Multiple Agency Fiscal Note Summary

Bill Number: 2145 HB	**Title:** Health plans/mental health

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	59,238	.2	0	0	492,160	.2	0	0	487,058
Total $	**0.2**	**0**	**0**	**59,238**	**0.2**	**0**	**0**	**492,160**	**0.2**	**0**	**0**	**487,058**

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

Prepared by: Jason Brown, OFM	**Phone:** (360) 742-7277	**Date Published:** Final 1/31/2024

FNPID 70088

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2145 HB	Title: Health plans/mental health	Agency: 107-Washington State Health Care Authority

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:	Kim Weidenaar	Phone: 360-786-7120	Date: 01/10/2024
Agency Preparation:	Melinda Helberg	Phone: 360-725-0000	Date: 01/29/2024
Agency Approval:	Tanya Deuel	Phone: 360-725-0908	Date: 01/29/2024
OFM Review:	Marcus Ehrlander	Phone: (360) 489-4327	Date: 01/30/2024

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.

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.

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.

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

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: 2145 HB HCA Request #: 24-048 Title: Health Plans/Mental Health

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.

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.

An act relating to medically necessary treatment of a mental health or substance use disorder; amending RCW 48.43.005; reenacting and amending RCW 41.05.017; adding new sections to chapter 48.43 RCW; prescribing penalties; and providing an effective date.

Section 2 adds a new section to RCW 48.43 (Health care reform) requiring health plans that currently offer medical and surgical coverage to also cover medically necessary treatment of mental and substance use disorders (SUD).

- Mental health and SUD coverage cannot be rescinded or modified after care has been provided.
- Health carriers cannot limit benefits or coverage on the basis that those services could be covered by Medicaid or Medicare.

Section 3 adds a new section to RCW 48.43 requiring health plans to base medical necessity determination or utilization review criteria for mental health or SUD coverage on generally accepted SUD care, as set forth in the most recent versions of practice guidelines developed by the nonprofit association for the relevant clinical specialty. Health plans must:

- Sponsor and provide formal education programs to educate health carrier staff, contractors and providers and also make this program available to other stakeholders.
- Provide clinical review criteria, training materials and resources to medical providers and members at no extra cost.
- Must not apply different, additional, conflicting or more restrictive utilization standards when conducting utilization review than the criteria and guidelines set forth in this legislation.
- Track, identify and analyze how the clinical review criteria are used to certify or deny care and support the appeals processes.

Section 3(5) applies all provisions and requirements of the legislation to all health care services and benefits provided by a health plan, including prescription drugs.

Section 5 amends RCW 41.05.017 (Provisions applicable to health plans offered under this chapter) to apply the provisions of this bill to plans covered under this chapter.

Section 7 sets an effective date for this legislation of January 1, 2025.

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. Distinguish between one time and ongoing functions.

NONE

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. Distinguish between one time and ongoing functions.

Administrative Cost Impact

No fiscal impact.

Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) programs

Indeterminate fiscal impact.

Self-Insured State Costs and Member Premiums

The provisions of this bill could result in an assumed cost impact to the Uniform Medical Plan (UMP), specifically resulting from changes to how the Uniform Medical Plan (UMP) manages mental health and substance use disorder (SUD) treatments under the pharmacy benefit. Section 3 of the legislation requires health plans to base medical necessity determination or utilization review criteria for mental health or SUD coverage on generally accepted SUD care, as set forth in the most recent versions of practice guidelines developed by the nonprofit association for the relevant clinical specialty. These requirements could be different than how UMP has structured the preferred drug list (PDL) around lower cost, equally effective drugs. Furthermore, new-to-market drugs that are typically more expensive than those already included on a preferred drug list may be required for inclusion and coverage under this legislation; thereby increasing plan costs and undermining preferred drug list and formulary management. Given the provisions listed in section 3 of this legislation, pharmacy claims liability in UMP is assumed to increase.

Regence, the third-party administrator of the state's self-insured UMP note a possible administrative impact related to provider and staff trainings, additional educational materials and changes to current utilization management practices would apply to UMP. However, at this time HCA does not assume any changes to the UMP administrative fees paid to Regence resulting from this legislation.

Fully Insured Member Premiums

The PEBB and SEBB fully insured health plans currently cover services for mental health and substance use disorder. This bill would impact how carriers define medical necessity for utilization management. Carriers note a possible increase in administrative costs resulting from this legislation. Kaiser Permanente Foundation of Washington notes the magnitude of deviation from current medical necessity determination criteria is unknown and not measurable, noting an impact of 0% to 2% of current administrative costs. Any increases in administrative costs could result in an increase to future member premiums in the PEBB and SEBB programs.

Apple Health Service-related Impact

No fiscal impact.

Part III: Expenditure Detail

III. A - Operating Budget Expenditure

Indeterminate

III. B - Expenditures by Object Or Purpose

Indeterminate

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.

NONE

Individual State Agency Fiscal Note

Bill Number: 2145 HB	Title: Health plans/mental health	Agency: 160-Office of Insurance Commissioner

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	0.0	0.4	0.2	0.2	0.2
Account					
Insurance Commissioners Regulatory Account-State 138-1	0	59,238	59,238	492,160	487,058
Total $	0	59,238	59,238	492,160	487,058

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: 01/10/2024
Agency Preparation:	Delika Steele	Phone: 360-725-7260	Date: 01/16/2024
Agency Approval:	Bryon Welch	Phone: 360-725-7037	Date: 01/16/2024
OFM Review:	Jason Brown	Phone: (360) 742-7277	Date: 01/21/2024

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(49) and (50) defines "Generally accepted standards of mental health and substance use disorder care" and "Medically necessary treatment of a mental health or substance use disorder".

Section 2(1) requires every health plan, issued or renewed on or after January 1, 2025, that provides hospital, medical, or surgical coverage to provide coverage for medically necessary treatment of mental health and substance use disorders.

Section 3(1) requires health carriers that provide hospital, medical, or surgical coverage to base any medical necessity determination or the utilization review criteria for the treatment of mental health and substance use disorders on current generally accepted standards of mental health and substance use disorder care.

Section 4 adds a new section to 48.43 defining "discretionary authority" and voiding provisions of health carrier contracts that reserve discretionary authority for a carrier or their agent to determine eligibility, interpret terms, or provide standards of review that are inconsistent with state law.

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(49) and (50) defines "Generally accepted standards of mental health and substance use disorder care" and "Medically necessary treatment of a mental health or substance use disorder".

Section 2(1) requires every health plan, issued or renewed on or after January 1, 2025, that provides hospital, medical, or surgical coverage to provide coverage for medically necessary treatment of mental health and substance use disorders.

Section 3(1) requires health carriers that provide hospital, medical, or surgical coverage to base any medical necessity determination or the utilization review criteria for the treatment of mental health and substance use disorders on current generally accepted standards of mental health and substance use disorder care.

Section 4 adds a new section to 48.43 defining "discretionary authority" and voiding provisions of health carrier contracts that reserve discretionary authority for a carrier or their agent to determine eligibility, interpret terms, or provide standards of review that are inconsistent with state law.

Sections 1 through 3 will require additional market conduct examinations to ensure compliance with the new medical necessity standards. Limiting the medical necessity definition to mental health and substance use disorder service and not incorporating medical/surgical services opens the potential for misinterpretation of these requirements by all parties involved in the health carrier's claims handling process. Based on the four mental health parity market conduct examinations conducted over the last two years, the OIC assumes the new standards will require an additional two market conduct examinations of health carriers each year. The OIC does not have staff trained or licensed to render medical judgment involving any form of treatment. Therefore, the OIC will require $210,000 each year beginning in FY2026 to contract with a medical expert to review policies and assist with determining whether mental health and/or substance abuse disorder claims processed by a carrier comply with the new medical necessity standard.

Sections 2 and 3 will require new review standards for utilization review contracts and health plan form filings to ensure compliance with the "medically necessary treatment of a mental health or substance use disorder" criteria. The OIC will require one-time costs, in FY2025, of 32 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 provide additional oversight and assistance to staff. The OIC receives approximately 100 utilization review contracts each year and assumes an additional 30 minute of review per contract requiring 50 hours (100 utilization review contracts x 30 minutes) per year of a Functional Program Analyst 3 beginning in FY2025. The OIC receives approximately 502 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 FY2025 and an additional 5 minutes of review per form filing in FY2026 and thereafter requiring 125.5 hours (502 form filings x 15 minutes) in FY 2025 and 42 hours (502 form filings x 5 minutes) in FY2026 and thereafter of a Functional Program Analyst 3.

The provisions in sections 2 and 3 will lead to an increase in enforcement actions, including the potential for enforcement in situations in which a carrier does not comply with the requirements, coverage limitations, and definitions within the bill. The OIC anticipates an average of an additional 3 enforcement case per year, with one case being sent to hearings in FY2026, to address compliance issues. Enforcement actions generally require between 25-80 hours each, and each hearing generally requires between 50-100 hours. Because this bill sets forth complex requirements such as how health carriers must make determinations about medically necessary services, it is expected that enforcement actions will require the equivalent of approximately 80 hours per case, and each hearing will require an average of 50 hour for a total cost of 290 hours (3 cases x 80 hours + 1 hearing x 50 hours) in FY2026 and 240 hours (3 cases x 80 hours) in FY2027 and thereafter of an Insurance Attorney. In addition, OIC anticipates one-time costs, in FY2025, of 30 hours of an Insurance Attorney to provide advice related to this statutory change and its reconciliation with existing statutes and regulations.

Sections 2 through 4 will generate additional consumer inquiries, calls, and complaints regarding how prior authorization, utilization review and mental health parity for mental health conditions and substance use disorders applies to them. Based on a review of 2023 consumer contact data, the OIC assumes an additional 2 written inquiries, 60 calls and 7 complaints relating to mental health conditions and substance use disorders will be received each year. For purposes of this fiscal note, it is assumed that informational cases will take 10 minutes per case and complaint cases will take 3.25 hours per case requiring a total of 32.75 hours (62 info cases x 10 minutes + 7 complaint cases x 3.25 hours) of a Functional Program Analyst 3 each year beginning in FY2025.

Ongoing Costs:
Salary, benefits and associated costs for .15 FTE Insurance Attorney an .06 FTE Functional Program Analyst 3.

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	0	59,238	59,238	492,160	487,058
		Total $	0	59,238	59,238	492,160	487,058

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.2	0.2
A-Salaries and Wages		35,763	35,763	43,571	40,466
B-Employee Benefits		11,627	11,627	14,157	13,180
C-Professional Service Contracts				420,000	420,000
E-Goods and Other Services		11,848	11,848	14,432	13,412
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 $	0	59,238	59,238	492,160	487,058

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	78,468		0.1	0.1	0.1	0.1
Functional Program Analyst 4	86,712		0.1	0.0		
Insurance Attorney	103,500		0.0	0.0	0.2	0.2
Senior Policy Analyst	116,148		0.2	0.1		
Total FTEs			0.4	0.2	0.2	0.2

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.

'Normal' rulemaking, in FY2025, will be required for, but not limited to, the following:

- WAC 284-43-2000 to reflect prior authorization and utilization review criteria specific to mental health and substance use disorder treatment under Sections 2-4 of the bill.

- WAC 284-43-0160, WAC 284-43-5440, and WAC 284-43-7010 to include new definitions under Section 1 of the bill.
- Relevant sections of WAC 284-170.