

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1563-01  
Bill No.: HB 665  
Subject: Insurance - Medical;  
Type: Original  
Date: March 9, 2015

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Bill Summary: This proposal requires certain health carriers to provide coverage for amino acid-based elemental formulas for individuals with certain food allergies and conditions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$385,000 to Unknown)	(\$385,000 to Unknown)	(\$385,000 to Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$385,000 to Unknown)</b>	<b>(\$385,000 to Unknown)</b>	<b>(\$385,000 to Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Insurance Dedicated	Up to \$200,000	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$200,000</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** anticipate 3,500 - 4,000 filings to comply with this proposal. This would generate \$175,000 - \$200,000 deposited one-time only to the Insurance Dedicated Fund.

Federal law includes provisions to address state-required benefits that may be in excess of the EHB (essential health benefit) requirement. Specifically, 42 U.S.C. 18031(d)(3)(B) authorizes states to require qualified health plans (QHP) offered in the state to include benefits in addition to EHB. However, the state must assume the cost of such additional benefits. Regulations promulgated by HHS (US Department of Health and Human Services) provide further detail, specifying that the exchange will identify which state required benefits are in excess of EHB. 45 CFR §155.170. The regulation notes that state-required benefits enacted on or before December 31, 2011 are not considered to be in addition to essential health benefits.

If a state is required to make payments to defray the costs of additional required benefits, such payments are to be made to an enrollee or directly to the QHP issuer on behalf of individuals. The cost of the additional required benefit is to be quantified by each QHP issuer in the state. The QHP issuer's calculation of the cost of the additional required benefit must be based on an analysis performed in accordance with generally accepted actuarial principles and methodologies, be conducted by a member of the American Academy of Actuaries, and be reported to the Exchange. 45 CFR §155.170.

HHS has stated that it considers "state required benefits (or mandates)" to include only "specific care, treatment or services that a health plan must cover." It does not consider provider mandates (requirements to reimburse certain types of providers), dependent mandates (requirements to cover dependents in a certain manner or under certain circumstances), state anti-discrimination requirements and state requirements related to service delivery methods (e.g., telemedicine) to be state-required benefits.

ASSUMPTION (continued)

Based on DIFP's understanding of federal law, this proposal appears to be a health insurance mandate requiring coverage for amino-acid formulas which are not currently covered. Under Federal law, it is the Exchange - not the state - that determines whether a new mandate is "in excess" of EHB, and the carriers who determine the costs of the additional required benefit.

Based on information provided to DIFP from advocates of the proposal:

- Of the 23,411 MO children with any type of food allergy, 13.1. % or 3,067 have private insurance since MO Medicaid and WIC already cover these formulas for the majority of children;
- The Food, Allergy, Research and Education (F.A.R.E) organization has determined that 2.5 percent of children have a milk allergy;
- Therefore 2.5% of 3,067 indicates that approx. 77 kids in MO need these formulas;
- In MO there are 4,274,000 people with insurance under 65 per US census. Over a 12 month period the cost of the formula would be divided over the total number of member months;
- The average cost of formula per year is \$3,500 - \$5,000. When multiplied by 77 children, at the highest end of the spectrum (5K/Yr), that comes to a total cost of \$385,000.

The DIFP has consulted with the National Association of Insurance Commissioners and to our knowledge, no state to date has been required to make a payment for a state mandate that is in excess of EHB. The only guidance available for states is the language of the federal statute and the accompanying regulations which are cited above.

The federal regulation states that the cost of the additional required benefits is to be determined by carriers. Specifically, the regulation states that "Each QHP issuer in the State shall quantify costs attributable to each additional required benefit..." The QHP issuer's calculation must be "based on an analysis performed in accordance with generally accepted actuarial principles and methodologies; conducted by a member of the American Academy of Actuaries; and reported to the Exchange." 45 C.F.R. §155.170. No such calculation has been made in this case; therefore the cost is unknown.

ASSUMPTION (continued)

However, an actuarial study examining the costs of state-mandated benefits in Maryland in 2012 determined that the cost of Maryland’s mandate for amino-acid elemental formulas was 0.1% of premium. In Missouri in 2013, the total earned premium for the individual and small group markets was \$1,683,319,832. Ultimately, it is the Exchange that makes the determination as to whether the state must make a payment to defray costs that are in excess of EHB. Missouri does not operate its Exchange; therefore the decision would be made by the Federal Government.

Officials from the **Missouri Consolidated Health Care Plan** and the **Department of Social Services** each assume the current proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this session, SB 354, officials from the **Missouri Department of Conservation**, the **Department of Mental Health**, and the **Department of Health and Senior Services** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this session, SB 354, officials from the **Department of Public Safety - Missouri Highway Patrol** deferred to the Department of Transportation for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DIFP</u>			
Reimbursements to Insurance Companies for cost of mandate	(\$385,000 to <u>Unknown</u> )	(\$385,000 to <u>Unknown</u> )	(\$385,000 to <u>Unknown</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$385,000 to Unknown)</u></b>	<b><u>(\$385,000 to Unknown)</u></b>	<b><u>(\$385,000 to Unknown)</u></b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - Policy Amendment Fees</u>	<u>Up to \$200,000</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>Up to \$200,000</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

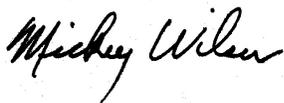
FISCAL DESCRIPTION

This proposal requires that health insurance companies provide coverage for amino acid-based elemental formulas, regardless of delivery method, when recommended by a physician for the treatment of the listed gastrointestinal disorders. This proposal allows such coverage to be subject to the same deductible for similar health care services and exempts supplemental insurance policies from the requirement.

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 Health and Senior Services  
Department of Social Services  
Missouri Department of Conservation  
Department of Public Safety - Missouri Highway Patrol  
Department of Mental Health  
Missouri Consolidated Health Care Plan



Mickey Wilson, CPA

Ross Strope

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Director  
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Assistant Director  
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