

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3337-01
Bill No.: HB 1235
Subject: Medical Procedures and Personnel; Health Care; Nursing and Boarding Homes;
Hospitals
Type: Original
Date: March 2, 2010

Bill Summary: This legislation establishes additional requirements for the removal of artificially supplied nutrition and hydration.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown but Greater than \$36,710)	(Unknown but Greater than \$36,710)	(Unknown but Greater than \$36,710)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$36,710)	(Unknown but Greater than \$36,710)	(Unknown but Greater than \$36,710)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Income and cost of approximately unknown but greater than \$63,290 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

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 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 404.820, 404.821 & 404.850:

Officials from the **Department of Health and Senior Services** and the **Department of Insurance, Financial Institutions & Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health (DMH)** assume the legislation places no obligations or requirements on the DMH that would result in a fiscal impact.

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 Social Services** assume the legislation will affect any individual in Missouri who has a power of attorney; who has directed their power of attorney to withhold artificial nutrition and hydration; and who is incapacitated to the extent that their power of attorney is invoked. It is not known how many MO HealthNet participants would fit these criteria.

If MO HealthNet participants who fit these criteria were residents of nursing homes, patients in an inpatient hospital setting, or in hospice care, the period of time in which they would receive services could be extended due to requirements in the legislation. Those requirements are the lapsing of sixty days during which artificial nutrition and hydration must be supplied in addition to rehabilitative efforts regarding the patient's swallowing reflexes; and, the offer of oral feeding at least three times per day after discontinuance of artificial nutrition or hydration.

There are also numerous medical variables that are difficult to determine that could affect the length of the participant's life and the types of services the participant receives.

To give some context to the possible fiscal impact, the average per diem for nursing facility care is \$132.47 and the average per diem for inpatient hospital care is \$940.23.

If a participant in a nursing facility receives sixty additional days of services the fiscal impact could be \$7,948.20 ($\$132.47 \times 60 \text{ days} = \$7,948.20$). For thirteen participants the fiscal impact could be \$103,327 ($\$7,948.20 \times 13 = \$103,326.60$).

ASSUMPTION (continued)

If a participant in a hospital setting receives sixty additional days of services the fiscal impact could be \$56,413.80 (\$940.23 x 60 days = \$56,413.80). For two participants the fiscal impact could be \$112,827.60 (\$56,413.80 x 2 = \$112,827.60).

Since there are so many unknown factors, the fiscal impact is unknown but could be greater than \$100,000.

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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GENERAL REVENUE FUND

<u>Costs - Department Social Services</u> Program Costs	<u>(Unknown but Greater than \$36,710)</u>	<u>(Unknown but Greater than \$36,710)</u>	<u>(Unknown but Greater than \$36,710)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown but Greater than \$36,710)</u>	<u>(Unknown but Greater than \$36,710)</u>	<u>(Unknown but Greater than \$36,710)</u>
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FEDERAL FUNDS

<u>Income - Department of Social Services</u> Federal Assistance	Unknown but Greater than \$63,290	Unknown but Greater than \$63,290	Unknown but Greater than \$63,290
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<u>Costs - Department of Social Services</u> Program Costs	<u>(Unknown but Greater than \$63,290)</u>	<u>(Unknown but Greater than \$63,290)</u>	<u>(Unknown but Greater than \$63,290)</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2011
(10 Mo.)

FY 2012

FY 2013

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

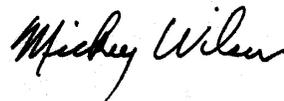
Sections 404.820, 404.821 & 404.850:

The proposed legislation specifies that a health care provider who is withholding or withdrawing artificially supplied nutrition and hydration according to a health care directive under a durable power of attorney will be prohibited from withholding or withdrawing food and water unless a 60-day rehabilitative effort involving the patient's swallowing reflexes has elapsed or oral feeding is offered at least three times per day after discontinuing artificially supplied nutrition and hydration. Oral feedings will only be offered if the patient is able and willing and there is no evidence of choking, distress, or pain. If a patient swallows during an oral feeding, it will be deemed as a desire to continue food and water and revokes any underlying health care directive.

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 the Attorney General
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services



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Director
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