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

MEASURE

2016 BR NUMBER **0425** **SENATE** BILL NUMBER **235**

RESOLUTION NUMBER_____ AMENDMENT NUMBER _____

SUBJECT/TITLE An ACT relating to acquired brain injuries.

SPONSOR Senator Gibson

NOTE SUMMARY

FISCAL ANALYSIS: ☒ IMPACT ☐ NO IMPACT ☐ INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: ☒ STATE ☐ LOCAL ☒ FEDERAL

BUDGET UNIT(S) IMPACT: **Cabinet for Health and Family 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		(Indeterminable)	(Indeterminable)	(Indeterminable)
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

( ) indicates a decrease/negative

MEASURE'S PURPOSE: The purpose of this measure is to provide clear guidelines for treatment of post-acute acquired brain injuries, and to exempt from the assessment required by KRS 304.17B-021 health benefit plans that choose to provide coverage of acquired brain injuries.

PROVISIONS/MECHANICS: Section 1 defines what acquired brain injury means and how it relates to traumatic brain injury as defined in KRS 211.470. It also defines "outcome" in relation to measurement of any functional gains the patient may make with therapy and "treatment" as all medically necessary therapies or disciplines provided to someone diagnosed with an acquired brain injury.

Section 2 states that a health benefit plan providing coverage for post-acute acquired brain injury shall be exempt from the one percent assessment required by KRS 304.17B-021, if the medical, physical, cognitive, and affective behavioral treatments necessary are covered.

Section 3 outlines the coverage parameters that must be met by health benefit plans providing treatment of post-acute acquired brain injuries. These include the appropriate facilities for patient treatment, minimum number of visits per calendar year, and limiting denial of coverage based on geographic location.

Section 4 requires the commissioner to promulgate administrative regulations to implement the bill.

FISCAL EXPLANATION: Section 2 of this legislation could have a significant fiscal impact on the Cabinet for Health and Family Services (CHFS). The Department for Medicaid Services (DMS) currently has permission from the Centers for Medicare and Medicaid Services (CMS) to charge managed care organizations (MCOs) a one percent assessment while all other insurance companies are also charged the one percent assessment based on KRS 304.17B-021.

The cabinet receives approximately $75 million per year from the one percent assessment paid by MCOs. That amount is matched by federal funds of $175 million, or roughly a 30/70 split. This bill would exclude any health benefit plan that provides the proper level of coverage for post-acute acquired brain injuries from the one percent assessment. This would have a negative fiscal impact on the amount received by the cabinet, and reduce the amount of matching federal funds. If the amount the cabinet receives was reduced $10 million, the total negative fiscal impact would be approximately $33.3 million when factoring in the reduced federal match.

Additionally, the basis for DMS being allowed to charge the one percent assessment to MCOs was based on KRS 304.17B-021 requiring every health plan in the state to pay a fee. CHFS is concerned if health benefit plans are allowed to opt out, and all health insurers in the state are not paying the assessment, CMS may remove permission for DMS to charge the MCOs and ultimately cost the Cabinet the entire amount generated from the assessment, plus the matching federal funds.

Currently, no health benefit plan includes coverage for the treatment of acquired brain injuries at the level required by the bill. It is impossible to know how many health benefit plans would increase coverage levels to be eligible to opt out of the assessment. The fiscal impact would also be dependent on the size of the plan that received an exemption and how much they pay into the assessment each year. At this time, it is not known if CMS would or would not remove permission to charge the assessment to MCOs. Therefore, the fiscal impact of this legislation is indeterminable.

DATA SOURCE(S): **Cabinet for Health and Family Services, LRC Staff, Department of Insurance**
PREPARER: **Jonathan Eakin** **NOTE NUMBER**: **137** **REVIEW**: **JRS** **DATE**: **3/10/2016**