

1/10/12

PREPARED BY: Liz Hruska
DATE PREPARED: March 12, 2012
PHONE: 471-0053

LB 541

Revision: 02

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised to update information

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	52,500			
CASH FUNDS				
FEDERAL FUNDS	157,500			
OTHER FUNDS				
TOTAL FUNDS	210,000		See Below	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill requires the Department of Health and Human Services to enter into one or more contracts with recovery audit contractors in the Medicaid Program. The services under the contract or contracts include the following: 1) cost-avoidance through identification of third-party liability, 2) cost recovery of third-party liability through post payment reimbursement, 3) casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable to a casualty insurer, and 4) reviews of claims submitted by providers of services or other individuals furnishing items and services which payment has been made to determine whether providers have been underpaid or overpaid and take actions to recover any overpayments identified. The department is also authorized to enter into other contracts deemed to increase the efforts to promote the integrity of Medicaid. The bill allows contracts on a contingency fee basis. The bill has the emergency clause.

Provisions of the bill are required under the Patient Protection and Affordable Care Act (PPACA). The department intends to have a contract begin by January 2013. Savings would not occur until FY 14. Although the amount of savings is unknown, there are reports indicating the level of savings that may be achieved. Based on a 2006 state audit, overpayments were estimated to be .85%. Based on total Medicaid payments, there is a potential recovery of \$13.5 million. Of this amount, a maximum of 12.5% is allowed under federal regulation for contingency fee contracts. The balance of the recovery would be split between the state and federal share. Assuming an 85% recovery rate, the savings would be \$3.4 million GF.

The federal government requires a Payment Error Rate Measurement (PERM) to be done by the states. Nebraska's most recent PERM showed a possible error rate of 2.1% or \$33.4 million. Applying an 85% rate and 12.5% for a contingency fee, the state share would be approximately \$10.4 million. The health insurance premium assistance program can be done under a contingency contract. Potential savings are not known.

Changes to the Medicaid Management Information System would be \$210,000 (\$52,500 GF and \$157,500 FF) in FY 13. A Fraud and Abuse Investigator and an Accountant are needed to manage the recovery efforts. The cost in FY14 would be \$131,281(\$65,641 GF and FF) in FY 14.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Elton Larson	DATE	1/24/12	PHONE	471-2526
COMMENTS					
DEPARTMENT OF HEALTH AND HUMAN SERVICES: Agency analysis appears reasonable.					

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Willard Bouwens

Date Prepared:(4) 1-13-12

Phone: (5) 471-8072

	FY 2012-2013		FY 2013-2014	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	105,000		110,505	
CASH FUNDS				
FEDERAL FUNDS	105,000		110,525	
OTHER FUNDS				
TOTAL FUNDS	210,000	0	221,010	0

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

CMS published the final rule related to RAC on September, 16, 2011, with an effective date of January 1, 2012. Nebraska Medicaid will implement on January 1, 2013. Implementation would involve the start of transmissions of specified Medicaid claims data with a RAC contractor. Analysis and investigation by the RAC contractor would be required before any overpayments could be identified. Notification of providers subject to these recoupments and recoveries must occur as well as the allowable disputes and appeals by the providers and underpayments. Any recoupments or recoveries are not expected to be received until after June 30, 2013. Because of these factors, any potential savings would not be realized in the 2011-2013 biennium.

Centers for Medicare and Medicaid Services (CMS) caps the contingency percentage allowed on the program integrity audits at a maximum of 12.5 percent. Estimated amounts of overpayment can vary widely. Based on an audit of Medicaid overpayments by the Nebraska State Auditor in 2006, the rate of overpayments by Nebraska Medicaid was approximately .85 percent. Applying that ratio to average annual Medicaid claim amounts of \$1.59 billion would result in an estimated \$13.5 million in overpayments. Applying the maximum allowable 12.5 percent contingency amount to the total \$13.5 million would result in a possible maximum recoupment of approximately \$11.8 million in total funds (\$4.7 million in general funds). The most recent Payment Error Rate Measurement (PERM) required by CMS was performed by a contractor hired by DHHS for eligibility reviews and two hired by CMS for claims and medical necessity reviews identified a possible 2.1 percent error rate or \$33.4 million. The PERM review is stratified and weighted. Applying the maximum allowable 12.5 percent contingency to the \$33.4 million would result in a possible maximum recoupment of approximately \$29.2 million (\$11.7 million in general funds) The federal portion would have to be returned to CMS. The recoupment amount would be less in practice without 100 percent compliance with the collection process.

Additional FTE in DHHS would be required to manage the recovery efforts once the RAC is implemented. A Medicaid Provider Fraud and Abuse Investigator and an Accountant I would be necessary. The first year cost for 1.0 FTE Medicaid Provider Fraud and Abuse Investigator would be \$84,197 (\$42,098 GF) and a 1.0 Accountant I would be \$66,814 (\$33,407 GF).

Costs for changes to the Medicaid Management Information Systems (MMIS) are estimated to be \$210,000 (\$105,000 GF) in SFY2012 in order to implement the RAC, while on-going annual systems costs are estimated to be \$70,000 (\$35,000 GF).

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2012-2013	2013-2014
	12-13	13-14	EXPENDITURES	EXPENDITURES
		1.0		\$49,523
		1.0		\$37,106
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Benefits.....				\$34,652
Operating.....			\$210,000	\$87,290
Travel.....				
Capital Outlay.....				\$12,440
Aid.....				
Capital Improvements.....				
TOTAL.....			\$210,000	\$221,010