

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 6414-01  
Bill No.: HB 2152  
Subject: Pharmacy; Insurance - Medical  
Type: Original  
Date: April 22, 2014

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Bill Summary: This proposal changes the laws regarding pharmacy benefit managers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
General Revenue	(Could exceed \$1,408,083)	(Could exceed \$1,689,700)	(\$1,689,700)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Could exceed \$1,408,083)</b>	<b>(Could exceed \$1,689,700)</b>	<b>(\$1,689,700)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Other State Funds	(Could exceed \$346,250)	(Could exceed \$415,500)	(\$415,500)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Could exceed \$346,250)</b>	<b>(Could exceed \$415,500)</b>	<b>(\$415,500)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Federal Funds	(Could exceed \$554,000)	(Could exceed \$664,800)	(\$664,800)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(Could exceed \$554,000)</b>	<b>(Could exceed \$664,800)</b>	<b>(\$664,800)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Social Services**, the **Missouri Department of Conservation**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Transportation**, the **Department of Health and Senior Services**, and the **Department of Mental Health** each assume the current proposal will not fiscally impact their respective agencies.

Officials from the **Department of Public Safety - Missouri Highway Patrol** defer to the Department of Transportation for fiscal impact.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state that this legislation would significantly impact HCP as it defines what can be placed on a Pharmacy Benefit Manager's MAC (maximum allowable cost) list. The proposal does not include drugs that are variously classified as NR- and NA-rated or Z-rated. These are drugs which predated the creation of the FDA's "Orange Book," thus they are not included in the Orange Book. If it is not permissible to MAC an NR-, NA- or Z-rated drug according to its actual generic pricing in the marketplace, then a pharmacy may bill, and a plan must pay, a brand reimbursement rate for that drug. For example, if one of those drugs is available in the marketplace at a generic price of \$10 but cannot be placed on a MAC list and the brand name AWP or price is \$30, then the pharmacy would need to be reimbursed \$30. This represents lost savings and increased costs to the plan.

This fiscal impact is therefore estimated to be \$2.77 million per fiscal year.

**Oversight** assumes the costs estimated by MCHCP would be distributed across state funds in the following percentages:

General Revenue	61% of \$2,770,000 = \$1,689,700
Other State Fund	15% of \$2,770,000 = \$664,800
Federal Funds	24% of \$2,770,000 = \$415,500

Oversight assumes the provisions of this proposal would become effective August 28, 2014; therefore, we will reflect ten months of impact in FY 2015.

**Oversight** also assumes the costs could exceed the stated amounts in FY15 and FY16 based on 376.338.4(4).

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE FUND</b>			
<u>Costs - HCP</u>			
Increased pharmacy costs	(Could exceed \$1,408,083)	(Could exceed \$1,689,700)	(\$1,689,700)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Could exceed \$1,408,083)</b>	<b>(Could exceed \$1,689,700)</b>	<b>(\$1,689,700)</b>
<b>FEDERAL FUNDS</b>			
<u>Costs - HCP</u>			
Increased pharmacy costs	(Could exceed \$554,000)	(Could exceed \$664,800)	(\$664,800)
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b>(Could exceed \$554,000)</b>	<b>(Could exceed \$664,800)</b>	<b>(\$664,800)</b>
<b>OTHER STATE FUNDS</b>			
<u>Costs - HCP</u>			
Increased pharmacy costs	(Could exceed \$346,250)	(Could exceed \$415,500)	(\$415,500)
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b>(Could exceed \$346,250)</b>	<b>(Could exceed \$415,500)</b>	<b>(\$415,500)</b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2015 (10 Mo.)	 FY 2016	 FY 2017
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

Small business pharmacies may be impacted by this proposal.

LO:LR:OD

## FISCAL DESCRIPTION

This proposal delineates the procedures to be used by pharmacy benefit managers (PBMs) as to practices used with contracted pharmacies participating in a PBM network. This proposal adds a definition of "maximum allowable cost list" or "MAC list" to mean a listing of drugs used by a pharmacy benefit manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist may be based.

This proposal provides that for every drug for which the PBM establishes a maximum allowable cost to determine the drug product reimbursement, the PBM shall:

- Include in the contract with the pharmacy, information identifying the national drug pricing compendia or sources used to obtain the drug price data and the methodology used in preparing the maximum allowable cost;
- Make available to a contracted pharmacy the drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug;
- Provide a process for each pharmacy subject to MAC list to receive prompt notification of an update to the MAC list;
- Update its MAC list on a timely basis, but in no event longer than seven calendar days from a change in the methodology on which the MAC list is based or in the value of a variable involved in the methodology.

A PBM is also required to provide a reasonable administrative appeal procedure to allow pharmacies to challenge maximum allowable costs for a specific drug or drugs within three business days after the applicable fill date. The required process to appeal, investigate and resolve disputes is specified under the proposal, including that the appeal be investigated and resolved within 10 days.

The proposal also delineates the types of disclosures PBMs shall make to the plan sponsor such as the basis of methodology to establish a multi-source generic pricing, whether the PBM is using more than one multi-source generic drug list, and whether the PBM is reimbursing the pharmacies at a different rate than it is billing the plan sponsor.

Any PBM who fails to comply with the provisions of this proposal shall be liable to the plan sponsor or pharmacy as applicable in an amount equal to \$100 for the first violation, \$250 for the second violation, and \$1,000 for the third and any subsequent violation.

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  
Missouri Consolidated Health Care Plan  
Department of Transportation  
Department of Social Services  
Department of Mental Health  
Department of Health and Senior Services  
Department of Public Safety  
Missouri Department of Conservation



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