$709,657 \text{ per month or } \$8,515,886 \text{ per year}$). MRDD cannot determine how many clients will choose state employee provided case management. Therefore, the costs to provide these services is an unknown cost greater than \$100,000.

The Division of CPS contracts for all case management from private sector providers. Due to CPS's lack of infrastructure and other resources regarding case management, CPS is unable to develop an estimate of the costs to provide these services other than to project an unknown cost greater than \$100,000. In addition, it should be noted that by transferring the case management responsibilities to CPS, funding of private Community Mental Health Centers (CMHCs) will be severely reduced. It is anticipated that several CMHCs would cease operation, while others would drastically reduce operations within their local communities. Such a disruption of the existing system could require that CPS develop state operated outpatient and inpatient mental health programs to make up for these losses of private treatment capacity. Such development may require capital outlay for facility renovation and/or construction, the cost of which cannot be determined at this time.

ASSUMPTION (continued)

The Division of Alcohol and Drug Abuse (ADA) has not traditionally operated a case management system. The cost to establish and maintain a case management system for substance abuse treatment is unknown greater than \$100,000.

DMH assumes associated leasing costs will be included in the Office of Administration, Facilities Management fiscal note and associated information technology expenses will be included in the Office of Administration, ITSD fiscal note.

Section 630.705.4 requires DMH to establish three categories of standards for each type of facility, program or group home.

DMH assumes an Unknown fiscal impact for this section.

Section 630.755.2 removes the \$10,000 per day of non-compliance fine for facilities that are out of licensure compliance and adds the requirement that the attorney general bring action against the owner, operator of the program in circuit court.

Section 633.032.3 prohibits the DMH from reducing the number of residential beds in MRDD state-operated facilities if there are any individuals on a waitlist for residential services.

DMH states there are currently plans to downsize some state operated residential beds. This will prohibit proceeding with those plans. The residential waitlist is unlikely to be completely eliminated; this will require the state to maintain the same level of state operated beds indefinitely. The fiscal impact is unknown.

Section 633.300.1 states all private group homes and mental health facilities shall be licensed by the DMH and shall be subject to the same state laws and regulations as the state-operated mental health facilities.

DMH assumes there would be a fiscal impact on the private providers which would increase the contract rates paid by DMH to the provider, resulting in an unknown fiscal impact to DMH.

Section 633.300.2(1) states all employees of private group homes and mental health facilities shall be subject to the same training requirements established for state mental health workers with comparable positions. Such training shall be paid for by the employer.

ASSUMPTION (continued)

DMH assumes the topics of training required for private providers are similar to state facilities, but different mixes and levels are required depending on the type of setting of the facility. Some of the basic training includes CPR, First Aide, HIPPA, Fire Safety, Abuse and Neglect Reporting, and Medication Administration. Since the training needs are not known at this time DMH is unable to determine the costs associated with the needs of private providers.

Section 633.300.2(2) states all employees of private group homes and mental health facilities shall be compensated by the employer in an amount at least equal to the average hourly wage paid by the state to mental health workers with comparable positions in public group homes and mental health facilities.

DMH included in the FY 2002 provider hourly salary increase decision item for private group home staff an hourly compensation of \$6.50 for the average provider direct care salary at that time. Using this as the baseline and including an additional \$1 per hour increase for the community direct care staff increase in FY 2002 plus a 2.5% COLA in FY 2006 and a 4% COLA (assumes 4% of the 7% general COLA supported salaries) in FY 2007, DMH estimates that the current average salary per hour for private direct care workers is \$8.00. The state Developmental Assistant I was paid an average of \$9.73 in 2007, or a difference of \$1.73. This \$1.73 increase would reflect the state and federal share. There are over 9,000 community staff and with the extremely high turnover rate of these staff it is estimated that 4,500 would be at or close to \$8.00 per hour. DMH would need approximately \$16,192,800 ($\$1.73 \times 4,500 \times 2080$ hours per FTE) to increase salaries to \$9.73 per hour. The Medicaid federal cost in FY 2009 would be \$10,201,464 (63%) and the General Revenue FY 2009 cost would be \$5,991,336 (37%). These costs do not include employee payroll taxes or any other fringe which are estimated at 25%. This would create a pool of resources to implement \$9.73 per hour on a provider by provider basis. Guidelines defining the tasks associated with each position would have to be established in order to equitably compare private providers to state facility staff. At this time the department is unable to determine the cost of establishing such guidelines.

Section 633.300.3 adds private facilities and group homes that are Medicaid-waiver providers shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

Section 633.309 states the department is prohibited from transferring or using the services of a private mental health facility or group home until the department has fully implemented the requirements of this act.

ASSUMPTION (continued)

DMH assumes this would affect their ability to transition consumers to appropriate community settings, which could result a fiscal impact to DMH.

Office Space

DMH assumes it is unknown how much office space will be needed or where it will be needed until staff are hired and deployed throughout the state.

MRDD estimates potentially requiring up to 180 new Case Managers and 12 Office Support Assistants.

Lease space: 96 square feet per Case Manager @ \$17.27 = \$1,658

36 square feet per Office Support Assistant @ \$17.27 = \$622

Case Managers: 180 x \$1,658 = \$298,440

Office Support Assistants: 12 x \$622 = \$7,464

Total for MRDD = \$305,904.

DMH assumes these costs, and any costs associated with space needs of ADA and CPS case managers, will be included in the Office of Administration, Facilities Management fiscal note.

Oversight assumes the provisions in Section 633.032.3 of the proposal prohibit DMH from reducing the number of residential beds would not fiscally impact the DMH. DMH is currently incurring these costs, and the existing costs would continue.

Officials from the Office of Prosecution Services did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Savings</u> – Department of Mental Health			
SB40 Boards Contracted Services	More than \$100,000	More than \$100,000	More than \$100,000
<u>Costs</u> – Department of Mental Health			
Personal Service – §630.115.1	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Fringe Benefits – §630.115.1	(More than \$45,000)	(More than \$45,000)	(More than \$45,000)
Equipment and Expense – §630.115.1	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Administrative Costs – §630.705.4	(Unknown)	(Unknown)	(Unknown)
MRDD Direct Care Provider Salaries – §633.300.2(2)	(\$4,992,780)	(\$6,171,076)	(\$6,356,208)
<u>Total Costs</u> – DMH	<u>(More than \$5,237,780)</u>	<u>(More than \$6,416,076)</u>	<u>(More than \$6,601,208)</u>
FTE Change – DMH	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$5,137,780)</u>	<u>(More than \$6,316,076)</u>	<u>(More than \$6,501,208)</u>
Estimated Net FTE Change for General Revenue Fund	Unknown	Unknown	Unknown

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2009 (10 Mo.)	FY 2010	FY 2011
FEDERAL FUNDS			
<u>Income</u> – Department of Mental Health Federal Assistance	(More than \$6,945,976)	(More than \$10,652,508)	(More than \$10,967,733)
<u>Savings</u> – Department of Mental Health SB40 Boards Contracted Services	More than \$100,000	More than \$100,000	More than \$100,000
<u>Costs</u> – Department of Mental Health Personal Service – §630.115.1	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Fringe Benefits – §630.115.1	(More than \$45,000)	(More than \$45,000)	(More than \$45,000)
Equipment and Expense – §630.115.1	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
MRDD Direct Care Provider Salaries – §633.300.2(2)	<u>(\$6,800,976)</u>	<u>(\$10,507,508)</u>	<u>(\$10,822,733)</u>
<u>Total Costs</u> – DMH	<u>(More than \$6,945,976)</u>	<u>(More than \$10,652,508)</u>	<u>(More than \$10,967,733)</u>
FTE Change – DMH	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Funds	Unknown	Unknown	Unknown
<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

The proposal could have a fiscal impact on small businesses providing mental health services.

FISCAL DESCRIPTION

The proposed legislation changes the laws regarding mental health services to include privately funded mental health facilities and group homes. In its main provisions, the proposal:

1. Allows patients, residents, or clients in mental health facilities operated by the Department of Mental Health to request and receive services only from employees of the state rather than from private persons or entities under contract with the state – § 630.115.1(16);
2. Allows patients, residents, or clients who receive state-subsidized care or services to have their case managed by a qualified case worker employed by the state – § 630.115.1(17);
3. Requires the department to classify the standards for each type of facility, program, or group home into three classes depending on the impact a violation would have on the client's or resident's health, safety, or welfare and creates civil monetary penalties for the violation of classified facility standards – § 630.705.4;
4. Prohibits a reduction in the number of residential beds in state-operated facilities if there are any individuals on a waiting list for services – § 633.032.3;
5. Requires all private group homes and mental retardation facilities to be licensed by the department and be subject to the same federal and state laws and regulations as state-operated facilities – § 633.300.1;
6. Requires all employees of private group homes and mental health facilities to be subject to the same training requirements established for state mental health workers with comparable positions and to be paid an amount at least equal to the average hourly wage paid by the state to mental health workers with comparable positions – § 633.300.2;
7. Requires private facilities and group homes that are Medicaid-waiver providers to be subject to the same medical error reporting requirements as other mental health facilities and group homes – § 633.300.3; and

FISCAL DESCRIPTION (continued)

8. Prohibits the transfer of any person to a private mental health facility or group home until the provisions of the bill have been fully implemented – § 633.309.

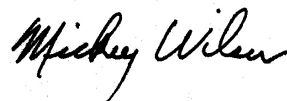
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Office of Secretary of State

NOT RESPONDING

Office of Prosecution Services



Mickey Wilson, CPA
Director
March 25, 2008