

# **SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL**

## **FISCAL NOTE, 2014 LEGISLATIVE SESSION**

### **FISCAL NOTE 2014-SB122A**

Senate Bill 122 as amended by 122ja is an Act to require health insurers to cover audiology services for children.

The bill provides insurance coverage to include audiology services, subject to certain limitations, for children, as defined as a person twenty-one years of age or younger.

This fiscal note seeks to determine the cost to the State of South Dakota based on the federal requirement that States must defray costs for coverage of additional benefits beyond those in the Essential Health Benefits (EHBs). 42 USC §18031 (d)(3)(B).

While studies do show that providing such audiology services is expected to have a positive economic impact through reduced or eliminated special education services and increased participation in society, this fiscal note does not address what that impact could be to South Dakota.

#### **Background**

- o Senate Bill 122 would become effective July 1, 2014.
- o The current open enrollment period of the Individual Exchange for 2014 ends on March 31. There will be a similar enrollment period in 2015.
- o Current enrollment in the Individual Exchange as reported by the U.S. Department of Health and Human Services is 5,077 as of February 1, 2014.
- o Centers for Medicare and Medicaid (CMS) has issued a FAQ stating the requirement to defray the cost of additional benefits applies to all Qualified Health Plans (QHPs), including QHPs offered outside of the Exchange.
- o CMS regulations are effective for at least the "plan years" 2014 and 2015 (CMS has stated its intent to review guidelines in 2016).

#### **Supporting Data**

- o Analysis prepared by Leif Associates, Inc. at the request of the Department of Labor, Division of Insurance, dated February 20, 2014 (attached).
- o Testimony provided during the 2/19/2014 Senate Health and Human Services Committee meeting.
- o U.S. Department of Health and Human Services enrollment data through February 1, 2014.

## **Fiscal Impact**

*Impact if ultimate enrollment and full implementation of penalties:* Written fiscal analysis was calculated by Leif Associates, Inc. (Leif) on February 20, 2014 (attached). The chart below reflects its estimated total cost of **\$313,771** based on \$2 per covered life per year. It is important to note that this estimate reflects full implementation of the 2016 penalties and also assumes that ultimate enrollment in the various programs has been reached. Among other things, it is unknown at this time when or if ultimate enrollment will be reached thus this estimate should be considered a maximum.

	Total	On Exchange		Off Exchange	
		Individual	Small Group	Individual	Small Group
Estimated 2014 Covered Life Population	156,885	84,518	42,233	17,249	12,885
Estimated Additional Cost of SB122 Benefit	<b>\$313,771</b>	\$169,036	\$84,467	\$34,498	\$25,771

*Initial impact based on current enrollment:* Based on current enrollment trends on the Exchange the initial (first year) impact is estimated to be not greater than a range of **\$100,000 - \$150,000**.

## **Other Considerations**

*Wellmark Blue Cross Blue Shield (Wellmark) Consideration:* Verbal testimony given during the February 19, 2014 hearing, by Wellmark indicated an estimate of \$2.68 per person per year based on its claim data. Based on the estimated population in the Leif analysis and using the Wellmark estimate of \$2.68 per covered life cost, the total impact could reach \$420,452.

*State Employee Health Plan Consideration:* The State Employee Health Plan is not required to pay for state health insurance mandates because it is a self-funded plan and is not regulated under SDCL Title 58. Senate Bill 122 would not require or mandate coverage for audiology services and devices by the State Employee Health Plan.

However, in the past, the precedent has been established by the State Employee Health Plan to provide coverage for mandates that are required for the rest of South Dakotans. Based upon the actuarial analysis done by Leif Associates as requested by the Department of Labor and Regulation, Division of Insurance the estimated *additional* annual cost to the State Employee Health Plan under SB122 would be \$53,586 and add to the overall fiscal impact. This is based upon the projected \$2 PMPY (per member per year) cost and the current number of members on the plan and the current premium payment structure.

## **Conclusion**

LRC staff does not have access to an independent actuary analysis or proprietary claim data, therefore we are unable to make our own estimate.

After reviewing the Fiscal Analysis statement provided by Leif Associates, Inc., LRC staff believes that the estimate of \$313,771 for Senate Bill 122 as amended by 122ja is reliable in determining a *maximum* impact.

APPROVED BY: /S/ Fred Schoenfeld

DATE:02/24/2014



February 20, 2014

Melissa Klemann  
Assistant Director  
SD Department of Labor and Regulation  
445 East Capitol Avenue  
Pierre, SD 57501

RE: Fiscal Analysis of 2014 South Dakota Senate Bill 122 – Pediatric Audiology

Dear Melissa:

As you requested, we have reviewed and prepared an analysis of the fiscal impact of the proposed mandatory pediatric audiology benefit as provided for under the 2014 South Dakota Senate Bill 122 (SB122).

## Background

South Dakota 2014 Senate bill 122 reads in relevant part:

"Every policy of health insurance delivered, issued for delivery, or renewed in this state, except for policies that provide coverage for specified disease or other limited benefit coverage, shall provide, in writing, coverage for audiology services for children if prescribed or recommended by a licensed physician or other licensed health care provider legally authorized to prescribe or recommend such services. The audiology services shall include physicians services, therapy, supplies, and equipment to diagnose, treat, and correct a hearing impairment. The benefits provided in this section are subject to the same dollar limits, deductibles, coinsurance, and other restrictions established for all other benefits covered in the policy."

## Summary of Findings

As discussed, it is not fully clear as to the extent of the impact of SB122. The federal provisions under the ACA Sec 1311 (D)(3)(B)(ii) and Code of Federal Regulations, Title 45 Part 155, applicable to state mandates and Essential Health Benefits (EHBs) seem to be contradictory. As such, our analysis addresses business projected to be sold through the Exchange as well as outside it.

Utilizing a proprietary claim data base, Leif Associates developed a projected annual claim cost per covered life for the benefits required under SB122 of \$2.00. Although the benefits apply only to pediatric members, the cost was spread over all members. As such, this amount was then applied to the estimated 2014 total insured population.

The base estimated 2014 South Dakota insured population is as developed in the report *Cost of the Future Newly Insured under the Affordable Care Act (ACA)* prepared by Optum and sponsored by the Society of Actuaries. This information was augmented with enrollment figures from filed NAIC 2012 annual statements to split one report category into its subcomponents, only one of which is anticipated to be impacted by SB122.

Although the population developed is for 2014, and as such reflects expected cost results in 2014, it should be noted that it's development assumes full implementation of the 2016 penalties (when full penalties apply) and also assumes that ultimate enrollment in the various programs and the initial implementation of the Exchanges has been completed. Clearly the enrollment difficulties experienced by the Exchange represent a significant variance from these assumptions. As such, the results of our analysis need to be considered an estimate of how the impact of SB122 as it will ultimately unfold in 2016, with interim results graded in.

The results of our analysis are summarized in the following table.

	Total	On Exchange		Off Exchange	
		Individual	Small Group	Individual	Small Group
<b>Estimated 2014 Population</b>	156,885	84,518	42,233	17,249	12,885
<b>Est Ann'l Cost of SB122 Benefit</b>	\$313,771	\$169,036	\$84,467	\$34,498	\$25,771

If you have any questions or would like to discuss these findings, please let us know.

Sincerely,  
Leif Associates, Inc.



Nicholas A Ramey, ASA, MAAA  
Associate Actuary