

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2016 REGULAR SESSION**

MEASURE

2016 BR NUMBER **0131**

SENATE BILL NUMBER **20**

RESOLUTION NUMBER _____

AMENDMENT NUMBER _____

SUBJECT/TITLE **An ACT relating to Medicaid provider appeals and declaring an emergency.**

SPONSOR **Senator Ralph Alvarado**

NOTE SUMMARY

FISCAL ANALYSIS: IMPACT NO IMPACT INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: STATE LOCAL FEDERAL

BUDGET UNIT(S) IMPACT: **Office of the Attorney General, Department for Medicaid Services**

FUND(S) IMPACT: GENERAL ROAD FEDERAL RESTRICTED AGENCY _____ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2015-2016	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		Indeterminable	Indeterminable	Indeterminable

() indicates a decrease/negative

MEASURE'S PURPOSE: This measure would allow a provider who has exhausted the internal appeals process of a Medicaid managed care organization (MMCO) to request an administrative appeals hearing by the Division of Administrative Hearings of the Office of the Attorney General.

PROVISIONS/MECHANICS: Section 1 creates a new section of KRS 205 to define terms; establish that a provider may seek an appeal on an MMCO's final decision of denial, nonpayment, or the amount of the reimbursement to the provider for a health care service rendered to an enrollee or member of the MMCO; and establish the proceedings for an administrative appeals hearing and a mechanism for the awarding of attorneys' fees.

Section 2 amends KRS 13B.020 exempt administrative appeals hearings on an MMCO's final decisions from the provisions of that Chapter.

Section 3 establishes the effective date of the bill.

FISCAL EXPLANATION: The Office of the Attorney General (OAG) estimates that additional costs will be incurred. The function, size, and operation of the OAG's Administrative Hearings Branch would be significantly altered in order to meet the bill's requirements. The legislation requires the OAG's Administrative Hearings Branch to handle the appeals/hearings process under KRS Chapter 13B. Currently, provider hearings are conducted by the Division of Administrative Hearings within the Cabinet for Health and Family Services (CHFS), or, in matters involving prompt payment, a complaint process administered by the Kentucky Department of Insurance.

The OAG's Administrative Hearings Branch is currently comprised of a total of three hearing officers, each with a case load of approximately five to six administrative matters set each month for hearing. The hearings vary in duration and complexity, but they primarily follow the deadlines for adjudication set out in KRS 13B. The bill requires not only that a hearing officer schedule and conduct a hearing within 30 days from the date an appeal is received but also requires that the hearing officer issue the recommended order within that same 30 day period. The Office of the Attorney General estimates that this time constraint would increase the effort necessary to resolve each matter within the deadline and will reduce the number of cases a hearing officer may be able to handle.

According to data from the CHFS Division of Administrative Hearings, there were 62 Medicaid provider appeals between February 1, 2015, and December 16, 2015. Data from the Department of Insurance demonstrates that the year-to-date number of Medicaid prompt pay complaints for the last six months is 294. Based on that data, the OAG calculates that nine additional hearing officers would be needed to comply with the timeline as established in the bill and the anticipated increased caseload. A hearing officer would require an average of 25 hours of work time for non-complex matters, which includes preparation, prehearings conferences, deliberation and writing a recommended order. It is estimated that hearing officers could handle the KRS 13B process for up to six appeals per month.

The following chart is the estimated fiscal impact of the legislation as provided by the Office of the Attorney General:

Number of Staff	Title	Annual Salary and Benefits	Annual Cost of Office Space Needed	Other Annual Costs
9	Staff Attorney III	\$931,156.76	\$12,382.20	\$49,500.00
4	Administrative Specialist III	\$220,483.09	\$5,703.20	\$10,000.00
3	Paralegal I	\$191,503.91	\$4,277.40	\$10,500.00
		\$1,343,143.76	\$22,812.80	\$70,000.00
Total Annual Cost to Support Program				\$1,435,956.56

Other annual costs include travel, postage, internal computer services, telecommunications, dues, subscriptions, court costs, and court reporters for the Office of Attorney General.

There would be a small fiscal impact is indeterminable to the Cabinet for Health and Family Services because the bill adds a new provider appeals hearing process that CHFS would not

administer. Although the impact is indeterminable, CHFS estimates that increased costs may be incurred by the Cabinet. There are no upfront costs to CHFS because the Office of the Attorney General would administer the hearings, but additional costs may be incurred by CHFS through contract negotiations with the Medicaid managed care organizations. The exact number and outcome of the appeals is difficult to quantify, but the MMCO may request higher rates from CHFS if, through the appeals process, the Attorney General's hearing officers required the MMCOs to increase payments to providers.

Accordingly, the overall fiscal impact is estimated to be at least \$900,000 in FY 16-17 as the appeals process is implemented and \$1.5 million annually thereafter. However, the total impact is indeterminable due to potential increases in MMCO rates.

DATA SOURCE(S): Office of the Attorney General; Cabinet for Health & Family Services

PREPARER: Miriam Fordham NOTE NUMBER: 37 REVIEW: JRS DATE: 1/25/2016