

Multiple Agency Fiscal Note Summary

Bill Number: 1450 2S HB	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	51,011	.1	0	0	17,530	.1	0	0	17,530
Total \$	0.2	0	0	51,011	0.1	0	0	17,530	0.1	0	0	17,530

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 2/21/2024
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Individual State Agency Fiscal Note

Bill Number: 1450 2S HB	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: 01/30/2024
Agency Preparation: Lena Johnson	Phone: 360-725-5295	Date: 02/16/2024
Agency Approval: SUMAN MAJUMDAR	Phone: 360-725-1319	Date: 02/16/2024
OFM Review: Jason Brown	Phone: (360) 742-7277	Date: 02/21/2024

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.

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.

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.

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: **1450 2SHB**

HCA Request #: 24-116

Title: **Biomarker Testing Coverage**

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.

HCA Fiscal Note

Bill Number: **1450 2SHB**

HCA Request #: 24-116

Title: **Biomarker Testing Coverage**

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.

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

- Coverage of biomarker testing is required for diagnosis, treatment, appropriate management or ongoing monitoring of a member's disease condition, regardless of diagnosis, when the test is supported by medical evidence. This bill also allows plans to apply prior authorization and utilization review provisions to ensure medical necessity of testing. The previous version included a provision for coverage of biomarker tests when a member had been diagnosed specifically with stage 1, 2, 3, or 4 cancer or brain cancer, and did not include a provision that allowed for plans to implement prior authorization.

Section 1 adds a new section to RCW 48.43 (Health care reform) that requires carriers renewed on or after January 1, 2025 to provide coverage of biomarker testing for diagnosis, treatment or management of a member's disease condition when the test is supported by medical diagnosis.

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); or
- Nationally recognized clinical practice guidelines

Section 1(4) notes that plans are not required to cover biomarker testing that is investigatory in nature.

Section 1(5) allows health plans to apply prior authorization and/or utilization management strategies to biomarker testing to the extent allowed under provisions of RCW 48.43.

Section 2 adds a new section to RCW 41.05 (Health care authority) to apply the same requirements for coverage and allowance of prior authorization and utilization management of biomarker tests as detailed in Section 1 of the bill.

Section 3 adds a new section to RCW 74.09 (Medical Care) that requires the Health Care Authority (HCA) to allow the same level of coverage for biomarker tests as detailed in Section 1 of the bill.

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.

HCA Fiscal Note

Bill Number: **1450 2SHB**

HCA Request #: 24-116

Title: **Biomarker Testing Coverage**

Indeterminate.

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.

The Health Care Authority (HCA) assumes an indeterminate fiscal impact.

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 a client's 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. While it is not clear what they would be, this bill does allow for HCA to apply prior authorization and utilization strategies, which could mitigate medically unnecessary utilization.

The definition of "biomarker" is broad and can apply to any testing of a biological specimen. As the bill does not define the scope for biomarker utilization. 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.

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. For reference, according to the National Conference of State Legislatures (NCSL), the national average cost for biomarker tests in 2021 was \$1,700 per individual test. 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.

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

No 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. 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 the purposes of diagnosis, treatment, and appropriate management or ongoing monitoring of a member's disease condition, with a prior authorization/utilization management allowance.

The state's self-insured Uniform Medical Plan (UMP), administered by Regence, currently covers a large subset of biomarker testing with preauthorization and utilization review policies in place to ensure

HCA Fiscal Note

Bill Number: **1450 2SHB**

HCA Request #: 24-116

Title: **Biomarker Testing Coverage**

medical necessity. Given that UMP already provides coverage for a wide range of testing, and that prior authorization provisions are permitted under this legislation, HCA does not assume a fiscal impact will result from this legislation. PEBB and SEBB fully insured carriers also currently cover a broad range of biomarker testing, subject to prior authorization, and assume no fiscal impact resulting from this legislation.

Part III: Expenditure Detail

III. A - Operating Budget Expenditure

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

HCA Fiscal Note

Bill Number: **1450 2SHB**

HCA Request #: 24-116

Title: **Biomarker Testing Coverage**

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

HBE Fiscal Note

Bill Number: 1450 2SHB

HBE Request #: 24-17-01

Part II: Narrative Explanation

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

This bill would require health plans issued or renewed on/after January 1, 2025, including those offered to public employees and their dependents, to cover biomarker testing for the purpose of diagnosis, treatment, management, or ongoing monitoring of a enrollee's disease or condition when the test is if supported by medical and scientific evidence.

II. B - Cash Receipts Impact

Indeterminate. New mandated benefits typically increase premiums, but the expected premium increase amount attributable to just this new benefit is unknown at this time.

II. C - Expenditures

No fiscal impact, changes that require inclusion of this health care benefit in qualified health plans offered in the Exchange marketplace are not expected to require significant operational or Healthplanfinder system changes.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 1450 2S HB	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	0.0	0.3	0.2	0.1	0.1
Account					
Insurance Commissioners Regulatory Account-State 138-1	0	51,011	51,011	17,530	17,530
Total \$	0	51,011	51,011	17,530	17,530

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: 01/30/2024
Agency Preparation: Delika Steele	Phone: 360-725-7260	Date: 02/02/2024
Agency Approval: Bryon Welch	Phone: 360-725-7037	Date: 02/02/2024
OFM Review: Jason Brown	Phone: (360) 742-7277	Date: 02/02/2024

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(1) requires a health carrier, for health plans issued or renewed on or after January 1, 2025, 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, 2025, 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, 2025, 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, 2025, 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 FY2025, 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 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 126 hours (502 form filings x 15 minutes) in FY2025 and 42 hours (502 form filings x 5 minutes) of a Functional Program Analyst 3 in FY2026 and thereafter.

The provisions in Sections 1 and 2 will lead to an increase in enforcement actions. The OIC anticipates an average of one additional enforcement action per year to address allegations specific to coverage for biomarker testing. Enforcement actions require the equivalent of approximately 40 hours per case requiring 40 hours (1 case x 40 hours) of an Insurance Attorney beginning in FY2025.

Sections 1 and 2 will require ‘normal’ rulemaking, in FY2025, to align current WACs with the new law.

Ongoing Costs:

Salary, benefits and associated costs for .03 FTE Functional Program Analyst 3 and .03 FTE Insurance Attorney.

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	51,011	51,011	17,530	17,530
Total \$			0	51,011	51,011	17,530	17,530

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.2	0.1	0.1
A-Salaries and Wages		30,905	30,905	10,448	10,448
B-Employee Benefits		9,904	9,904	3,576	3,576
C-Professional Service Contracts					
E-Goods and Other Services		10,202	10,202	3,506	3,506
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	51,011	51,011	17,530	17,530

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	0.0	0.0	0.0
Functional Program Analyst 4	86,712		0.1	0.0		
Insurance Attorney	95,652		0.0	0.0	0.0	0.0
Senior Policy Analyst	116,148		0.2	0.1		
Total FTEs			0.3	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 FY2025, to align current WACs, such as WAC 284-43-5642 essential health benefit categories, with the new law.