

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(Replaces fiscal note dated January 19, 2007)

Drafting Number: LLS 07-0166	Date: January 27, 2007
Prime Sponsor(s): Sen. Hagedorn Rep. Madden	Bill Status: House Health and Human Services
	Fiscal Analyst: Amy Larsen (303-866-3488)

TITLE: CONCERNING A GENERIC AND NONPATENTED PRESCRIPTION DRUG PROGRAM.

Fiscal Impact Summary	FY 2006-07	FY 2007-2008	FY 2008-2009
State Revenue			
Colorado Cares Rx Program Cash Fund		\$2,636,500	\$3,954,750
Fines Collection Cash Fund		Less than \$5,000	Less than \$5,000
State Expenditures			
General Fund	\$145,927		
Colorado Cares Rx Program Cash Fund		\$2,399,880	\$3,919,484
FTE Position Change	0.0 FTE	2.5 FTE	4.0 FTE
Effective Date: Upon signature of the Governor.			
Appropriation Summary for FY 2007-2008: See State Appropriations section of the fiscal note.			
Local Government Impact: Potential county jail costs.			

Summary of Legislation

This **reengrossed bill** establishes the Colorado Cares Rx Program to provide generic prescription drugs to eligible persons at discounted rates. Participants are uninsured, cannot be eligible for Medicaid or the Children's Basic Health Plan (CBHP), and family income must be under 300 percent of the federal poverty level. In addition, participants pay a fee of up to \$20. The bill also outlines the price a participant will pay for prescription drugs when a program identification card is presented to a participating pharmacy. The program is repealed June 30, 2013.

The bill also creates the Colorado Cares Rx Program Cash Fund, which will consist of participant fees. General Fund used for implementation of the program in FY 2006-07, must be repaid by the Colorado Cares Rx Program Cash Fund in FY 2007-08.

State Revenue

Total state revenue is expected to increase by \$2,636,500 in FY 2007-08 and \$3,954,750 in FY 2008-09. This revenue is from participant fees paid to the Colorado Cares Rx Program Cash Fund. In addition, less than \$5,000 of fine revenue is anticipated each year.

Fee Impact on Individuals, Families or Business. Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill.

Table 1. Fee Impact on Individuals, Families or Business			
Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
Colorado Cares RX Program Fee - FY 2007-08	\$20	131,825	\$2,636,500
Colorado Cares RX Program Fee - FY 2008-09	\$15	263,650	\$3,954,750

The fiscal note assumes that revenue from program participant fees begin in January 2008. Thus, no fee revenue is expected in FY 2006-07. For FY 2007-08 and FY 2008-09, the fee is based on the anticipated direct and indirect costs of the Colorado Cares Rx Program. It is reduced in the second year after one-time activities are completed and participation increases. The bill specifies that the fee cannot exceed \$20.

Penalties. The bill specifies that making a false statement or representation on an application for the program is considered perjury in the second degree, which is punishable as a class 1 misdemeanor. Per Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Fine revenue not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration or imposing a fine, the impact to state revenue cannot be determined. However, a minimal amount of fine revenue (< \$5,000 per year) is assumed under the bill.

General Fund Reimbursement. As amended, the bill requires the program fund to reimburse the General Fund in FY 2007-08 for implementation costs incurred in FY 2006-07. Thus, the General Fund will have increased revenue of \$145,927 in FY 2007-08 only.

State Expenditures

State General Fund expenditures are expected to increase by \$145,927 in FY 2006-07. In FY 2007-08, expenditures of \$2,399,880 from the Colorado Cares Rx Program Cash Fund are anticipated. Costs will increase to \$3,919,484 in FY 2008-09. The following key assumptions were made to arrive at these costs for the Department of Health Care Policy and Financing:

- while approximately 2 million Coloradans meet the income requirements of the program, the program participation is estimated to reach 263,650 after adjusting for Medicaid, CBHP and Medicare Part D clients and a willingness to participate in the program;
- a program contractor processes all applications using the Colorado Benefits Management System (CBMS);
- program claims are tracked using the Medicaid Management Information System (MMIS) to facilitate negotiations with drug manufacturers and program audits;

- since the bill is effective upon signature of the Governor, program development is expected to begin April 1, 2007. Those activities are anticipated to take about 9 months, with applications being accepted starting January 1, 2008; and
- expenditures in FY 2006-07 are from the General Fund, and in FY 2007-08 and subsequent years, expenditures are from the Colorado Cares Rx Program Cash Fund.

Department of Health Care Policy and Financing. The department is responsible for the Colorado Cares Rx Program. Cost components are shown in Table 2 and discussed below.

Table 2. Expenditures Under SB07-001			
Cost Components	FY 2006-07	FY 2007-08	FY 2008-09
Personal Services	--	\$140,495	\$213,107
FTE	0.0	2.5	4.0
Operating Expenses and Capital Outlay	--	\$14,395	\$3,800
County Administration	--	73,526	120,450
MMIS Expenses	\$79,927	368,971	1,303,749
CBMS Expenses	66,000	323,146	382,293
Program Contractor	--	1,333,420	1,896,085
General Fund Reimbursement	--	145,927	--
TOTAL	\$145,927	\$2,399,880	\$3,919,484

Program Participation. The fiscal note assumes monthly participation growth of 21,971 beginning in January 2008, reaching full participation of 263,650 by December 2008. Should this level of participation not be realized, program costs will be less than indicated here, and revenue from fees will also be less than anticipated.

Personal Services. In FY 2007-08, staff are required to develop rule recommendations for the Medical Service Board to consider, contract with both a program contractor and participating pharmacies, answer stakeholder questions, maintain files, and begin financial accounting functions. These activities require 2.5 FTE and related operating expenses and capital outlay. In FY 2008-09, staffing requirements increase to 4.0 FTE once the program is fully implemented.

County Administration. County departments of social services are not expected to determine eligibility for the program, but they are expected to provide information to clients who do not qualify for Medicaid or CBHP. Approximately 25 percent of program participation is expected from county referrals. Additional expenditures for county administration total \$73,526 in FY 2007-08, increasing to \$120,450 in FY 2008-09 and subsequent years.

MMIS. Program claims are tracked through MMIS to facilitate pharmacy verification of program eligibility, provide accurate prescription drug rates, facilitate future negotiations with drug manufacturers, and provide program data for evaluation and audit activities. System programming begins as soon as the bill is signed by the Governor, resulting in FY 2006-07 expenditures of

\$79,927. In FY 2007-08, programming is completed and ongoing maintenance costs begin resulting in expenditures of \$368,971. In FY 2008-09 and subsequent years, MMIS expenditures of \$1,303,749 are expected.

CBMS. Program eligibility is determined by using CBMS. System programming begins as soon as the bill is signed by the Governor, resulting in FY 2006-07 expenditures of \$66,000. In FY 2007-08, programming is completed and ongoing maintenance costs begin, resulting in expenditures of \$323,146. In FY 2008-09 and subsequent years, MMIS expenditures of \$382,293 are expected.

Program Contractor. A program contractor will accept and process applications, collect fees, determine eligibility, and produce program ID cards. In FY 2007-08, contractor expenses of \$1,333,420 are anticipated. Costs increase to \$1,896,085 in FY 2008-09 as enrollment in the program grows.

General Fund Reimbursement. As amended, the bill requires the program fund to reimburse the General Fund in FY 2007-08 for implementation costs incurred in FY 2006-07. This is a one-time payment of \$145,927.

Judicial Branch. The bill creates a new class 1 misdemeanor for perjury in the second degree. While this new cause of action may create additional case filings, the number will be small and absorbable with existing resources.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

Local Government Impact

The penalty for a class 1 misdemeanor is six to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for

larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$48.96 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

State Appropriations

For FY 2006-07, the fiscal note indicates that the Department of Health Care Policy and Financing should receive a General Fund appropriation of \$145,927.

For FY 2007-08, the fiscal note indicates that the Department of Health Care Policy and Financing should receive a cash funds appropriation of \$2,399,880 and 2.5 FTE from the Colorado Cares Rx Program Fund.

Departments Contacted

Health Care Policy and Financing

Judicial