

SECOND REGULAR SESSION

SENATE BILL NO. 1355

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR DAYS.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4705S.011

AN ACT

To amend chapters 160 and 376, RSMo, by adding thereto six new sections relating to family cost participation in the Missouri first steps program.

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

Section A. Chapters 160 and 376, RSMo, are amended by adding thereto six new sections, to be known as sections 160.850, 160.855, 160.860, 160.865, 160.870, and 376.1223, to read as follows:

160.850. 1. Subject to appropriations, the state shall participate in the Infant and Toddler Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1431, et seq., and provide early intervention services to infants and toddlers determined eligible under state regulations.

2. The Missouri department of elementary and secondary education shall be responsible for the administration and implementation of IDEA, Part C, through the first steps program, and shall promulgate regulations implementing the requirements of Part C of IDEA, consistent with federal regulations, 34 C.F.R. 303, et seq.

160.855. 1. The department shall maintain a statewide birth to age three system of early intervention services pursuant to Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431, et seq., for eligible children and families of such children and shall be administered through the first steps program.

2. The statewide system shall compile data on the number of eligible children in the state in need of early intervention services, the number of eligible children and their families served, the types of

services provided, and other information as deemed necessary by the department.

3. The statewide system shall include a comprehensive child-find system and public awareness program to ensure that eligible children are identified, located, referred to the system, and evaluated.

4. The department shall monitor the expenditures of administrative services, direct services, and service point-of-entry operations.

160.860. 1. Any funds appropriated to the department for the implementation and administration of sections 160.850 to 160.870 shall not be used to satisfy a financial commitment for services that should have been paid from another public or private source. Federal funds available pursuant to Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431, et seq., may be used whenever necessary to prevent the delay of early intervention services to the eligible child or family. When funds are used to reimburse the service provider in order to prevent a delay of the provision of services, the funds must be recovered from the public or private source that has ultimate responsibility for the payment.

2. Nothing in this section shall be construed to permit any other state agency providing medically related services to reduce medical assistance to eligible children.

3. Providers of early intervention services to eligible children shall submit requests for payment to the first steps program in the manner prescribed by the department. Where applicable, the program shall seek reimbursement from all third-party payers, both private and public.

4. The department shall promulgate rules that provide for family participation in early intervention services for eligible children and such rules shall consider:

(1) Co-payments or deductibles for individual services or for a specific period of time;

(2) Sliding scale of fees for service relative to the financial resources of the parents or legal guardians of eligible children; and

(3) A process to access private and public insurance.

5. Established fees shall not be applied to a family that is unable

to pay the established fee. In order to determine whether or not a family is subject to a fee, family financial documentation must be provided by the family. Families with incomes meeting the eligibility criteria for Medicaid participation will be deemed unable to pay the established fees for early intervention services. Early intervention services will be provided at no cost to these families. All amounts generated by family cost participation, including but not limited to fees, co-pays, and insurance reimbursements, shall be deposited to the first steps fund created in section 160.870.

6. The department shall ensure that the following services are provided at no cost to the family:

- (1) Identifying the child;
- (2) Evaluation and assessment;
- (3) Service coordination; and
- (4) Development of an individualized family service program.

7. The department may assign the collection of early intervention service fees, payments, and public or private insurance to a designee, contractor, provider, or third-party agent participating in the early intervention program. Such fees, payments, or insurance amounts shall be paid to the department, its designee, contractor, or third-party agent in a timely manner. Notice of collection procedures, schedule of fees or payments, and guidelines for "inability to pay" shall be made available to parents of eligible children.

160.865. The first steps program may be required to pay insurance deductibles and co-payments for approved services to eligible children as an incentive to access the family medical insurance.

160.870. The "First Steps Fund" is hereby created in the state treasury. Moneys deposited in the fund shall be considered state funds pursuant to article IV, section 15, of the Missouri Constitution. All interest received on the first steps fund shall be credited to the first steps fund. The provisions of section 33.380, RSMo, notwithstanding, any balance in the first steps fund at the end of the biennium shall not be transferred to the general revenue fund. Moneys deposited in the first steps fund shall be used solely for the purpose of funding the first steps program established in sections 160.850 to 160.865.

376.1223. 1. Each policy issued by an entity offering individual

and group health insurance that provides coverage on an expense-incurred basis, individual or group health service, or indemnity contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group health arrangements to the extent not preempted by federal law, and all health care plans provided by managed health care delivery entities of any type or description that are delivered, issued for delivery, continued, or renewed in this state on or after the effective date of this section shall provide coverage to reimburse the Missouri first steps program for early intervention services, as defined in section 160.855, RSMo, that are delivered by early intervention specialists for children from birth to age three who are identified by the Missouri first steps program as eligible for services under Part C of the Individuals with Disabilities Education Act 20 U.S.C. 1431, et seq. Such coverage shall be limited to three thousand dollars per covered child per policy per calendar year, with a maximum of nine thousand dollars over the three years a child is eligible for the program.

2. For purposes of this section, "early intervention services" means speech and language therapy, occupational therapy, physical therapy, and assistive technology services and devices for children from birth to age three who are identified by the Missouri first steps program as eligible for services under Part C of the Individuals with Disabilities Education Act 20 U.S.C. 1471, et seq., and which are designed to help that individual attain or retain the capability to function age-appropriately within his or her environment. Early intervention services shall include services pursuant to an active individualized family service plan that enhance functional ability without affecting a cure. An individualized family service plan is a written plan for providing early intervention services to an eligible child and the child's family that is adopted in accordance with 20 U.S.C. 1436. Early intervention services shall be deemed medically necessary. The first steps program, on behalf of its contracted providers, shall be considered the rendering provider of services for purposes of this section.

3. Early intervention services required pursuant to this section shall not be subject to any deductible, coinsurance or co-payment. No payment made for specified early intervention services shall be applied

by the insurer against any maximum lifetime aggregate or annual limits specified in the policy or health benefit plan. Prescribed insurance benefits shall reimburse the Missouri first steps program administered by the department of elementary and secondary education or its designee for payments made by the program for the early intervention services as prescribed by the individualized family service plan, upon submission of the individualized family service plan to the insurance carrier by the department or its designee. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

4. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

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