



# HOUGHTON V. UTAH LAWSUIT

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
STAFF: RUSSELL FRANSEN

ISSUE BRIEF

## SUMMARY

The Medicaid-related class action lawsuit *Houghton v. Utah* was tentatively settled in late July 2010, recognizing it must still be approved by both the Governor and the Legislature. Under the terms of this tentative agreement, the State will pay \$5.5 million total funds to the class. Thus far the department has paid for \$2.3 million total funds and is requesting \$946,200 General Fund as part of its Medicaid supplemental caseload building block. The Analysts recommends that the Committee treat the payment for this case as a separate building block.

## DISCUSSION AND ANALYSIS

### ***What is the Houghton v. Utah lawsuit?***

*Houghton v. Utah* is a 1995 class action lawsuit that arises from Utah's statutory duty to pay a Medicaid recipient's attorney fees in the context of a third party liability claim. When a Medicaid recipient is injured due to the fault of another (the liable third party), such as in a motor vehicle accident, and the Medicaid recipient is successful in recovering money from the third party, by statute Medicaid has a lien against the recovery for the medical bills it has paid" (July 13, 2010 e-mail from State attorney). The State historically paid between 20 to 33 percent of Medicaid clients' attorney fees in these cases. However, a Utah Supreme Court ruling now requires the State to always pay the same percentage as paid to the attorney by the client, up to 33 percent.

### ***How did the total cost increase from an early estimate of \$1.5 million to \$5.5 million?***

In January 2010, the Office of Recovery Services estimated the cost of claims likely to be filed at \$1.5 million total funds. The original estimate focused on funding 50 percent of potential claims. The judge for the case subsequently ordered creation of a \$2.3 million settlement fund to represent the total cost of all possible claims without regard to possible participation rates. During its 2010 General Session, the Legislature provided sufficient funds to cover the amount of the interim ruling. Additionally, there have been numerous hearings in the case since January with the State estimating costs between \$4.0 to \$5.0 million and the representatives of the class action group estimating costs up to \$12 million. The two parties mediated a tentative settlement agreement for \$5.5 million.

### ***How much has the State paid thus far?***

Thus far the State has paid \$1,320,000 total funds for the opposing party's attorney fees. Attorney fees are to come out of the tentative settlement agreement for \$5.5 million.

### ***Building Block Request to cover the costs***

The Department of Health has indicated that if it receives its supplemental caseload request for FY 2011 of \$28,534,200 General Fund, that it will have enough money to pay for the settlement costs, estimated at \$946,200 General Fund. The Analysts recommends that the Committee treat the payment for this case as a separate building block. By separating out this building block, this would leave the FY 2011 supplemental caseload request at \$27,588,000 General Fund.

## LEGISLATIVE ACTION

- The Analysts recommends that the Committee treat the \$946,200 General Fund payment for this case as a separate building block request (currently part of Health's supplemental caseload request).