

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5074 SB	<b>Title:</b> Biomarker testing coverage
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Washington State Health Care Authority	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Office of Insurance Commissioner	.2	0	0	58,735	.1	0	0	21,470	.1	0	0	21,470
<b>Total \$</b>	<b>0.2</b>	<b>0</b>	<b>0</b>	<b>58,735</b>	<b>0.1</b>	<b>0</b>	<b>0</b>	<b>21,470</b>	<b>0.1</b>	<b>0</b>	<b>0</b>	<b>21,470</b>

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Washington State Health Care Authority	.0	0	0	.0	0	0	.0	0	0
Office of Insurance Commissioner	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Marcus Ehrlander, OFM	<b>Phone:</b> (360) 489-4327	<b>Date Published:</b> Final
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5074 SB	<b>Title:</b> Biomarker testing coverage	<b>Agency:</b> 107-Washington State Health Care Authority
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

**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:

- 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.
- 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).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Greg Attanasio	Phone: 360-786-7410	Date: 01/10/2023
Agency Preparation: Alexa Price	Phone: 360-725-0000	Date: 01/17/2023
Agency Approval: SUMAN MAJUMDAR	Phone: 360-725-1319	Date: 01/17/2023
OFM Review: Marcus Ehrlander	Phone: (360) 489-4327	Date: 01/24/2023

## Part II: Narrative Explanation

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

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

Please see attached narrative.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

Please see attached narrative.

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Please see attached narrative.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

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

Non-zero but indeterminate cost and/or savings. Please see discussion.

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Please see attached narrative.

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# HCA Fiscal Note

Bill Number: 5074 SB

HCA Request #: 23-021

## Part II: Narrative Explanation

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

**Section 1** of the bill adds a new section to RCW 48.43 (Insurance Reform) that requires health plans issued or renewed after January 1, 2024, coverage of biomarker testing that is used for the following purposes: diagnosis, treatment, appropriate management, or ongoing monitoring of a member's disease condition.

**Section 1(2)** requires health plans to ensure coverage is required and provided in a manner that limits disruptions in care.

**Section 1(3)** requires that biomarker tests must be supported by medical and scientific evidence, including but not limited to:

- Approved or cleared by the Food and Drug Administration (FDA) or similar laboratory certified and approved by the Centers for Medicare and Medicaid (CMS)
- Nationally recognized clinical practice guidelines; or
- Consensus statements

**Section 2** of the bill adds a new section to RCW 41.05 (State Health Care Authority) and applies the same requirements listed in Section 1 to coverage of biomarker testing for Public and School employees.

### II. B - Cash Receipts Impact

None.

### II. C – Expenditures

#### Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) Program Impacts

Indeterminate, but possibly significant fiscal impact.

Section 1 and 2 of this bill add new sections to RCW 48.43 and RCW 41.05 that require coverage of biomarker testing for diagnosis, treatment, and appropriate management or ongoing monitoring of a member's disease condition. Preauthorization is currently required for at least a subset of biomarker tests that are evidenced based and have been shown to improve member outcomes in all Public Employee Benefits Board (PEBB) and School Employee Benefits Board (SEBB) Programs health plans, regardless of a member's diagnosis. The requirements set forth by this legislation would result in a change to current benefit coverage levels in the PEBB and SEBB programs for the Kaiser Foundation Health Plan of Washington, Kaiser Foundation Health Plan of the Northwest, and Uniform Medical Plan (UMP) offerings. Premera indicates this legislation would not result in changes or fiscal impacts to their health plans offered in the SEBB program.

Section 1(4) and Section 2(4) apply an extremely broad definition to "biomarker testing". The Health Care Authority (HCA) assumes this definition includes all procedure codes associated with biomarker tests, of which there are thousands. Furthermore, we assume this legislation would be applied to include coverage of biomarker tests that are currently considered investigational in nature, and do not

## HCA Fiscal Note

Bill Number: 5074 SB

HCA Request #: 23-021

have evidence for improved member outcomes. According to the National Conference of State Legislatures (NCSL), while costs per test vary, the national average cost for biomarker tests in 2021 was \$1,700 per individual test. Due to the high cost associated with biomarker testing, any increases in utilization or changes to coverage for testing previously not covered could result in significant increases to healthcare costs in the PEBB and SEBB programs.

At this time, HCA is not able to determine the exact scope of biomarker tests due to the broad application of the definition of these tests. Therefore, it is not possible to quantify the associated fiscal impact to PEBB and SEBB self-insured offerings. However, based on the high costs associated with some biomarker testing, there is a possibility of significant increases to claims costs in UMP; furthermore, feedback from the Kaiser Foundation indicated the possibility of significant increases to healthcare costs for PEBB and SEBB plan offerings.

RCW 41.05 governs the self-insured Uniform Medical Plans (UMP), which are offered by the PEBB and SEBB programs. RCW 48.43 governs the fully insured health plans offered by the PEBB and SEBB programs. Implementation of this bill could result in increased premiums for the self-insured and fully insured medical plans which may impact the state medical benefit contribution and employee contributions for health benefits.

### **Apple Health**

The fiscal impact is indeterminate.

This bill requires HCA's Apple Health program to provide coverage for biomarker testing for the treatment diagnosis, management, or ongoing monitoring of disease or condition when supported by medical and scientific evidence. Since there are biomarker tests that are currently not covered by Apple Health and given the high cost of these tests, the proposed policy change is expected to have a significant fiscal impact. This bill also requires HCA to provide this coverage in a manner that limits disruptions in care which may mean providing the services without prior authorization. Biomarker testing coverage without any prior authorization requirement is highly likely to lead to overutilization and additional costs.

The definition of "biomarker" is broad and can apply to any testing of a biological specimen. The bill may, therefore, potentially require a very large number of additional procedures to be covered. Without the determination of a more specific list of services to be covered, HCA is unable to estimate the magnitude of the potential fiscal impact at this time.

### **Part IV: Capital Budget Impact**

None.

### **Part V: New Rule Making Require**

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5074 SB	<b>Title:</b> Biomarker testing coverage	<b>Agency:</b> 160-Office of Insurance Commissioner
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
<b>Account</b>					
Insurance Commissioners Regulatory Account-State 138-1	48,000	10,735	58,735	21,470	21,470
<b>Total \$</b>	48,000	10,735	58,735	21,470	21,470

### 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:

- 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.
- 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).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Greg Attanasio	Phone: 360-786-7410	Date: 01/10/2023
Agency Preparation: Shari Maier	Phone: 360-725-7173	Date: 01/13/2023
Agency Approval: Michael Wood	Phone: 360-725-7007	Date: 01/13/2023
OFM Review: Jason Brown	Phone: (360) 742-7277	Date: 01/16/2023

## Part II: Narrative Explanation

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

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

Section 1(1) requires a health carrier, for health plans issued or renewed on or after January 1, 2024, to include coverage for biomarker testing pursuant to the criteria established under Section 1(2).

Section 1(2) requires biomarker testing to be covered for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when the test is supported by medical and scientific evidence.

Section 2(1) requires a health plan offered to public employees and their covered dependents issued or renewed on or after January 1, 2024, to include coverage for biomarker testing pursuant to the criteria established under Section 2(2).

Section 2(2) requires biomarker testing to be covered for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when the test is supported by medical and scientific evidence.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Section 1(1) requires a health carrier, for health plans issued or renewed on or after January 1, 2024, to include coverage for biomarker testing pursuant to the criteria established under Section 1(2).

Section 1(2) requires biomarker testing to be covered for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when the test is supported by medical and scientific evidence.

Section 2(1) requires a health plan offered to public employees and their covered dependents issued or renewed on or after January 1, 2024, to include coverage for biomarker testing pursuant to the criteria established under Section 2(2).

Section 2(2) requires biomarker testing to be covered for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when the test is supported by medical and scientific evidence.

Sections 1 and 2 will require additional review of health plan form filings to ensure the biomarker testing benefit is accurately disclosed to enrollees in the forms. The Office of Insurance Commissioner (OIC) will require one-time costs, in FY2024, of 6 hours of a Functional Program Analyst 4 to update filing review standards and speed-to-market tools, update checklist documents and filing instructions, train staff, and educate issuers. The OIC receives approximately 312 health plan form filings each year and assumes the new review standards will result in an additional 15 minutes of review per form filing in FY2024 and an additional 5 minutes of review per form filing in FY2025 and thereafter requiring 78 hours (312 form filings x 15 minutes) of a Functional Program Analyst 3 (FPA3) in FY2024 and 26 hours (312 form filings x 5 minutes) of a FPA3 in FY2025 and thereafter.

The provisions in Sections 1 and 2 will lead to an increase in enforcement actions. The OIC anticipates an average of an additional 2 enforcement actions per year to address allegations specific to coverage for biomarker testing. Enforcement actions require the equivalent of approximately 40 hours per case requiring 80 hours (2 cases x 40 hours) of an Insurance Enforcement Specialist beginning in FY2024.

Sections 1 and 2 will require ‘normal’ rulemaking, in FY2024, to align current WACs with the new law.

Ongoing Costs:

Salary, benefits and associated costs for .02 FTE Functional Program Analyst 3 and .05 FTE Insurance Enforcement Specialist.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
138-1	Insurance Commissioners Regulatory Account	State	48,000	10,735	58,735	21,470	21,470
<b>Total \$</b>			48,000	10,735	58,735	21,470	21,470

**III. B - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
A-Salaries and Wages	28,952	6,441	35,393	12,882	12,882
B-Employee Benefits	9,448	2,147	11,595	4,294	4,294
C-Professional Service Contracts					
E-Goods and Other Services	9,600	2,147	11,747	4,294	4,294
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	48,000	10,735	58,735	21,470	21,470

**III. C - Operating FTE 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 2024	FY 2025	2023-25	2025-27	2027-29
Functional Program Analyst 3	73,260	0.1	0.0	0.0	0.0	0.0
Functional Program Analyst 4	80,952	0.1		0.0		
Insurance Enforcement Specialist	99,516	0.1	0.1	0.1	0.1	0.1
Senior Policy Analyst	108,432	0.2		0.1		
<b>Total FTEs</b>		0.3	0.1	0.2	0.1	0.1

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Sections 1 and 2 will require ‘normal’ rulemaking, in FY2024, to align current WACs, such as WAC 284-43-5642 essential health benefit categories, with the new law.