

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 08-0330  
**Prime Sponsor(s):** Rep. Massey  
 Sen. Morse

**Date:** January 15, 2008  
**Bill Status:** House Health and Human Services  
**Fiscal Analyst:** Amy Larsen (303-866-3488)

**TITLE:** CONCERNING A CHANGE IN PAYMENTS TO PHARMACIES FOR CERTAIN DRUGS UNDER MEDICAID.

<b>Fiscal Impact Summary</b>	<b>FY 2008-2009</b>	<b>FY 2009-2010</b>
<b>State Revenue</b>		
<b>State Expenditures*</b>		
Total	\$3,322,000	\$144,000
General Fund	1,625,000	36,000
Federal Funds	1,697,000	108,000
<b>FTE Position Change</b>	1.0 FTE	0.0 FTE
<b>Effective Date:</b> Upon signature of the Governor or upon the bill becoming law without his signature.		
<b>Appropriation Summary for FY 2008-2009:</b> See State Appropriations section of the fiscal note.		
<b>Local Government Impact:</b> None		

\* *Rounded*

**Note:** HB08-1032 requires the Department of Health Care Policy and Financing to take action within 30 days of certain requirements of the federal Deficit Reduction Act of 2005. Federal implementation is expected to occur February 1, 2008, but this date is not certain. This fiscal note assumes that federal changes will occur February 1 and that the bill will become law April 1, 2008. Should federal implementation be delayed or should this bill move through the legislative process faster than anticipated, the fiscal note will be revised to reflect a new time line and a change in costs.

**Summary of Legislation**

This bill, as recommended by the Health Care Task Force, directs the Department of Health Care Policy and Financing to review the impact of certain provisions of the federal Deficit Reduction Act of 2005 relating to reimbursement rates to pharmacies within 30 days of their implementation. Within 45 days after implementation, the department must propose a Medicaid state plan amendment to increase dispensing fees paid to pharmacies to maintain Medicaid pharmacy services at current levels. The increase in fees is only for FY 2007-08.

## **Background**

Currently, the department uses the lowest of four reimbursement methods to reimburse pharmacies for prescription drugs for Medicaid clients: (1) the federal upper limit, (2) the average wholesale price, (3) the direct price, or (4) the usual and customary charge submitted by the pharmacy. On February 8, 2006, President Bush signed into law the Deficit Reduction Act of 2005 which will change the way the federal upper limit is calculated. The new method of calculating the federal upper payment amount is expected to take effect February 1, 2008, and fluctuate monthly. Many states and pharmacies are concerned that it will provide a reimbursement that is less than the acquisition cost of a drug which may reduce access to pharmacy services for Medicaid clients.

## **State Expenditures**

State expenditures for the Department of Health Care Policy and Financing are expected to increase by \$3,322,256 and 1.0 FTE in FY 2008-09 and by \$144,144 in FY 2009-10.

**Base Assumptions.** Costs, shown in Table 1, are based on the following assumptions:

- ▶ the new federal upper limit payment amounts will take effect February 1, 2008, and will fluctuate monthly;
- ▶ the bill will become law April 1, 2008;
- ▶ state pharmacy dispensing fees will adjust monthly based on the total reimbursement by drug prior to the implementation of the new federal upper limit;
- ▶ the department will submit a state plan amendment to federal authorities in May 2008;
- ▶ since the department is only authorized to make claims adjustments retroactively to the first day of the quarter in which a state plan amendment is submitted, payments to pharmacies will be adjusted for the period of April 1 to June 30, 2008;
- ▶ federal approval of the state plan amendment is anticipated in August 2008;
- ▶ pharmacies will receive claims adjustments in FY 2008-09 for the period April 1 to June 30, 2008; and
- ▶ additional costs may be incurred should manual systems be required to assure ongoing payments to pharmacies are made on a timely basis.

<b>Table1. Expenditures for the Department of Health Care Policy and Financing Under HB08-1032</b>		
<b>Cost Components</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>
Temporary Personal Services	\$55,229	
FTE	1.0	
Operating Expenses & Capital Outlay	2,400	
Contractor Costs	137,500	
MMIS Costs	144,144	\$144,144
Payments to Pharmacies	2,982,983	
<b>TOTAL</b>	<b><u>\$3,322,256</u></b>	<b><u>\$144,144</u></b>
<b>General Fund</b>	<b>1,625,092</b>	<b>36,036</b>
<b>Federal Funds</b>	<b>1,697,164</b>	<b>108,108</b>

**Personal Services.** For FY 2007-08, the department is expected to review the impacts of the change to the federal upper payment limit and submit a waiver for federal approval using the department's existing resources. Beginning in FY 2008-09, temporary personal services are required to draft a request for proposals for contractor work, determine new monthly pharmacy dispensing fees, develop State Medical Board rules, and oversee the contractor.

**Contractor Costs.** The department is expected to hire a contractor to analyze pharmaceutical acquisition costs, track monthly changes to the federal upper limit, track pharmacy reimbursement rates, make the monthly dispensing fee adjustments, and perform a year-end audit of claims to ensure payment accuracy. Contractor costs are based on a similar service provided to the Indiana Medicaid program.

**Medicaid Management Information System (MMIS) Costs.** For FY 2008-09, programming costs are anticipated for 1,144 hours at the rate of \$126 per hour to change the way MMIS determines pharmacy payment rates. Likewise, programming costs for MMIS are expected in FY 2009-10 to return to the current payment method.

**Payments to Pharmacies.** Estimated total Medicaid drug costs for FY 2008-09 are \$135 million, with about 25 percent subject to the new federal upper limit (\$33 million). According to a Government Accountability Office Report, reimbursements are expected to decrease 36 percent for those drugs subject to the new limit, \$12 million for Colorado. Since pharmacy claims will be adjusted for three months (April to June 2008) to make up for the decrease, additional payments to pharmacies of \$3 million are expected. This is a one-time cost in FY 2008-09.

**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.

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

**State Appropriations**

For FY 2008-09, the fiscal note indicates that the Department of Health Care Policy and Financing should receive an appropriation of \$3,322,256 and 1.0 FTE. Of the total, \$1,625,092 is General Fund and \$1,697,164 is federal funds.

**Departments Contacted**

Health Care Policy and Financing