

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1737 E S HB	<b>Title:</b> DSHS pharmacy audit program	<b>Agency:</b> 300-Dept of Social and Health Services
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
General Fund-Federal 001-2	625,000	606,000	1,231,000	1,212,000	1,212,000
<b>Total \$</b>	625,000	606,000	1,231,000	1,212,000	1,212,000

### Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	5.5	5.5	5.5	5.5	5.5
<b>Account</b>					
General Fund-State 001-1	564,000	544,000	1,108,000	1,088,000	1,088,000
General Fund-Federal 001-2	625,000	606,000	1,231,000	1,212,000	1,212,000
<b>Total \$</b>	1,189,000	1,150,000	2,339,000	2,300,000	2,300,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

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If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

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If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

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Capital budget impact, complete Part IV.

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Requires new rule making, complete Part V.

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Request # 11ESHB1737-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 2 requires that audits under this chapter of records of pharmacies licensed under chapter 18.64 RCW be subject to the following:

- An initial audit may not commence earlier than thirty days prior to the date on which written notice of the audit is given to the pharmacy. Audit findings resulting from audit work that is commenced before the thirty-day period may not be used in any audit findings.
- Technical deficiencies may not be the basis for finding an overpayment if substantiated through documentation that the claim for services complies with all of the elements of an allowable cost. In determining allowable cost requirements, the department must consider the unique circumstances of many pharmacies as separate entities and consider the records requirements based on what a reasonable pharmacy in a similar situation may be expected to maintain.
- Pharmacy must have at least ninety days from the date on which the draft audit findings were delivered to the pharmacy to respond with additional documentation or other relevant information.

As compared to the previous version of the bill, additional language has been added that requires the department to consider the unique circumstances of pharmacies as separate entities from prescribing providers and consider the records requirements based on what a reasonable pharmacy in a similar situation may be expected to maintain.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

This bill will result in reductions of Title XIX and Title XXI audit recoupments.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Section 2 defines the phrase, “technical deficiencies” in a way that would open the Department of Social and Health Services (DSHS) Medicaid Purchasing Administration (MPA) to decreased pharmacy audit recoupment. During the time period from Fiscal Year 2008 to Fiscal Year 2010, the department recouped an average of about \$526,000 per year as a result of pharmacy audits. Recent pharmacy audits performed by MPA’s Office of Program Integrity (OPI) show that approximately 85 percent of pharmacy audit findings are the result of a lack of documentation or a problem with the documentation. This would translate to an 85 percent reduction in pharmacy audit recoupment, or about \$447,000 per year.

The department is also in the process of increasing the number of Third Party Liability (TPL) pharmacy audits. The department anticipates that the "technical deficiencies" language will also impact these recoveries. This could result in a reduction of about \$167,000 in recoupments per year.

The “technical deficiencies” language can be interpreted by the pharmacies different from the auditors. The department anticipates they will require an additional 5.5 FTEs (\$575,000 in the first year) in audit, legal, and provider relations staff to accommodate the expected increase in administrative hearings.

The Washington State Attorney General’s Office has indicated that non-pharmacy providers could assert an “equal protection” claim that will require MPA to prove that it has a rational basis for utilizing different audit standards for different providers. Since the department may not be able to do so, the provisions of this bill could apply to all MPA medical provider audits. During the time period from Fiscal Year 2008 to Fiscal Year 2010, the department recouped an average of about \$25.5 million per year as a result of all provider audits. Historical audit data provided by OPI show that 65 percent of all provider audit findings are the result of a lack of documentation or a problem with the documentation. This would translate to a 65 percent reduction in all audit recoupment, or about \$16,594,000 per year. The department would also require 28.0 additional FTE in audit, legal, and provider relations staff to accommodate an expected increase in administrative hearings.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	5.5	5.5	5.5	5.5	5.5
A-Salaries and Wages	324,000	324,000	648,000	648,000	648,000
B-Employee Benefits	104,000	104,000	208,000	208,000	208,000
C-Personal Service Contracts					
E-Goods and Services	72,000	72,000	144,000	144,000	144,000
G-Travel	20,000	20,000	40,000	40,000	40,000
J-Capital Outlays	49,000	10,000	59,000	20,000	20,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	614,000	614,000	1,228,000	1,228,000	1,228,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	6,000	6,000	12,000	12,000	12,000
9-					
<b>Total:</b>	<b>\$1,189,000</b>	<b>\$1,150,000</b>	<b>\$2,339,000</b>	<b>\$2,300,000</b>	<b>\$2,300,000</b>

#### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Administrative Hearings Legal	45,828	1.0	1.0	1.0	1.0	1.0
Secretary 3						
Administrative Hearings Program	68,400	1.0	1.0	1.0	1.0	1.0
Manager						
Medical Assistance Program	61,632	2.5	2.5	2.5	2.5	2.5
Manager 2						
Medical Assistance	55,836	1.0	1.0	1.0	1.0	1.0
ProgramManager 1						
<b>Total FTE's</b>	<b>231,696</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>

### Part IV: Capital Budget Impact

NONE

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

DSHS provider audits and appeals WAC's will need to be modified.