

Multiple Agency Fiscal Note Summary

Bill Number: 1450 S HB 1450-S	Title: Biomarker testing coverage
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Washington State Health Care Authority	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	0	0	0	0	0	0	0

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
Total \$	0.2	0	0	58,735	0.1	0	0	21,470	0.1	0	0	21,470

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
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

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Individual State Agency Fiscal Note

Bill Number: 1450 S HB 1450-S	Title: Biomarker testing coverage	Agency: 107-Washington State Health Care Authority
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

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

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: Kim Weidenaar	Phone: 360-786-7120	Date: 02/09/2023
Agency Preparation: Alexa Price	Phone: 360-725-0000	Date: 02/20/2023
Agency Approval: SUMAN MAJUMDAR	Phone: 360-725-1319	Date: 02/20/2023
OFM Review: Marcus Ehrlander	Phone: (360) 489-4327	Date: 02/20/2023

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.

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.

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.

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

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: SHB 1450

HCA Request #: 23-126

Part II: Narrative Explanation

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

This bill is relating to coverage for biomarker testing; adding a new section to chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; and adding a new section to chapter 74.09 RCW.

This bill differs from the previous version in the following ways:

- Coverage of biomarker testing is required for members diagnosed with stage 1, 2, 3, or 4 cancer or brain cancer. The previous version of this legislation required coverage for all instances of biomarker testing.

Section 1(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 diagnosis, treatment or appropriate management or ongoing monitoring of a member diagnosed with stage 1, 2, 3, or 4 cancer or brain cancer.

Section 1(2) 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 1(3) requires Health plans to ensure coverage is required and provided in a manner that limits disruptions in care.

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.

Section 1(4) and Section 2(4) apply a broad definition of “biomarker testing”, to include any test that is done on a member’s tissue, blood, or other biospecimen including but not limited to single-analyte tests, multiplex panel tests, and whole genome sequencing.

II. B - Cash Receipts Impact

None.

HCA Fiscal Note

Bill Number: SHB 1450

HCA Request #: 23-126

II. C – Expenditures

Public Employee Benefits Board (PEBB) and School Employee Benefits Board (SEBB) Programs

Indeterminate, but potentially significant, fiscal impact.

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.

Section 1 and Section 2 of this bill add new sections to RCW 48.43 and RCW 41.05 that require coverage of biomarker testing for members with stage 1, 2, 3, or 4 cancer or brain cancer for the purposes of 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 in all PEBB and SEBB health plans.

In the self-insured Uniform Medical Plan (UMP) a large subset of biomarker testing is currently covered; however, UMP coverage policies include evaluations of the evidence for tests that are considered investigational in nature. There are a wide range of biomarker testing available for members identified with stage 1, 2, 3, or 4 cancer or brain cancer; 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.

If requirements set forth by this legislation result in a change to current benefit coverage levels in the PEBB and SEBB programs annual healthcare liability are *estimated* to increase between \$1.2 million and \$5.6 million across all the Uniform Medical Plan (UMP) offerings in the PEBB and SEBB programs. These estimates have been identified using the assumptions provided below. At this time, HCA is not able to determine the exact scope of biomarker tests due to the broad range of all biomarker testing that could be utilized for applicable members under this legislation.

The estimated cost impacts for UMP are based on the following assumptions:

- We assume all costs associated with tests and procedures in scope of this bill are new costs that would have otherwise not been incurred.
- Estimated costs are based on the 2022 PEBB and SEBB population claims for members with and covered biomarker test utilization. Claims where UMP paid secondary to Medicare were excluded from the analysis.
- Average cost of the biomarker tests was developed using available internal claims data and information from the Centers for Medicare and Medicaid Services (CMS).
- We assume all tests in scope of this change may be subject to prior authorization, consistent with current practice.

HCA Fiscal Note

Bill Number: SHB 1450

HCA Request #: 23-126

- Costs associated with biomarker testing vary significantly dependent on the type of cancer, the type of sample being tested, the method for acquiring the sample, and the test being utilized.
- Actual utilization and costs are assumed to vary from these estimates for many reasons, including but not limited to: population changes, new technology and treatments, and random claims fluctuations, etc.

Premiera indicates this legislation would not result in significant changes or fiscal impacts to their health plans offered in the SEBB program. HCA does not have feedback from the Kaiser Foundation Health Plans regarding impacts of this version of the bill.

Apple Health

The fiscal impact is indeterminate, but greater than \$50,000.

This bill requires HCA's Apple Health program to provide coverage for biomarker testing for the treatment diagnosis, management, or ongoing monitoring of stage 1, 2, 3, or 4 cancer or brain cancer when supported by medical and scientific evidence. Apple Health currently covers cancer biomarker testing according to available evidence including National Comprehensive Cancer Network guidelines. However, it is unclear how the scope of this bill will impact future coverage requirements given the broad bill language and the evolving landscape of biomarker testing. The proposed policy change is expected to have a significant fiscal impact. HCA assumes that medical necessity requirements will still apply, as will utilization controls including prior authorization.

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 exact magnitude of the potential fiscal impact at this time.

For reference, according to NCSL, 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 can result in significant increases to healthcare costs in the Apple Health programs. Using prevalence rates from the American Cancer Society and the national average cost from NCSL, HCA estimates that the potential annual biomarker testing cost within Apple Health can be as high as \$14 million if all cancer patients receive one biomarker test each. The actual expenditures for testing would vary depending on the percent of clients and providers deciding to use biomarker testing, the tests used, and the average number of tests used per utilizing client.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 1450 S HB 1450-1	Title: Biomarker testing coverage	Agency: 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
Account					
Insurance Commissioners Regulatory Account-State 138-1	48,000	10,735	58,735	21,470	21,470
Total \$	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: Kim Weidenaar	Phone: 360-786-7120	Date: 02/09/2023
Agency Preparation: Shari Maier	Phone: 360-725-7173	Date: 02/09/2023
Agency Approval: Michael Wood	Phone: 360-725-7007	Date: 02/09/2023
OFM Review: Jason Brown	Phone: (360) 742-7277	Date: 02/09/2023

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 for stage 1, 2, 3, or 4 cancer and brain cancer 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 stage 1, 2, 3, or 4 cancer or brain cancer 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 for stage 1, 2, 3, or 4 cancer and brain cancer 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 stage 1, 2, 3, or 4 cancer or brain cancer 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 for stage 1, 2, 3, or 4 cancer and brain cancer 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 stage 1, 2, 3, or 4 cancer or brain cancer 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 for stage 1, 2, 3, or 4 cancer and brain cancer 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 for stage 1, 2, 3, or 4 cancer or brain cancer 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
Total \$			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-					
Total \$	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		
Total FTEs		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.