

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0109-02
Bill No.: HB 324
Subject: Health Care; Health Care Professionals; Chiropractors; Dentists
Type: Original
Date: March 12, 2013

Bill Summary: This proposal changes the fees for the search, retrieval and copying of patient medical records.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(Unknown, greater than \$34,884)	(Unknown, greater than \$42,715)	(Unknown, greater than \$43,570)
Total Estimated Net Effect on General Revenue Fund	(Unknown, greater than \$34,884)	(Unknown, greater than \$42,715)	(Unknown, greater than \$43,570)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Federal*			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and expenditures net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services (DSS) - Division of Legal Services (DLS)** state current law allows a health care provider to impose fees for furnishing medical records to cover the cost of copying, retrieval of records from an outside storage location, postage and notary service. The amount that may currently be charged for copying is capped at no more than \$21.36 plus \$.50 per page, with outside storage retrieval no more than \$20.00. Current law also sets out costs for records stored in an electronic or digital format at no more than \$5.50 per page or \$25.00 total.

The proposal would amend current law to allow the specific inclusion of search and retrieval fees, in an amount not more than \$22.01. The proposal also changes the amount that may be charged for copying medical records to \$.52 per page. Finally, the proposal states that for electronic and digital records, the cost for search, retrieval and copying is capped at \$100. The health care provider is only obligated to provide records in an electronic or digital format if it stores the records completely in an electronic health records, and if the health care provider is capable of providing them in an electronic format with an affidavit.

The potential fiscal impact upon DLS is difficult, if not impossible to forecast, due to fluctuations in workflow. Because the division regularly obtains medical records in the course of its investigations and litigation, DLS expects to see an increased cost, particularly as a result of raising the maximum cost for an electronic record from \$25.77 to \$100. It is anticipated that the increased cost would probably be less than \$100,000 per year.

Officials from the **DSS - Family Support Division (FSD)** provide the following:

§ 191.227:

The FSD reviews the health care records of an average of 3,138 applicants and recipients each month to determine initial or continued eligibility for the Temporary Assistance and MO HealthNet programs. These reviews may contain information from one or more health care providers; however, the FSD is unable to determine how many separate health care records are obtained per month.

The FSD is not able to determine the number of health care records that would be obtained from health care providers utilizing electronic health care records. For the purposes of this fiscal note, the FSD assumes one health care record per review for a total of 37,656 health care records

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ASSUMPTION (continued)

obtained per year (3,138 applicants x 12 months). If 10% of these records were obtained from health care providers that use electronic health care records, the FSD would incur increased retrieval costs for 3,766 health care records per year ($37,656 \times 0.10 = 3,765.6$ rounded up).

The fees for health care records provided in paper format are currently set at \$22.01 plus \$0.52 per page. Therefore, the FSD would not incur any additional costs for health care records provided in paper format.

The current fees for electronic health care records are \$5.15 plus \$0.52 per page. This proposal would increase the fees to \$22.01 plus \$0.52 per page. The cost per page of \$0.52 is the same as current costs incurred for these records; however, the maximum cost allowed increases from the current maximum of \$25.77 to \$100.00.

For a 50 page electronic health care record, currently, the maximum a provider can charge the FSD for the record is \$25.77 ($50 \text{ pages} \times \$0.52 = \$26.00 + \$5.15 \text{ current base fee} = \31.15 , which is greater than current max allowed of \$25.77). This cost would increase to \$48.01 ($50 \text{ pages} \times \$0.52 = \$26.00 + \$22.01 \text{ new base fee} = \48.01), which would result in a per record increase of \$22.24 ($\$48.01 - \$25.77 \text{ current max}$) for records containing 50 pages. Records containing more pages would result in a larger increase.

If all electronic health care records requested were 50 pages in length, the estimated increased cost to FSD would be \$83,756 per year ($\$22.24 \text{ increased cost per record} \times 3,766 \text{ records} = \$83,755.84$, rounded up). However, the FSD is unable to determine how many electronic health care records requested would be limited to 50 pages. Since the FSD is also unable to determine the number of health care records that would be obtained from health care providers utilizing electronic health care records, the FSD anticipates the cost of this proposed bill to be unknown but greater than \$83,756.

Officials from the **DSS - Missouri Medicaid Audit and Compliance Unit (MMAC)** state additional cost would be incurred if the proposed legislation passes.

The MMAC would pay for the search, retrieval and copying fees for health records. The MMAC will additionally be charged labor costs associated with outside storage retrieval not to exceed \$20 per request. MMAC will pay for postage to include packaging and delivery costs and a Notary fee, not to exceed \$2, if requested. Providers also may request additional costs for health care record materials which cannot be routinely duplicated on a standard photocopy machine. The estimated retrieval fee is \$22.01 plus 0.52 per page or \$100, whichever is less.

ASSUMPTION (continued)

In FY 11, nine (9) providers billed Program Integrity (MMAC) for medical records. In FY 12, forty-two (42) providers billed MMAC for medical records (the first year of the MMAC reorganization). Six months into FY 13, fifty-eight (58) providers billed MMAC and projected out to year end, it is estimated that one hundred sixteen (116) requests for payment will be made.

MMAC has changed the model used to conduct reviews and investigations since the MMAC reorganization in FY 12, accounting for the increase in requests for medical records for validation purposes and payment for these health records. The potential for record requests are far greater than what the MMAC have paid for in FY 11 or FY 12. FY 11 audits totaled 1,159; FY 12 audits totaled 1,475. In each of these years the providers could have charged for records but did not. However, the total reviews/audits do not take into consideration special projects. Special projects are reviews conducted on a particular issue such as i.e. Nursing Home participant goes to the Hospital; Medicare should cover the charges but the Hospital bills Medicaid. In this scenario MMAC could have numerous providers in which records are requested. However, it is considered "one" audit. During FY 11, 62 special projects were conducted that included reviews of 2,018 providers; during FY 12, 53 special projects included reviewing 6,464 providers; and, for the first six months of FY 13, 32 reviews have been conducted involving 1,986 providers.

Total reviews for FY 11:	1,159 reviews (including 62 special projects)
Less: Special projects	<u>- 62</u>
Reviews of single providers	1,097
Plus: Providers in special projects	<u>2,018</u>
Total providers reviewed	3,115

Total reviews for FY 12:	1,475 reviews (including 53 special projects)
Less: Special projects	<u>- 53</u>
Reviews of single providers	1,422
Plus: Providers in special projects	<u>6,464</u>
Total providers reviewed	7,886

Therefore, to determine impact for this fiscal note, MMAC will use the average percentage increase from the actual paid amounts for the basis of calculation. From FY 11 to FY 12, there was an increase in the amount paid of 345%; from FY12 to the first six months of FY13, the increase was 42% increase. Therefore, the average increase was 193% from year to year. Assumptions being made by MMAC, based upon experience, is that a small case contains 25 pages per file; however, most cases are significantly larger. Nearly all of our records exceed 150 pages and some are as large as 300 to 400 pages. MMAC, therefore, assumes it will be charged

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ASSUMPTION (continued)

the \$100 per electronic file. Additionally, the MMAC is currently in the process of acquiring a Provider Enrollment/Case Management System and a very strong push will be made to receive all information electronically to cut down on staffing resources on the back-end. The \$100 total for records is a \$74.23 increase per case from the current allowable amount of \$25.77.

Additional costs incurred for costs on postage, outside storage and oversize materials is assumed by the MMAC to be covered within the appropriation.

MMAC assumes the maximum number of providers that will charge a fee for medical records in any given year is 5,000. Although this is not expected to happen within the fiscal note period, the MMAC assumes, beginning in FY 17, there is a maximum potential cost for obtaining medical records of \$371,150 annually.

However, for purposes of this fiscal note, MMAC estimates that approximately 340 providers will charge fees during FY 14 resulting in a potential fiscal impact \$25,238. It is assumed 996 providers will charge fees in FY 15 resulting in a potential fiscal impact of \$73,933; and, it is further assumed 2,918 providers will charge fees in FY 16 resulting in a potential cost \$216,603.

Oversight assumes the MMAC will experience some increase in medical record search, retrieval and copying costs as a result in the changes to those fees in this proposal. For fiscal note purposes, Oversight assumes the MMAC will experience an unknown, less than \$100,000 annual increase in medical record search, retrieval and copying costs.

Officials from the **DSS - MO HealthNet Division (MHD)** state additional cost would be incurred if the proposed legislation passes. However, the cost is minimal and it is assumed the cost would be covered by the current appropriation. In FY 12, MO HealthNet paid for four invoices relating to search, retrieval and copying of medical records totaling \$112.50. Therefore, MHD assumes no fiscal impact as a result of this proposal.

Officials from the **DSS - Children's Division (CD)** state the changes to this section would not appear to have a significant fiscal impact on the CD. This assumption is based on the fact that the CD already pays for copies of records at a rate set by the legislature and that the proposed legislation would not result in any increase or decrease in the number of records requests made. The potential increase in the costs of copying medical records as a result of the changes to the rates as described in this section appear to be minimal.

Officials from the **DSS - State Technical Assistance Team (STAT)** state as STAT provides investigative assistance by agency request, all medical records are obtained through and provided by other investigative child protection agencies, i.e. Children's Division, law enforcement, coroner/medical examiner or prosecutor. Therefore, the proposal will have no fiscal impact on STAT.

ASSUMPTION (continued)

Officials from the **DSS - Division of Financial and Administrative Services (DFAS)** assume the proposal would have no fiscal impact on DFAS.

Officials from the **Department of Mental Health (DMH)** state while this proposal would increase the amounts the DMH could charge for search, retrieval, and copying of patient medical records, it is assumed that costs for providing the information will continue to exceed charges. Therefore, the fiscal impact of the proposal is negligible.

Officials from the **Barton County Memorial Hospital** state the proposal would have no significant financial impact.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration**, the **Department of Health and Senior Services**, the **Missouri Consolidated Health Care Plan** and the **Missouri Department of Conservation** each assume the proposal would not fiscally impact their respective agencies.

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

Officials from the **Missouri Department of Transportation (MoDOT)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to similar legislation from 2011 (HB 528), MoDOT assumed the proposal would have no fiscal impact on their organization.

FISCAL IMPACT - State Government

FY 2014
(10 Mo.)

FY 2015

FY 2016

GENERAL REVENUE FUND

Costs - DSS-DLS

Medical record fees

(Unknown, less
than \$50,000)

(Unknown, less
than \$50,000)

(Unknown, less
than \$50,000)

Costs - DSS- FSD

Medical record fees

(Unknown,
greater than
\$34,884)

(Unknown,
greater than
\$42,715)

(Unknown,
greater than
\$43,750)

Costs - DSS-MMAC

Medical record fees

(Unknown, less
than \$50,000)

(Unknown, less
than \$50,000)

(Unknown, less
than \$50,000)

**ESTIMATED NET EFFECT ON THE
GENERAL REVENUE**

**(Unknown,
greater than
\$34,884)**

**(Unknown,
greater than
\$42,715)**

**(Unknown,
greater than
\$43,750)**

FEDERAL FUNDS

Income - DSS-DLS

Program reimbursement for medical
records

Unknown, less
than \$50,000

Unknown, less
than \$50,000

Unknown, less
than \$50,000

Income - DSS-FSD

Program reimbursement for medical
records

Unknown,
greater than
\$34,884

Unknown,
greater than
\$42,715

Unknown,
greater than
\$43,750

Income - DSS-MMAC

Program reimbursement for medical
records

Unknown, less
than \$50,000

Unknown, less
than \$50,000

Unknown, less
than \$50,000

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
FEDERAL FUNDS (continued)			
<u>Costs - DSS-DLS</u>			
Program expenditures for medical records	(Unknown, less than \$50,000)	(Unknown, less than \$50,000)	(Unknown, less than \$50,000)
<u>Costs - DSS-FSD</u>			
Program expenditures for medical records	(Unknown, greater than \$34,884)	(Unknown, greater than \$42,715)	(Unknown, greater than \$43,750)
<u>Costs - DSS-MMAC</u>			
Program expenditures for medical records	<u>(Unknown, less than \$50,000)</u>	<u>(Unknown, less than \$50,000)</u>	<u>(Unknown, less than \$50,000)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal may have a small positive fiscal impact on small business healthcare providers as they may receive slightly higher fees for searching, retrieving and copying patient medical records.

FISCAL DESCRIPTION

This proposal increases the amount a health care provider may charge for the search and retrieval of medical records and the cost of supplies and labor for copying the records from \$21.36 plus 50 cents per page to \$22.01 plus 52 cents per page. The records must be provided electronically

FISCAL DESCRIPTION (continued)

once payment for the search, retrieval, and copying is paid or \$100 total, whichever is less, and if: (1) The person requesting the records requests electronic delivery; (2) The health care provider stores the health records completely in electronic form; and (3) The health care provider is able to provide the requested records and an affidavit, if requested, in electronic form.

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 Insurance, Financial Institutions,
and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Social Services -
Children's Division
Division of Finance and Administrative Services
Division of Legal Services
Family Services Division
MO HealthNet Division
Missouri Medicaid Audit and Compliance Division
State Technical Assistance Team
Department of Public Safety -
Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Barton County Memorial Hospital

Not Responding:

Missouri Department of Transportation



Ross Strope

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