

Fiscal Estimate Narratives

OCI 2/27/2014

LRB Number	13-4118/1	Introduction Number	SB-546	Estimate Type	Original
Description Expanding eligibility for the earned income tax credit; hospital best practices for postpartum patients and newborns; hospital staff privileges and written agreements required for nurse-midwives; coverage of nurse-midwives under the injured patients and families compensation fund; a report on information related to hospital neonatal intensive care units; an electronic application and information system to determine eligibility and register for public assistance programs; directing the Department of Health Services to request a Medical Assistance waiver; evidence-based home visitation program services for persons who are at risk of poor birth outcomes or of abusing or neglecting their children; designating race and ethnicity on birth certificates; a report on fetal and infant mortality and birth outcomes; requiring informed consent for performance on pregnant women of certain elective procedures prior to the full gestational term of a fetus; cultural competency training for certain students enrolled in the University of Wisconsin System and the technical college system; granting rule-making authority; and requiring the exercise of rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

This bill will not create any new requirements or additional expenses that impact the Office of Commissioner of Insurance directly. It will, however, impact the Injured Patients and Families Compensation Fund and the Wisconsin Health Care Liability Insurance Fund (WHCLIP) which are run by the office as detailed below.

This bill potentially creates a number of significant fiscal issues for the Injured Patients and Families Compensation Fund (Fund). As proposed, the legislation provides for the practice of nurse midwifery without the collaboration of a licensed Obstetric physician. The proposal creates licensed nurse midwives as participating providers in the Fund individually and requires a representative of the Wisconsin Nurses Association to be among the four public members of the Board of Governors. The proposed legislation raises the following financial issues:

- The proposed legislation creates a separate category for nurse midwives to practice that will require nurse midwives to be insured with a policy of health care liability insurance within three months of the effective date. Although the Wisconsin Health Care Liability Insurance Fund (WHCLIP) does offer a liability insurance product to nurse midwives, the premium is based upon current law requirements of collaboration with a physician. The Fund is unaware of other insurance carriers authorized to do business in the state that offers such coverage currently. Nurse midwives would be eligible to self-insure consistent with s. 655.23 (1), Stats., and provided the nurse midwife is in compliance with s. Ins 17.50, Wis. Admin. Code.
- The Fund does not have information currently and would need to have conducted an actuarial study to determine the appropriate annual Fund fee assessment consistent with s. 655.27 (3), Stats., with focus on the past and prospective loss and expense experience for nurse midwives. The study would take time and require funding separate from the current contract to perform. The rates will likely take several years to refine before the Fund could determine if the fees are sufficient to cover the expected losses as experience with claims will need to be reviewed annually. Additionally, subsequent to the Board of Governors review, it will take approximately 18 months after the study to implement modifications to the administrative rules. Although the proposal includes a notification requirement for when the fee rule is promulgated the ability of nurse midwives to practice midwifery has only a three month delay.
- In addition to the Fund, the Wisconsin Health Care Liability Insurance Fund (WHCLIP), as insurer of last resort, is required to provide coverage for health care providers participating in the Fund. WHCLIP will need to conduct an actuarial study to revise the current premium to reflect the proposed changes and determine the appropriate premium to charge nurse midwives that reflects past and prospective loss and expense experience.
- Although nurse midwives are currently covered by the Fund through a hospital or other health care provider employer, it is unknown if lawsuits naming nurse midwives will increase when identified as a separate category of health care provider. If there is an increase the cost to the Fund will increase regardless of the lawsuit's merit as the Fund, if named, must retain counsel and actively defend itself.

- The Fund will need to modify its information systems and billing systems to include nurse midwives as individual participating provider. It is unknown how quickly and at what cost those computer programming changes can be made. Again there is only a three-month delay in implementation and it is unclear if the Fund can make the necessary programmatic changes within that limited time.

Long-Range Fiscal Implications