



Litigation Expenses and HCAF Technical Correction

Fiscal Impact (\$000s)	FY 2014	FY 2015	FY 2016	FY 2017
Health Care Access Fund				
Expenditures	(25)	(1,000)	(1,000)	(1,000)
Net Fiscal Impact	(25)	(1,000)	(1,000)	(1,000)

Proposal

This proposal appropriates \$975,000 in FY 2014 to pay settlement costs for a lawsuit related to the Newborn Screening Program. The settlement agreement covers a portion of the plaintiff’s legal fees and does not award any damages to the plaintiffs. The Governor recommends paying for the settlement cost by making a technical correction to the 2013 health and human services finance bill which returns \$1 million per year to the Health Care Access Fund.

Background

The Minnesota Department of Health (MDH) is responsible for protecting, maintaining and improving the health of all Minnesotans. To meet those responsibilities, MDH has a budget of approximately \$570 million per year. Virtually all of the funding that the department receives is dedicated—by law or through a grant agreement or contract—to meet specific public health priorities. The department does not have available resources to cover large unexpected costs without compromising its ability to meet its public health responsibilities.

The Newborn Screening Program tests 68,000 newborns per year for more than 50 harmful medical conditions that could result in expensive

life-long medical problems and in some cases death if not detected and treated early.

In 2006, an amendment was added to a government data practices bill during a House floor debate that made changes to the treatment of genetic information. The amendment was not heard in committee nor, when it was offered, was there any discussion of its impact on the Newborn Screening Program. As a result, the 2006 law was unclear on whether or how it should be applied to the Newborn Screening Program. Legislation passed in 2008 to clarify that the changes to the genetic information law did not apply to the Newborn Screening Program was vetoed.

In 2009, MDH was sued by a group of families alleging that the Newborn Screening Program violated the genetic information law. During the proceedings that followed, MDH prevailed in district court and on the appellate level, but in 2011 the Minnesota Supreme Court ruled partially in favor of the plaintiffs and sent the case back to the lower courts. This left the department with the choice of settling with the plaintiffs or going to trial in early 2014.

In determining how to proceed with the lawsuit, the department carefully weighed the potential financial

and legal risks associated with settling the lawsuit versus going to trial. MDH has already spent \$550,000 on legal services provided by the Attorney General's Office and nearly \$140,000 for MDH in-house legal staff related to this lawsuit. In addition to legal costs, Public Health Lab staff has spent thousands of hours on the legal proceedings. To avoid the considerable cost and uncertainty of a trial, it was determined that it would be in the state's best interest to settle for paying a portion of the plaintiff's legal fees. The settlement agreement does not award any damages to the plaintiffs.

Bipartisan legislation passed in 2012 and 2013 made important changes to laws governing genetic and biological information and the Newborn Screening Program. Those changes address the legal concerns that were the basis of the lawsuit.

For more information, contact:

Dave Greeman

651-201-5235

Minnesota Department of Health