

Government-Issued Prescription Tracking Pads Proposed in Minnesota

Partial Transcript

Hearing on Senate File 1709

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Companion Bill: House File 1947 (Rep. Lesch/Rep. Zellers)

Minnesota Senate Health and Human Services Budget Division

Chair: Sen. Linda Berglin

Date: April 7, 2009

[00:46:50 – begins on Senate audiotape]

Sen. Julianne Ortman (R-Chanhassen): Madam Chair, if I could, the fiscal note notes that there will be a cost startup for this program of approximately \$1.5 million to procure the types of prescription pads that we're talking about in sufficient quantities to supply all the physicians in the state of Minnesota for all of their prescription uses. Right now, Minnesota is expected to use these types of tamper-resistant pads for Medicaid Assistance but not all physicians do. It's recommended on the website but it's not actual practice so if you look at what it'll take to take them from their current practice level to a mandated requirement of using these tamper-proof prescription pads, it would be a procurement cost of 1.5 million.

Unfortunately Madam Chair and members the fiscal note does not address what the cost savings would be and that's honestly a little bit frustrating in the fiscal note because that's the whole purpose is that there will be systematic savings recognized by both the insurance agency, the Insurance Federation, Bob Johnson, is supporting this legislation for that reason because there is expected to be savings, not only in prescription fraud, but also savings in the aspects of society given the prescription drug abuse that's rampant in our society.

So that 1.5 is the significant cost along with having two clerical folks to manage the program and then there are some start-up equipment costs. They're outlined in the fiscal note as well. But I think it's unfortunate that we have to guess at the savings, but the State of New York has definitely identified savings in their system as a result of putting these tamper-resistant prescription pads in place. New York recognized....more than \$140 million in Medicaid fraud savings. Given that same methodology, in

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Minnesota we're looking at \$15 to \$30 million in savings in the system in the first couple of years. So I think that that **upfront cost of \$1.5 to \$2 million dollars would be well spent**. And again I think it's unfortunate that the Department has not talked about the fraud that would be identified and saved in the system.

Chair Sen. Linda Berglin (D-Mpls): Sen. Ortman, we do have a fiscal note from the Department of Human Services and they indicate that they already, pharmacists, ah, prescribers are already required to use this kind of pad in our medical assistance program so it would be **no savings to the State** above what we get from the program already. When there are savings to the private sector, unfortunately, we have not been able to figure out how to return any of those savings to the State to offset costs of programs that might have savings.

Ortman: The requirement that they use those prescription pads are in Medical assistance cases and not in other types of cases and so there definitely would be savings when this program is implemented there. And then it's not certain that there's full compliance with the medical assistance program as well, that there are some that are using regular prescription pads **so what we're trying to get is 100% consistency with one type of pad in use**, and they're certain to generate some savings, some at the state level. Certainly some in the private sector as well and I think they're important savings. The Department has its own division or unit that works on fraud, works on prescription fraud. They're not going to say that there's additional savings there, but I believe that if you implement a new system like this where you can identify additional ways to capture those fraudulent transactions that there will be a savings there as well. And I believe that's the part that's underestimated here.

[...]

Berglin: Until I get some savings from them, I can't count it....

Ortman: ...The medical assistance requirements aren't as strict for their prescription pads as we might be. There a higher level of security that we'd be talking about that might also provide some savings from the potential fraudulent transaction between the pads that are currently in use for medical assistance cases and the ones that we're proposing here because of the heightened level of security you'll see if this pamphlet in case you're looking for more background information about that, it's on page six. It talks about the steps that would be implemented with these new tamper-resistant pads. The first is by **requiring one prescription format**. The second is to secure only authorized prescribers so that there's no one out there with access to a pad that shouldn't actually

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qualify for one. Then validating through automation processes, so that's what we're trying to get at members. I have been given an A2 amendment that I think is a good suggestion from the Committee Administrator here about the appropriation aspect of this Madam Chair, which would allow a little bit of flexibility.

Berglin: So members, this amendment would appropriate General Fund money to the Board of Pharmacy to pay for this and would get rid of any idea in the bill that this could be paid for by any stimulus money since there really isn't any to pay for it with. And it would direct the Board of Pharmacy to seek private and other federal sources to implement this program. I'm not sure if, Mr. Weiberg, do you want to come up to the table for a minute just to answer a question about this?

Berglin: Mr. Weiberg, are you aware of private or federal sources of funds that might allow you to implement this?

Weiberg (Ph. Board): No...My understanding is that when Congress passed the federal legislation to require tamper-resistant pads for Medicaid patients, there was no money provided for prescribers, or clinics or whatever to purchase just those pads.

I might also add while I'm here that most prescribers in the state have [switched to tamper-resistant pads for all of their patients](#) because they don't want to have to distinguish between regular patients and Medicaid patients when they're in the exam room getting ready to write out a prescription.

Berglin: So just to make it easier so they don't have to figure it out.

Weiberg: Madam Chair, that's my understanding.

Sen. Linda Higgins (D-Mpls): Could I ask, where do they get the tamper-resistant pads that they use now?

Weiberg: From a variety of vendors. They purchase them themselves.

Ortman: [Madame Chair, I think that's the point. If the Department of Health were to manage this program, then we would have them all numbered. We would know exactly where they've gone. They've been distributed specifically to our physicians so that we can manage the fraud on that end as well. I think that's the whole point....](#)

Berglin: I indicated to you that if you could get some savings, I'd be happy to consider that.

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Ortman: Madame Chair, if I could just address the e-prescribe issue. E-prescribe will, if it becomes effective in the state of Minnesota and we know we have the mandate to do that, but [the DEA has not necessarily issued rules in support of the e-prescribe system yet](#). But even once we do, it won't cover all prescriptions. I mean, e-prescribe will probably cover many of them but not a hundred percent of them. There will still be pads for prescription in doctor's offices and there will still be pads with prescriptions that are by hand that will go to pharmacies, and if we're heading in this direction, I think we should do all we can to take out the fraud from the system and I think a statutory plan to do this now might make a lot of sense given the savings in the short term and in the long term.

[...]

Sen. Tony Lourey (D-Kerrick): [I'm curious why we would assume that we need to buy these pads for providers through the pharmacy board. I mean, providers buy their own pads today, don't they?](#) That's the lion's share of the fiscal note that we're given here.

Berglin: [Rep. Lourey, my understanding is that somebody has to number these. That if you just go buy your own, there's no number on it so it can't be traced.](#)

Lourey: So because they have to be numbered the Board has to buy them and can't pass any of those costs on to the? I mean, right now providers, Madame Chair, buy their own prescription pads and I don't think we, they pay for them. I don't know. That is the major cost driver of this here and there's the underlying assumption that the Pharmacy Board would take over purchasing pads for all prescribers throughout the state and I'm just questioning whether that's actually what's being proposed here or not.

Ortman: [Well Madam Chair and Senator Lourey, that is exactly that value of this program, having all of these prescription pads numbered so that they're traceable right back to the person that's issued those pads. So if there's fraud, God forbid, in the doctor's office, you can trace it back to the doctor office. Where in the process did something occur here? So that's why the state has an interest in it. There's no reason why we couldn't charge, the Department couldn't charge doctors a fee for these prescriptions](#) and I suppose that's a possibility and we'll keep working with the Department. Maybe that might be something that they'd interested in doing. There's always costs with collection though and administrating programs like that and collecting the fees for the pads. I'm new in this area. That's why I have my mentor here with me because this is definitely a new area of law for me. But I think if we can identify ways

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to save and we can identify ways to avoid this fraud we should. And I think that this is a great start.

Lourey: I'm just trying to help. (1:02:50)

Ortman: Thank you Senator Lourey.

[...]

Berglin: At this point we aren't going to have General Fund money to fund this bill.

A2 amendment adopted by voice vote - heard one NO vote on the tape. Bill laid aside.

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