

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1047-01
Bill No.: HB 377
Subject: Health Care
Type: Original
Date: April 1, 2019

Bill Summary: This proposal modifies the laws in regards to personal care assistance services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$31,500 to \$40,943)	(\$34,025)	(\$34,339)
Total Estimated Net Effect on General Revenue	(\$31,500 to \$40,943)	(\$34,025)	(\$34,339)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal Funds*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and expenses less than \$50,000 annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	05. to 0.6	0.5	0.5
Federal Funds	0.5	0.5	0.5
Total Estimated Net Effect on FTE	1 to 1.1	1	1

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§208.909, 208.918 and 208.924 - Personal care assistance services

Officials from the **Department of Health and Senior Services (DHSS)** state the DHSS would promulgate by rule a consumer-directed services division provider certification manager course; however, it is assumed that Missouri Medicaid Audit and Compliance (MMAC) in the Department of Social Services (DSS) would enforce the rule. Therefore, any fiscal costs outside of rule-making would impact MMAC rather than DHSS.

§208.918.2(4)(a): DHSS interprets this to mean that DHSS would promulgate a rule to define the elements and frequency of the consumer-directed division provider certification manager course, and MMAC would maintain responsibility for provisions of the course and administering the exam. This would be similar to the current certified manager course required of agency model in-home services providers and would follow the delineation of authorities granted through executive order to MMAC, specifically related to the responsibilities of provider education and oversight.

Director's Office

§208.918.2(3)(a) provides that the department of health and senior services shall promulgate by rule a consumer-directed division provider certification manager course for the implementation of this section.

General Counsel (\$64,500)

§208.918.2(3)(a) of the proposed legislation requires the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. The DHSS, Office of General Counsel will need an additional .10 FTE for an attorney (salary of \$64,500 per year) to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility. Due to current workload being at maximum limits, these costs cannot be absorbed.

Oversight assumes 0.1 FTE would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the DHSS would not need additional rental space for 0.1 FTE. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

ASSUMPTION (continued)

Oversight assumes since DHSS states their responsibility to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility, Oversight will range the cost of the partial FTE from \$0 to DHSS' estimate less fringe benefits over 7.65% and rental space costs.

Officials from the **Department of Social Services (DSS), Missouri Medicaid Audit Compliance (MMAC)** state this bill repeals §§208.909, 208.918, and 208.924 and enacts three new sections in lieu thereof relating to personal care assistant services.

208.909.1(7) is added to require consumers receiving personal care assistance to allow vendors to comply with all quality assurance and supervision processes, including bi-annual face-to-face home visits and monthly case management activities.

208.909.2(4) is amended to add requirements that vendors monitor the performance of the personal care assistance services plan, with this monitoring occurring during bi-annual face-to-face home visits and that the vendor document whether the attendant was present and if services are being performed as set out in the care plan.

208.909.5(1) is amended to delete a provision that only was effective prior to July 1, 2015.

208.909.5(2) is amended to delete the entire subsection requiring DHSS to establish a telephone tracking system pilot program and submit a report to the governor by December 31, 2013 and subsequent subsections are renumbered.

208.909.6 is amended to delete the entire provision regarding the telephony report for centers for independent living.

208.909.7 is amended to delete the entire provision regarding the prohibition of requiring telephony contracts with any particular vendor or bearing the full cost of the pilot program.

208.918.1(1) is amended to add a requirement that consumer orientation include notification that falsifying attendant's time sheets is considered fraud and will be reported to DHSS.

208.918.1(5) is amended to correct the statutory citation to the family care safety registry.

208.918.2(1) is amended to delete the requirement that vendors perform an annual audit.

208.918.2(3) (a) is added to require DHSS to establish by regulation a consumer-directed service division provider certification manager course.

ASSUMPTION (continued)

208.918.2(3)(b) is added to require vendors to perform face-to-face home visits at least bi-annually while also providing that the bi-annual face-to-face visit does not affect the vendor's responsibilities for ongoing diligence of case management oversight.

208.918.2(5) is added to require vendors to maintain a proper business location that complies with all applicable city, county, state, and federal regulations.

208.918.3 is added to prohibit state or federal funds to be spent if the owner, primary operator, certified manager, or any direct employee of the vendor is also a personal care attendant.

208.924(2) is amended to add a reason why personal care assistance services may be discontinued.

Section 208.918.2 (3) (a), RSMo, will create a fiscal impact. The section requires the creation of a consumer-directed services provider certification manager course. Currently, MMAC enrolls in-home care providers. Because of this role with providers, MMAC will need to create the consumer-directed services provider certification manager course. To accomplish this task, MMAC will need one Medicaid Specialist.

The Department of Health and Senior Services (DHSS) interprets the statute to mean that DHSS will promulgate the rule and MMAC will provide the course.

Until the FY 2020 budget is final, the DSS cannot identify specific appropriations.
The Grand Total for the DSS is:

FY 2019 (10 mo.) – Total: \$67,698 (GR: \$33,849; FF: \$33,849)

FY 2020 – Total: \$73,826 (GR: \$36,913; FF: \$36,913)

FY 2021 – Total: \$74,598 (GR: \$37,299; FF: \$37,299)

Oversight notes DSS assumes it will need a total of 1 new FTE as a result of the provisions of this proposal. Based on discussions with DSS officials, it is assumed the additional FTE can be housed within current DSS locations. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DSS needing additional rental space.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DSS, less rental space costs, for fiscal note purposes.

ASSUMPTION (continued)

Oversight notes that the **Department of Mental Health** has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for DMH.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

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 \$5,000. 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.

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 require additional resources.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - DHSS (\$208.918)</u>	\$0 to...		
Personal service	(\$5,375)	\$0	\$0
Fringe benefits	(\$411)	\$0	\$0
Equipment and expense	(\$3,657)	\$0	\$0
Total <u>Costs - DHSS</u>	<u>\$0 to (\$9,443)</u>	<u>\$0</u>	<u>\$0</u>
FTE Change - DHSS	0 to 0.1 FTE	0 FTE	0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND (continued)			
<u>Costs</u> - DSS (\$208.918)			
Personal service	(\$15,960)	(\$19,344)	(\$19,537)
Fringe benefits	(\$10,118)	(\$12,200)	(\$12,259)
Equipment and expense	(\$5,422)	(\$2,481)	(\$2,543)
Total <u>Costs</u> - DSS	<u>(\$31,500)</u>	<u>(\$34,025)</u>	<u>(\$34,339)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$31,500 to \$40,943)</u>	<u>(\$34,025)</u>	<u>(\$34,339)</u>
Estimated Net FTE Effect on the General Revenue Fund	0.5 to 0.6 FTE	0.5 FTE	0.5 FTE
FEDERAL FUNDS			
<u>Income</u> - DSS (\$208.918)			
Program reimbursements	\$31,500	\$34,025	\$34,339
<u>Costs</u> - DSS (\$208.918)			
Personal service	(\$15,960)	(\$19,344)	(\$19,537)
Fringe benefits	(\$10,118)	(\$12,200)	(\$12,259)
Equipment and expense	(\$5,422)	(\$2,481)	(\$2,543)
Total <u>Costs</u> - DSS	<u>(\$31,500)</u>	<u>(\$34,025)</u>	<u>(\$34,339)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Effect on Federal Funds	0.5 FTE	0.5 FTE	0.5 FTE

FISCAL IMPACT - Local Government

FY 2020
(10 Mo.)

FY 2021

FY 2022

\$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

This bill requires a consumer of consumer-directed services to allow a vendor to comply with its quality assurance and supervision process, including bi-annual face-to-face home visits and monthly case management activities. During the home visits, the vendor must monitor the performance of the personal care assistance services plan and document whether the attendant was present and providing services required under the plan of care.

The bill repeals language requiring the Department of Health and Senior Services to establish regional telephone tracking system pilot programs.

The bill requires vendors to notify consumers during orientation that falsification of attendant verification records is fraud and will be reported to the department.

The bill removes a requirement that vendors must submit an annual audit report to the department.

The bill requires that the department create rules for a consumer directed services division provider certification manager course.

Additionally, a vendor must perform face-to-face home visits with a consumer at least bi-annually. The vendor still has a responsibility to provide ongoing diligence of case management activity oversight. A vendor must maintain a business location.


The bill prohibits state or federal funds from being given if the owner, primary operator, certified manager, or any direct employer of the vendor is also the personal care attendant. Currently, a consumer's personal care attendant services can be discontinued if the consumer has falsified records; this bill allows the services to be discontinued if the consumer provides false information about his or her condition, functional capacity, or level of care needs.

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 Health and Senior Services
Department of Mental Health
Department of Social Services
Joint Committee on Administrative Rules
Office of Secretary of State

Kyle Rieman
Director
April 1, 2019



Ross Strobe
Assistant Director
April 1, 2019