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

MEASURE NUMBER: SB 876 **STATUS:** A Engrossed
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: Ken Rocco
DATE: April 28, 2009

	2009-2011	2011-2013
EXPENDITURES:		
See Analysis		

EFFECTIVE DATE: This bill includes an emergency clause and is effective on passage.

ANALYSIS: This measure requires that, when licensed practitioners prescribe brand name immunosuppressant drugs in connection with organ transplants, the Department of Human Services (DHS) must pay for the brand name rather than a generic drug if the Department has determined that the drug is a narrow therapeutic index drug.

Passage of this bill would have a minimal impact on DHS.

Under passage of this bill, the Division of Medical Assistance Programs (DMAP) would be required to pay for brand name immunosuppressant 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. Current DHS policy identifies drugs to exempt from the generic pricing mandate. If this bill passes, DMAP would apply this current policy in relation to immunosuppressant drug coverage.

The measure requires DHS to determine whether the drug is a narrow therapeutic index drug within 180 days after the United States patent expires on an immunosuppressant drug used in connection with an organ transplant. The bill also specifies that if a patent expired on or after July 1, 2007 and before the effective date of this Act, DHS is required to determine whether the drug is a narrow therapeutic index drug. If this bill is enacted, DMAP would have to research, identify and track patents on immunosuppressant drugs to support making a determination on narrow therapeutic index. This workload would be assigned to existing staff.