

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0545H.02C
 Bill No.: HCS for HB 198
 Subject: Pharmacy; Insurance - Health
 Type: Original
 Date: April 10, 2023

Bill Summary: This proposal modifies provisions related to insurance coverage of pharmacy services, with penalty provisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	(Unknown, could exceed \$854,000)	(Unknown, could exceed \$854,000)	(Unknown, could exceed \$854,000)
Total Estimated Net Effect on General Revenue	(Unknown, could exceed \$854,000)	(Unknown, could exceed \$854,000)	(Unknown, could exceed \$854,000)

* The fiscal impact is unknown, however, MCHCP estimates that it would be greater than \$1.4 million split between General Revenue, Other State Funds and Federal Funds.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State	(Unknown, could exceed \$196,000)	(Unknown, could exceed \$196,000)	(Unknown, could exceed \$196,000)
Total Estimated Net Effect on Other State Funds	(Unknown, could exceed \$196,000)	(Unknown, could exceed \$196,000)	(Unknown, could exceed \$196,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Federal Funds	(Unknown, could exceed \$350,000)	(Unknown, could exceed \$350,000)	(Unknown, could exceed \$350,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, could exceed \$350,000)	(Unknown, could exceed \$350,000)	(Unknown, could exceed \$350,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§376.411 - 376.415 – Insurance coverage of pharmacy services

Officials from the **Missouri Consolidated Health Care Plan (MCHCP)** estimate there is \$12 million in savings associated with the current management of specialty drugs. HCS HB 198 bill language constrains MCHCP's ability to manage clinician administered specialty drugs other than through a review of medical necessity. While MCHCP does have many specialty drugs that are allowed to be processed through either the pharmacy or medical channels, there are some that are restricted to the pharmacy channel. There are also certain drugs that are restricted to the medical channel such as anti-cancer and infused medications. MCHCP updated its fiscal impact to reflect only the impact to the loss of savings associated with those physician-administered drugs that are currently administered under the pharmacy benefit. MCHCP did not estimate an impact to oral or self-administered injectable specialty drugs. Based on an actuarial analysis, the additional cost to MCHCP is estimated to be unknown but greater than \$1.4 million.

Below is a non-exhaustive list of some caveats, assumptions, and other considerations the actuary made during its analysis.

- **Impacted Drugs** – There may be other less common physician-administered drugs within MCHCP's utilization that are not captured within this analysis.
- **Assumed Cost Differential** – The actuary assumed that the gross-cost or point-of-sale costs of medications are roughly 11% higher under the medical channel than under pharmacy channel. There could be instances with certain drugs are less costly, or more costly, than this assumed differential.
- **Assumed Rebate Differential** – The actuary assumed that rebates for these physician-administered drugs would not be realized when billed under the medical benefit.
- **Utilization Management** – The actuary assumed a loss of utilization management savings associated with a move under the medical benefit.
- **Future White-Bagging Opportunities** – As more drugs come to market, it's likely that there are going to be other physician-administered drugs that could have cost benefits through white-bagging. The actuary analysis is based on actual MCHCP utilization in CY2022 trended to CY2024 and does not reflect the possibility of savings from new physician administered drugs in the future.
- **Manufacturer Coupon Programs** – PBMs are able to leverage manufacturer copay assistance on medications that are dispensed through their specialty pharmacy. These programs can provide cost savings to both members and plan sponsors. HB 198 would inhibit the PBM's ability to offer these programs for physician-administered drugs if the drug is not dispensed through their specialty pharmacy.
 - These coupon programs set the member cost sharing to \$0 and use the manufacturer coupons to fund the cost sharing. Based on the data provided, members would save roughly \$90,000 if MCHCP were to opt-in to this program.

However, HB 198 would inhibit the PBM’s ability to offer this program on physician-administered drugs.

- The actuary did not calculate the potential impact as part of this analysis since MCHCP does not currently participate in these programs.
- **Member Out-of-Pocket-Maximum (OOPM)** – MCHCP has slight differences in the OOPM under the medical and pharmacy benefits. If the drugs are shifted to the medical benefit, which has a lower OOPM for members, the members may hit their OOPM limit sooner by paying more out-of-pocket moving from copayments under the pharmacy channel to coinsurance under the medical channel, and more residual costs may shift to MCHCP. The actuary did not calculate this potential impact as part of this analysis.

Oversight contacted MCHCP officials about the term “white bagging”. MCHCP stated white-bagging blocks certain drugs under the medical benefit and routes those prescriptions to the specialty pharmacy. The specialty pharmacy then ships the drugs to the physician’s office/facility where it is then administered to the patient. All of the transitioned drugs are then billed under the pharmacy benefit. This process of white-bagging prevents physicians/facilities from purchasing the drugs themselves from a pharmacy of their choosing, administering to the patient, and then billing the medical carrier for costs that are generally higher than under the pharmacy benefit. This type of billing is referred to as a “buy-and-bill” method by physicians.

Oversight will reflect MCHCP’s unknown, but greater than \$1.4 million annual cost to the General Revenue Fund, Other State Funds and Federal Funds.

General Revenue	Greater than \$854,000	61%
Federal Funds	Greater than \$350,000	25%
Other Funds	Greater than \$196,000	14%
Total	Greater than \$1,400,000	100%

*MCHCP Fund Split Percentages provided by Budget & Planning

Oversight assumes this provision could have a fiscal impact on local government health plans and, therefore, will reflect an unknown loss to local political subdivisions.

Officials from the **Missouri Department of Transportation (MoDOT)** assume the proposal will have no fiscal impact on their organization or the MoDOT/DPS-MSHP health plan.

Officials from the **Department of Commerce and Insurance**, the **Department of Social Services**, the **Missouri Department of Conservation** and the **City of Springfield** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not

have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to the previous version of this proposal, officials the **City of Kansas City** assumed the proposal would have no fiscal impact on their organization.

Officials from the **Department of Public Safety, Missouri Highway Patrol** defer to the MoDOT/MHP Health Care Board for response relating to the fiscal impact of this proposal on their organization.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 its 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 only reflects the responses received from state agencies and political subdivisions; however, other cities and various county officials were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVEUE FUND			
<u>Loss – MCHCP</u> Elimination of channel management programs (\$376.411)	<u>(Unknown, could exceed \$854,000)</u>	<u>(Unknown, could exceed \$854,000)</u>	<u>(Unknown, could exceed \$854,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Unknown, could exceed \$854,000)</u>	<u>(Unknown, could exceed \$854,000)</u>	<u>(Unknown, could exceed \$854,000)</u>
OTHER STATE FUNDS			
<u>Loss – MCHCP</u> Elimination of channel management programs (\$376.411)	<u>(Unknown, could exceed \$196,000)</u>	<u>(Unknown, could exceed \$196,000)</u>	<u>(Unknown, could exceed \$196,000)</u>
ESTIMATED NET EFFECT TO OTHER FUNDS	<u>(Unknown, could exceed \$196,000)</u>	<u>(Unknown, could exceed \$196,000)</u>	<u>(Unknown, could exceed \$196,000)</u>
FEDERAL FUNDS			
<u>Loss – MCHCP</u> Elimination of channel management programs (\$376.411)	<u>(Unknown, could exceed \$350,000)</u>	<u>(Unknown, could exceed \$350,000)</u>	<u>(Unknown, could exceed \$350,000)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>(Unknown, could exceed \$350,000)</u>	<u>(Unknown, could exceed \$350,000)</u>	<u>(Unknown, could exceed \$350,000)</u>

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<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss – Local Political Subdivisions</u> Elimination of channel management programs (§376.411)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill establishes requirements for insurance coverage of certain pharmacy services. This bill provides that a health carrier, pharmacy benefits manager, or agent of such entities are prohibited from imposing any penalty, impediment, differentiation, or limitation on:

- (1) Participating providers for providing medically necessary clinician-administered drugs, regardless of whether the participating provider obtains such drugs from a provider that is in the network;
- (2) A person who is administered medically necessary clinician administered drugs regardless of whether the participating provider obtains such drugs from a provider that is in the network; or
- (3) Any pharmacy, including any class B hospital pharmacy as defined in Section 338.220, RSMo, which is dispensing medically necessary clinician-administered drugs regardless of whether the participating provider obtains such drugs from a provider that is in the network.

This prohibition does not apply if the clinician-administered drug is not otherwise covered by the health carrier or pharmacy benefits manager.

A health carrier, pharmacy benefits manager, or agent of such entities may not discriminate, lower the reimbursement, or impose any separate contract terms upon an entity based upon that entity's participation in the 340B drug pricing program, described in 42 U.S.C. Section 256b, or limit a patient's freedom to use any such entity, as described in the bill.

All pharmacy claims processed by a pharmacy that participates in the 340B drug pricing program are final at the point of adjudication.

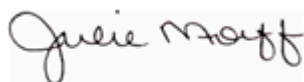
This bill defines "biological product", "biosimilar product", and "reference product" as having the same meaning as given to the terms under federal law. A health carrier, pharmacy benefits manager, or agent of such entities that provides coverage for a reference product or biosimilar biological product must provide coverage for the reference product and all biological products that have been deemed biosimilar to the reference product. (§§376.411 – 376.414)

A health carrier, pharmacy benefit manager, or an agent or affiliate of such entity that provides coverage for a similar product or a biological product that is biosimilar to the reference product shall provide coverage for the reference products that have been deemed biosimilar. The scope, extent, and amount of the required coverage shall be the same including, but not limited to, any payment limitations or cost-sharing obligations. (§376.415)

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 Commerce and Insurance
Department of Public Safety –
 Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Office of the Secretary of State
Missouri Consolidated Health Care Plan
City of Kansas City
City of Springfield
Joint Committee on Administrative Rules



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April 10, 2023



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