

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 876

STATUS: Original

SUBJECT: Requires the Department of Human Services to pay for brand name rather than a generic immunosuppressant drug in connection with organ transplant.

GOVERNMENT UNIT AFFECTED: Department of Human Services

PREPARED BY: Kim To

REVIEWED BY: John Britton

DATE: April 6, 2009

	<u>2009-2011</u>	<u>2011-2013</u>
EXPENDITURES:		
Special Payments – General Fund	\$ 109,097	\$ 145,463
Special Payments – Federal Fund	\$ 248,267	\$ 331,022
Total Funds	\$ <u>357,364</u>	\$ <u>476,485</u>

EFFECTIVE DATE: January 1, 2010

GOVERNOR’S BUDGET: This bill is not anticipated by the Governor’s recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: Senate Bill 876 requires that, when licensed practitioners prescribe brand name immunosuppressant drugs in connection with organ transplants, the Department of Human Services must pay for the brand name rather than a generic drug.

Under passage of this bill, the Division of Medical Assistance Programs (DMAP) would be required to pay for brand name drugs if prescribed even when generics are available. Federal regulations discourage the purchase of brand name drugs when generic drugs are available. An exception may be requested if a state’s cost for the brand name drug is below the federal Upper Payment Limit (UPL), a cost ceiling. If the brand name drug cost is above the UPL, then DHS would not be able to claim federal matching funds for the program. The allocation of fund source for this fiscal is based on the assumption that the cost for brand name immunosuppressant drugs in connection with organ transplants are below the UPL and the exception request is approved.

The Department of Human Services (DHS) reports that if this bill passes, this requirement would affect all Fee for Service organ transplant clients on immunosuppressant drugs. Based on the 2009-11 Fee for Service caseload number of 117,803 and the 0.41 percent of Oregon Health Plan clients currently on immunosuppressant drugs, the total projected clients on immunosuppressant is estimated at 488 (117,803 x 0.41 percent) for the 2009-11 biennium. DHS estimates the percentage of clients on immunosuppressant drugs using generic drugs to be 19.10 percent. Using these assumptions, the number of clients on generic immunosuppressant drug is estimated at 93 (488 clients x 19.10 percent) for the 2009-11 biennium. Historically, the number of claims averages 5.7 per month per individual client. The number of projected claims for generic drugs is calculated at 532 (93 clients x 5.7 average claims) per month for the 2009-11 biennium. DMAP states that the average cost difference of generic drug to brand drug is \$37.33. DHS receives rebates on generic as well as brand name drugs. This average cost amount

is inclusive of rebate calculations. The total cost of shifting from generic to brand is estimated at \$19,854 (\$37.33 x 532 project claims) per month. The total cost for the 18 months of the 2009-11 biennium is estimated at \$357,364. The Medicaid federal match rate of 73.90 percent is applied.

This bill requires budgetary action for the allocation of General Funds.