

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 39

94TH GENERAL ASSEMBLY

Reported from the Committee on Health and Mental Health, April 12, 2007, with recommendation that the Senate Committee Substitute do pass.

0458S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 208.151, RSMo, and to enact in lieu thereof four new sections relating to medical assistance eligibility for certain persons, with an emergency clause and expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 208.151, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 208.146, 208.151, 208.659, and 1, to read as follows:

208.146. 1. Subject to appropriations and in accordance with the federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106-170, the medical assistance provided for in section 208.151 may be paid for a person who is employed and who:

(1) Except for earnings, meets the definition of disabled under the Supplemental Security Income Program or meets the definition of an employed individual with a medically improved disability under TWWIIA;

(2) Has earned income, as defined in subsection 2 of this section;

(3) Meets the asset limits in subsection 3 of this section;

(4) Has net income, as defined in subsection 3 of this section, that does not exceed the limit for permanent and totally disabled (PTD) individuals to receive nonspenddown Medicaid under subdivision (24) of subsection 1 of section 208.151; and

(5) Has a gross income of two hundred fifty percent or less of the federal poverty level. For purposes of this subdivision, "gross income" includes all income of the person and the person's spouse that would

18 be considered in determining Medicaid eligibility for permanent and
19 totally disabled (PTD) individuals under subdivision (24) of subsection
20 1 of section 208.151. Individuals with gross incomes in excess of one
21 hundred percent of the federal poverty level shall pay a premium for
22 participation in accordance with subsection 4 of this section.

23 2. For income to be considered earned income for purposes of
24 this section, the department of social services shall document that
25 Medicare and Social Security taxes are withheld from such
26 income. Self-employed persons shall provide proof of payment of
27 Medicare and Social Security taxes for income to be considered earned.

28 3. (1) For purposes of determining eligibility under this section,
29 the available asset limit and the definition of available assets shall be
30 the same as those used to determine Medicaid eligibility for permanent
31 and totally disabled (PTD) individuals under subdivision (24) of
32 subsection 1 of section 208.151 except for:

33 (a) Medical savings accounts limited to deposits of earned
34 income and earnings on such income while a participant in the
35 program created under this section with a value not to exceed five
36 thousand dollars per year;

37 (b) Independent living accounts limited to deposits of earned
38 income and earnings on such income while a participant in the
39 program created under this section with a value not to exceed five
40 thousand dollars per year. For purposes of this section, an
41 "independent living account" means an account established and
42 maintained to provide savings for transportation, housing, home
43 modification, and personal care services and assistive devices
44 associated with such person's disability.

45 (2) To determine net income, the following shall be disregarded:

46 (a) All earned income of the disabled worker;

47 (b) The first sixty-five dollars and one-half of the remaining
48 earned income of a nondisabled spouse's earned income;

49 (c) A twenty-dollar standard deduction;

50 (d) Health insurance premiums;

51 (e) All Supplemental Security Income (SSI) payments;

52 (f) A standard deduction for impairment-related employment
53 expenses equal to one-half of the disabled worker's earned income.

54 4. Any person whose gross income exceeds one hundred percent

55 of the federal poverty level shall pay a premium for participation in the
56 medical assistance provided in this section. Such premium shall be:

57 (1) For a person whose gross income is more than one hundred
58 percent but less than one hundred fifty percent of the federal poverty
59 level, seven and one-half percent of income at one hundred percent of
60 the federal poverty level;

61 (2) For a person whose gross income equals or exceeds one
62 hundred fifty percent but is less than two hundred percent of the
63 federal poverty level, seven and one-half percent of income at one
64 hundred fifty percent of the federal poverty level;

65 (3) For a person whose gross income equals or exceeds two
66 hundred percent of the federal poverty level, seven and one-half
67 percent of income at two hundred percent of the federal poverty level.

68 5. If an eligible person's employer offers employer-sponsored
69 health insurance and the department of social services determines that
70 it is more cost effective, such person shall participate in the employer-
71 sponsored insurance. The department shall pay such person's portion
72 of the premiums, co-payments, and any other costs associated with
73 participation in the employer-sponsored health insurance.

208.151. 1. For the purpose of paying medical assistance on behalf of
2 needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments
3 to the federal Social Security Act (42 U.S.C. Section 301 et seq.) as amended, the
4 following needy persons shall be eligible to receive medical assistance to the
5 extent and in the manner hereinafter provided:

6 (1) All recipients of state supplemental payments for the aged, blind and
7 disabled;

8 (2) All recipients of aid to families with dependent children benefits,
9 including all persons under nineteen years of age who would be classified as
10 dependent children except for the requirements of subdivision (1) of subsection
11 1 of section 208.040;

12 (3) All recipients of blind pension benefits;

13 (4) All persons who would be determined to be eligible for old age
14 assistance benefits, permanent and total disability benefits, or aid to the blind
15 benefits under the eligibility standards in effect December 31, 1973, or less
16 restrictive standards as established by rule of the family support division, who
17 are sixty-five years of age or over and are patients in state institutions for mental

18 diseases or tuberculosis;

19 (5) All persons under the age of twenty-one years who would be eligible
20 for aid to families with dependent children except for the requirements of
21 subdivision (2) of subsection 1 of section 208.040, and who are residing in an
22 intermediate care facility, or receiving active treatment as inpatients in
23 psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

24 (6) All persons under the age of twenty-one years who would be eligible
25 for aid to families with dependent children benefits except for the requirement of
26 deprivation of parental support as provided for in subdivision (2) of subsection 1
27 of section 208.040;

28 (7) All persons eligible to receive nursing care benefits;

29 (8) All recipients of family foster home or nonprofit private child-care
30 institution care, subsidized adoption benefits and parental school care wherein
31 state funds are used as partial or full payment for such care;

32 (9) All persons who were recipients of old age assistance benefits, aid to
33 the permanently and totally disabled, or aid to the blind benefits on December 31,
34 1973, and who continue to meet the eligibility requirements, except income, for
35 these assistance categories, but who are no longer receiving such benefits because
36 of the implementation of Title XVI of the federal Social Security Act, as amended;

37 (10) Pregnant women who meet the requirements for aid to families with
38 dependent children, except for the existence of a dependent child in the home;

39 (11) Pregnant women who meet the requirements for aid to families with
40 dependent children, except for the existence of a dependent child who is deprived
41 of parental support as provided for in subdivision (2) of subsection 1 of section
42 208.040;

43 (12) Pregnant women or infants under one year of age, or both, whose
44 family income does not exceed an income eligibility standard equal to one
45 hundred eighty-five percent of the federal poverty level as established and
46 amended by the federal Department of Health and Human Services, or its
47 successor agency;

48 (13) Children who have attained one year of age but have not attained six
49 years of age who are eligible for medical assistance under 6401 of P.L. 101-239
50 (Omnibus Budget Reconciliation Act of 1989). The family support division shall
51 use an income eligibility standard equal to one hundred thirty-three percent of
52 the federal poverty level established by the Department of Health and Human
53 Services, or its successor agency;

54 (14) Children who have attained six years of age but have not attained
55 nineteen years of age. For children who have attained six years of age but have
56 not attained nineteen years of age, the family support division shall use an
57 income assessment methodology which provides for eligibility when family income
58 is equal to or less than equal to one hundred percent of the federal poverty level
59 established by the Department of Health and Human Services, or its successor
60 agency. As necessary to provide Medicaid coverage under this subdivision, the
61 department of social services may revise the state Medicaid plan to extend
62 coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained
63 six years of age but have not attained nineteen years of age as permitted by
64 paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income
65 assessment methodology as authorized by paragraph (2) of subsection (r) of 42
66 U.S.C. 1396a;

67 (15) The family support division shall not establish a resource eligibility
68 standard in assessing eligibility for persons under subdivision (12), (13) or (14)
69 of this subsection. The division of medical services shall define the amount and
70 scope of benefits which are available to individuals eligible under each of the
71 subdivisions (12), (13), and (14) of this subsection, in accordance with the
72 requirements of federal law and regulations promulgated thereunder;

73 (16) Notwithstanding any other provisions of law to the contrary,
74 ambulatory prenatal care shall be made available to pregnant women during a
75 period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as
76 amended;

77 (17) A child born to a woman eligible for and receiving medical assistance
78 under this section on the date of the child's birth shall be deemed to have applied
79 for medical assistance and to have been found eligible for such assistance under
80 such plan on the date of such birth and to remain eligible for such assistance for
81 a period of time determined in accordance with applicable federal and state law
82 and regulations so long as the child is a member of the woman's household and
83 either the woman remains eligible for such assistance or for children born on or
84 after January 1, 1991, the woman would remain eligible for such assistance if she
85 were still pregnant. Upon notification of such child's birth, the family support
86 division shall assign a medical assistance eligibility identification number to the
87 child so that claims may be submitted and paid under such child's identification
88 number;

89 (18) Pregnant women and children eligible for medical assistance

90 pursuant to subdivision (12), (13) or (14) of this subsection shall not as a
91 condition of eligibility for medical assistance benefits be required to apply for aid
92 to families with dependent children. The family support division shall utilize an
93 application for eligibility for such persons which eliminates information
94 requirements other than those necessary to apply for medical assistance. The
95 division shall provide such application forms to applicants whose preliminary
96 income information indicates that they are ineligible for aid to families with
97 dependent children. Applicants for medical assistance benefits under subdivision
98 (12), (13) or (14) shall be informed of the aid to families with dependent children
99 program and that they are entitled to apply for such benefits. Any forms utilized
100 by the family support division for assessing eligibility under this chapter shall be
101 as simple as practicable;

102 (19) Subject to appropriations necessary to recruit and train such staff,
103 the family support division shall provide one or more full-time, permanent case
104 workers to process applications for medical assistance at the site of a health care
105 provider, if the health care provider requests the placement of such case workers
106 and reimburses the division for the expenses including but not limited to salaries,
107 benefits, travel, training, telephone, supplies, and equipment, of such case
108 workers. The division may provide a health care provider with a part-time or
109 temporary case worker at the site of a health care provider if the health care
110 provider requests the placement of such a case worker and reimburses the
111 division for the expenses, including but not limited to the salary, benefits, travel,
112 training, telephone, supplies, and equipment, of such a case worker. The division
113 may seek to employ such case workers who are otherwise qualified for such
114 positions and who are current or former welfare recipients. The division may
115 consider training such current or former welfare recipients as case workers for
116 this program;

117 (20) Pregnant women who are eligible for, have applied for and have
118 received medical assistance under subdivision (2), (10), (11) or (12) of this
119 subsection shall continue to be considered eligible for all pregnancy-related and
120 postpartum medical assistance provided under section 208.152 until the end of
121 the sixty-day period beginning on the last day of their pregnancy;

122 (21) Case management services for pregnant women and young children
123 at risk shall be a covered service. To the greatest extent possible, and in
124 compliance with federal law and regulations, the department of health and senior
125 services shall provide case management services to pregnant women by contract

126 or agreement with the department of social services through local health
127 departments organized under the provisions of chapter 192, RSMo, or chapter
128 205, RSMo, or a city health department operated under a city charter or a
129 combined city-county health department or other department of health and senior
130 services designees. To the greatest extent possible the department of social
131 services and the department of health and senior services shall mutually
132 coordinate all services for pregnant women and children with the crippled
133 children's program, the prevention of mental retardation program and the
134 prenatal care program administered by the department of health and senior
135 services. The department of social services shall by regulation establish the
136 methodology for reimbursement for case management services provided by the
137 department of health and senior services. For purposes of this section, the term
138 "case management" shall mean those activities of local public health personnel
139 to identify prospective Medicaid-eligible high-risk mothers and enroll them in the
140 state's Medicaid program, refer them to local physicians or local health
141 departments who provide prenatal care under physician protocol and who
142 participate in the Medicaid program for prenatal care and to ensure that said
143 high-risk mothers receive support from all private and public programs for which
144 they are eligible and shall not include involvement in any Medicaid prepaid,
145 case-managed programs;

146 (22) By January 1, 1988, the department of social services and the
147 department of health and senior services shall study all significant aspects of
148 presumptive eligibility for pregnant women and submit a joint report on the
149 subject, including projected costs and the time needed for implementation, to the
150 general assembly. The department of social services, at the direction of the
151 general assembly, may implement presumptive eligibility by regulation
152 promulgated pursuant to chapter 207, RSMo;

153 (23) All recipients who would be eligible for aid to families with dependent
154 children benefits except for the requirements of paragraph (d) of subdivision (1)
155 of section 208.150;

156 (24) (a) All persons who would be determined to be eligible for old age
157 assistance benefits under the eligibility standards in effect December 31, 1973,
158 as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as
159 contained in the Medicaid state plan as of January 1, 2005; except that, on or
160 after July 1, 2005, less restrictive income methodologies, as authorized in 42
161 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized

162 by annual appropriation;

163 (b) All persons who would be determined to be eligible for aid to the blind
164 benefits under the eligibility standards in effect December 31, 1973, as authorized
165 by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the
166 Medicaid state plan as of January 1, 2005, except that less restrictive income
167 methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to
168 raise the income limit to one hundred percent of the federal poverty level;

169 (c) All persons who would be determined to be eligible for permanent and
170 total disability benefits under the eligibility standards in effect December 31,
171 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as
172 contained in the Medicaid state plan as of January 1, 2005; except that, on or
173 after July 1, 2005, less restrictive income methodologies, as authorized in 42
174 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized
175 by annual appropriations. Eligibility standards for permanent and total
176 disability benefits shall not be limited by age.

177 **Any income earned through certified extended employment at a**
178 **sheltered workshop under chapter 178, RSMo, shall not be considered**
179 **as income for purposes of determining eligibility under this**
180 **subdivision;**

181 (25) Persons who have been diagnosed with breast or cervical cancer and
182 who are eligible for coverage pursuant to 42 U.S.C. 1396a
183 (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of
184 presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

185 2. Rules and regulations to implement this section shall be promulgated
186 in accordance with section 431.064, RSMo, and chapter 536, RSMo. Any rule or
187 portion of a rule, as that term is defined in section 536.010, RSMo, that is created
188 under the authority delegated in this section shall become effective only if it
189 complies with and is subject to all of the provisions of chapter 536, RSMo, and,
190 if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
191 nonseverable and if any of the powers vested with the general assembly pursuant
192 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
193 annul a rule are subsequently held unconstitutional, then the grant of
194 rulemaking authority and any rule proposed or adopted after August 28, 2002,
195 shall be invalid and void.

196 3. After December 31, 1973, and before April 1, 1990, any family eligible
197 for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of

198 the last six months immediately preceding the month in which such family
199 became ineligible for such assistance because of increased income from
200 employment shall, while a member of such family is employed, remain eligible for
201 medical assistance for four calendar months following the month in which such
202 family would otherwise be determined to be ineligible for such assistance because
203 of income and resource limitation. After April 1, 1990, any family receiving aid
204 pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months
205 immediately preceding the month in which such family becomes ineligible for
206 such aid, because of hours of employment or income from employment of the
207 caretaker relative, shall remain eligible for medical assistance for six calendar
208 months following the month of such ineligibility as long as such family includes
209 a child as provided in 42 U.S.C. 1396r-6. Each family which has received such
210 medical assistance during the entire six-month period described in this section
211 and which meets reporting requirements and income tests established by the
212 division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall
213 receive medical assistance without fee for an additional six months. The division
214 of medical services may provide by rule and as authorized by annual
215 appropriation the scope of medical assistance coverage to be granted to such
216 families.

217 4. When any individual has been determined to be eligible for medical
218 assistance, such medical assistance will be made available to him or her for care
219 and services furnished in or after the third month before the month in which he
220 made application for such assistance if such individual was, or upon application
221 would have been, eligible for such assistance at the time such care and services
222 were furnished; provided, further, that such medical expenses remain unpaid.

223 5. The department of social services may apply to the federal Department
224 of Health and Human Services for a Medicaid waiver amendment to the Section
225 1115 demonstration waiver or for any additional Medicaid waivers necessary not
226 to exceed one million dollars in additional costs to the state. A request for such
227 a waiver so submitted shall only become effective by executive order not sooner
228 than ninety days after the final adjournment of the session of the general
229 assembly to which it is submitted, unless it is disapproved within sixty days of
230 its submission to a regular session by a senate or house resolution adopted by a
231 majority vote of the respective elected members thereof.

232 6. Notwithstanding any other provision of law to the contrary, in any
233 given fiscal year, any persons made eligible for medical assistance benefits under

234 subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if
235 annual appropriations are made for such eligibility. This subsection shall not
236 apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

208.659. The division of medical services shall revise the
2 eligibility requirements for the uninsured women's health program, as
3 established in 13 C.S.R. Section 70-4.090, to include women who are at
4 least eighteen years of age and with a net family income of at or below
5 one hundred eighty-five percent of the federal poverty level. In order
6 to be eligible for such program, the applicant shall not have assets in
7 excess of two hundred and fifty thousand dollars, nor shall the
8 applicant have access to employer-sponsored health insurance. Such
9 change in eligibility requirements shall not result in any change in
10 services provided under the program.

Section 1. Prior authorization of psychological or counseling
2 services shall not be implemented for children under the age of six or
3 for any child or adolescent in the custody of or adopted from the
4 custody of the state or for any child or adolescent in residential care
5 operated or contracted by the departments of social services or mental
6 health who are eligible for benefits under chapter 208, RSMo, or the MO
7 HealthNet.

Section B. Because immediate action is necessary to provide assistance
2 to the employed disabled, section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is
4 hereby declared to be an emergency act within the meaning of the constitution,
5 and section A of this act shall be in full force and effect upon its passage and
6 approval.

Section C. Section 208.146 and the amendments to section 208.151 of
2 section A of this act shall expire three years after the effective date of this act.

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