

PREPARED BY: Liz Hruska
 DATE PREPARED: February 10, 2015
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LB 315

Revision: 00

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2015-16		FY 2016-17	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

This bill makes changes to the audit recovery process, also known as Recovery Audit Contractors (RAC). It provides for notice, appeal of determinations and excludes certain payments from recovery. It would also require the state to pay to obtain health records.

The Department of Health and Human Services has a contract for Recovery Audit Contractors (RAC). Additional administrative costs would be incurred under the provisions of this bill. The Department indicates the need for an additional hearing officer, a fraud investigator and an accountant. The contract with the RAC would be need to be amended to recognize the additional administrative processes. Reimbursement for records obtained for an audit would also increase costs. Most costs would be matched at 50% General and federal. Reimbursement for the cost to obtain records is not an allowable Medicaid expense and would be paid from General Funds.

Claim recoveries that are excluded in this bill may need to be paid from General Funds, if the excluded recoveries do not meet federal coverage or medical necessity requirements. The extent to which this would be the case is unknown and the cost cannot be determined.

Based on the assumptions the Department used the cost would be \$800,678 (\$477,839 GF and \$322,839 FF) in FY 16 and \$550,678 (\$415,339 GF and \$135,339 FF).

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 315	AM:	AGENCY/POLT. SUB: HHS	
REVIEWED BY: Elton Larson		DATE: 2/11/2015	PHONE: 471-4173
COMMENTS: HHS analysis and estimate of fiscal impact appear 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) Mike Mason

Date Prepared:(4) 2-11-15

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	<u>FY 2015-2016</u>		<u>FY 2016-2017</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$477,839		\$415,339	
CASH FUNDS				
FEDERAL FUNDS	\$322,839		\$135,339	
OTHER FUNDS				
TOTAL FUNDS	\$800,678		\$550,678	

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

Explanation of Estimate:

LB 315 seeks to amend LB 541 (passed by the Unicameral in 2012). LB 541 amended the Medical Assistance Act (68-901) to allow the Department to contract with one or more Recovery Audit Contractors (RAC) to promote the integrity of the medical assistance program and to pay contractors on a contingency fee basis. LB 315 would make additional changes to the current RAC contract requirements. Implementation of LB 315 would require amending the current RAC contract, IT changes, and additional staffing within the Department to handle increased claims data.

The cost of amending the current RAC contract is unknown. If the division is able to make these changes at the next contract procurement, the additional costs to the contractors due to increased administrative workload, added reporting, and personnel increases under the RAC contract would be incorporated. If implementation were immediate and the contractor declines to amend the contract, the division would face re-procurement costs (and increase in the contingency fee arrangement) as a result of the changes above. This would take one year to complete at a minimum. Other unknown costs of LB 315 include:

- The cost of determining the fiscal impact of paying claims that were preauthorized but later determined ineligible is unknown. The Centers for Medicare and Medicaid Services (CMS) would also require a return of their federal share, causing these claims to pay at 100% state funds.
- Predicting the impact of paying claims for consistently utilized, but inaccurate, claims based on a 5-year rule is unknown. 100% of state funds will be required for those not covered or not meeting medical necessity since the federal match would also be reimbursed to the federal government.
- The fiscal impact for provider's cost associated with an appeal is unknown. This would cause an increase in administrative and legal costs for Medicaid and the state, and an additional Hearing Officer would be needed for hearing requests.

LB 315 directs the Medicaid RAC vendor to reimburse providers for documentation. This would have a significant fiscal impact and place an administrative burden on the contractors as well as Medicaid. Paying for requested documentation will set a precedent that will impact program and claims reviews (preauthorizations, medical necessity reviews, etc.) as well as all Nebraska Medicaid investigations and audits, and audits performed by CMS contractors, the OIG, and other entities or agents of the state and federal government. Medicaid does not currently reimburse for any records. The cost of records would be a pass-through to the Medicaid Program and utilize 100% state funds (no federal match is available to reimburse providers for obtaining documentation in response to a RAC audit). Using a recent RAC audit, there were 16,000 claims reviewed. At a rate of \$10 – \$25 per record request (minimal cost since costs associated with page counts could be requested), the cost to Medicaid for this one audit would have been \$160,000 - \$400,000 just for the record costs, an average of \$280,000 GF annually. This does not include state administrative costs in verifying and processing reimbursements, banking costs, system time, etc., and any recoveries as a result of overpayments would be offset by administrative costs, at a minimum.

LB 315 would require added staffing of one Fraud & Abuse Investigator, one Hearing Officer, and one Accountant I to handle additional claims at a cost of \$270,678 total funds annually (\$135,339 GF, \$135,339 FF). IT changes would also be required to maintain additional claims data online at a cost of \$250,000 total funds (\$62,500 GF, \$187,500 FF) in SFY16.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2015-2016	2016-2017
	15-16	16-17	EXPENDITURES	EXPENDITURES
Accountant I	1	1	\$34,268	\$34,268
Medicaid Provider Fraud and Abuse Investigator	1	1	\$45,616	\$45,616
Hearing Officer	1	1	\$57,560	\$57,560
Benefits.....			\$47,698	\$47,698
Operating.....			\$615,536	\$365,536
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$800,678	\$550,678