

FIRST REGULAR SESSION

# SENATE BILL NO. 528

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY AND DAYS.

Read 1st time March 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1956S.011

## AN ACT

To amend chapter 354, RSMo, by adding thereto twenty-one new sections relating to the Missouri universal health assurance program with a contingent effective date for certain sections.

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

Section A. Chapter 354, RSMo, is amended by adding thereto twenty-one new sections, to be known as sections 354.750, 354.753, 354.756, 354.759, 354.762, 354.765, 354.768, 354.769, 354.770, 354.771, 354.774, 354.777, 354.780, 354.783, 354.786, 354.789, 354.792, 354.795, 354.807, 354.810, and 354.813, to read as follows:

**354.750. 1. Sections 354.750 to 354.813 may be known and shall be cited as the "Missouri Universal Health Assurance Program".**

**2. The Missouri universal health assurance program is hereby created for the purpose of providing a single, publicly financed statewide insurance program to provide comprehensive necessary health care services for all residents of this state. This program shall have as its goals:**

**(1) Timely access to health services of the highest quality for every resident of the state so that all may benefit;**

**(2) The provision of adequate funding for health care;**

**(3) Lower health care spending through streamlined administration, a single bill, and uniform payments.**

**3. As used in sections 354.750 to 354.813, the following terms mean:**

**(1) "Board", the board of governors of the Missouri universal health assurance program;**

**(2) "Eligible person", any person who qualifies for benefits pursuant to section 354.783;**

**(3) "Fund", the Missouri health care trust fund;**

**(4) "Participating provider", any person who is authorized to furnish covered**

services pursuant to the provisions of sections 354.750 to 354.813 and pursuant to rules adopted by the board of governors of the Missouri universal health assurance program;

(5) "Program", the Missouri universal health assurance program.

354.753. The Missouri universal health assurance program shall be a body corporate and an instrumentality of the state. In the program shall be vested the powers and duties specified in sections 354.750 to 354.813 and to enable it, its officers, employees and agents to carry out the purposes of sections 354.750 to 354.813.

354.756. 1. The director of the department of health and senior services shall divide the population of the state into six regional health planning and policy development districts of roughly equal population. An advisory council in each district shall:

(1) Assist the board in the development of a comprehensive state health care plan pursuant to section 354.765 and in the development of budgetary allocations for health care services and of operating policies and procedures for the program;

(2) Develop a transportation plan to enable indigents, elderly persons, and persons with disabilities to have access to necessary nonemergency health care services.

2. Not later than thirty days after the first meeting of the board of governors appointed pursuant to section 354.759, the board shall submit to the governor a list of names of qualified persons who reside in each of the six regional health planning and policy development districts. From such list the governor shall appoint to each district, an advisory council composed of the following thirteen members:

- (1) One representative of business;
- (2) One representative of a labor organization;
- (3) One representative of a political subdivision within the district;
- (4) Two physicians;
- (5) One registered nurse;
- (6) One representative of health care providers who are not physicians or registered nurses;
- (7) Two representatives of consumers of health care services;
- (8) One dentist; and
- (9) One mental health care provider.

3. The terms of the initial appointees to each of the district councils shall be as follows: five shall be appointed for a term of four years, four for a term of three years, and four for a term of two years. Thereafter all terms shall be for four

years, but any member appointed to fill a vacancy in an unexpired term shall serve only for the remainder of that term. No member may be appointed to serve more than two consecutive terms.

354.759. 1. The Missouri universal health assurance program shall be administered by a board of governors composed of twenty-five members:

(1) Sixteen of whom shall be appointed by the governor with the advice and consent of the senate as follows:

- (a) One representative of a hospital;
- (b) Two physicians;
- (c) One registered nurse;
- (d) One epidemiologist;
- (e) One representative of a community health center;
- (f) One representative of a mental health care provider;
- (g) One person with a demonstrated history of health care consumer advocacy;
- (h) Two persons whose annual income does not exceed twice the federal poverty level;
- (i) One person sixty-five years of age or older;
- (j) One representative of a labor organization;
- (k) One representative of employers;
- (l) One member who is a licensed health care professional other than a physician or a nurse;
- (m) One person trained in bioethics; and
- (n) One dentist;

(2) Six of whom shall represent the regional health planning and policy development districts established pursuant to section 354.756, one such member to be selected by each of the district advisory councils; and

(3) Three of whom shall be the following ex officio members:

- (a) The director of the department of health and senior services;
- (b) The director of the department of social services;
- (c) The director of the department of mental health.

2. The terms of the initial members who are appointed pursuant to subdivision (1) of subsection 1 of this section shall be staggered as follows: five shall be appointed for a term of four years, five for a term of three years, and four for a term of two years. The initial terms of the members selected pursuant to subdivision (2) of subsection 1 of this section shall be staggered so that the members selected from even-numbered districts shall serve an initial term of three years and those from odd-numbered districts shall serve four years. Thereafter all

terms shall be for a term for four years each, but a member appointed to fill a vacancy in an unexpired term shall serve only for the remainder of that term. No member may be appointed to serve more than two consecutive terms.

3. Members of the board shall at all times include:

(1) A sufficient representative of racial and ethnic minorities so that the makeup of the board shall accurately reflect the racial and ethnic diversity of the state and of persons eligible for coverage under the program;

(2) At least two members who are defined as disabled pursuant to the Americans with Disabilities Act, P.L. 101-336; and

(3) Gender representation that accurately reflects the total state population.

4. The board shall elect a chairperson and vice chairperson.

5. Meetings shall be called by the chairperson or by any twelve members. The board shall meet at least six times per year. All meetings of the board shall be announced in advance and open to the public, except as provided by chapter 610, RSMo.

6. Thirteen members of the board constitute a quorum, and affirmative vote of thirteen members shall be necessary for any action to be taken by the board.

7. The members of the board shall be reimbursed from the Missouri health care trust fund for mileage and their necessary and actual expenses incurred while engaged in the business of the board.

354.762. 1. The board of governors of the Missouri universal health assurance program shall be responsible for:

(1) Establishing budget and policy guidelines for the program through the development of a comprehensive state health care plan pursuant to section 354.765;

(2) Establishing fee schedules using the last available calendar year as a base year;

(3) Determining aggregate capital expenditures in keeping with the goals established pursuant to subdivision (2) of subsection 1 of section 354.765;

(4) Approving changes in coverage offered by the program;

(5) Administering and implementing the program, and administering the Missouri universal health care trust fund created pursuant to section 354.771;

(6) Adopting rules pursuant to chapter 536, RSMo;

(7) Monitoring the operation of the program;

(8) Studying means of incorporating institutional long-term care benefits into the program, studying immigration into the state for the purpose of receiving health care services under the program, and reporting on the progress of such studies to the speaker of the house of representatives, the president pro tempore of the senate, and the governor;

(9) Reporting annually to the speaker of the house of representatives, the president pro tempore of the senate, and the governor on the program's activities and recommend any changes in insurance and health care laws to improve access to health care for residents of this state;

(10) Disseminating, to providers of services and to the public, information concerning the program and the persons eligible to receive the benefits of the program;

(11) Conducting necessary investigations and inquiries and compelling the submission of information, documents, and records the board considers necessary to carry out its duties pursuant to the provisions of sections 354.750 to 354.813;

(12) Conducting utilization review of patients and providers to identify abuses of the program;

(13) Employing and supervising staff;

(14) Conducting other activities it considers necessary to carry out the purposes of sections 354.750 to 354.813;

(15) Establishing standards and procedures for negotiating and entering into contracts with participating providers;

(16) Suing and being sued.

2. The board, after providing notice to consumers, providers, the director of the department of health and senior services and other interested parties, may hold hearings in connection with any action that it proposes to take pursuant to subsection 1 of this section. Nothing in this section shall be construed as authorizing the board to adopt rules pursuant to subdivision (6) or (15) of subsection 1 of this section, or to conduct evaluations or investigations pursuant to subdivision (11) of subsection 1 of this section without holding public hearings.

354.765. 1. The board, in cooperation with the district advisory councils established pursuant to section 354.756, shall develop annually a comprehensive state health care plan. The plan shall include the following:

(1) A comprehensive budget for the program within the limits of funds made available through the measures instituted in sections 354.750 to 354.813. The budget shall include specific amounts to be allocated respectively to:

(a) The prevention account established pursuant to subsection 1 of section 354.774;

(b) The health services account established pursuant to subsection 2 of section 354.774;

(c) The state of Missouri for deposit in the health professional education and training fund established pursuant to section 354.777; and

(d) Administration of the program in an amount not to exceed four percent

of the total funds available to the program;

(2) Specific goals for the total portion of funds in the health services account to be expended for the capital needs of providers pursuant to section 354.792;

(3) An evaluation of the health care and mental health needs of each regional health care planning and policy development district and of the state which shall include, but not be limited to, assessments of:

(a) Local needs for medical technology and other investments in health care equipment and capital improvements;

(b) The extent to which state and local efforts to coordinate the activities of the health care delivery system have been effective;

(c) Any other unmet local health care or mental health needs;

(4) Goals for geographic distribution of health care providers and personnel with strategies for using the authority over reimbursements pursuant to section 354.792 and resources from the health professional education and training fund established in section 354.777 to achieve these goals;

(5) Quantitative goals for the use of health and mental health services by eligible persons;

(6) Specific goals for the physical and mental health status of Missourians and for quality of care rendered pursuant to the program;

(7) An evaluation of the adequacy of total funds available to the program;

(8) Any recommendation made by the board or staff of the program to the general assembly for increases in either the health premium surcharge enacted in section 354.798 or the health premium surcharge enacted in section 354.804 shall:

(a) Limit, except in emergency situations, growth in total state health care expenditures to no more than two percent above the total percentage increase in the state's gross domestic product for the previous year;

(b) Exercise prescription drug cost containment by using the purchasing power of the state to obtain the lowest possible prices for prescription drugs, and by implementing a Most Favored Nation policy on reimbursement so that Missouri will not pay more for prescription drugs than does the United States Department of Veteran Affairs, and by establishing an evidence based system formulary for all prescription drugs, and by making discounted prices available to all Missouri residents, health care providers, wholesalers, and retailers of these products for use in the Missouri health care system.

2. Prior to promulgation of the comprehensive state health plan the board shall:

(1) Appoint a subcommittee of experts in medical and health care ethics to

advise the board on the ethical issues relating to the allocation of health care resources;

(2) Appoint a subcommittee to establish an evidence based system formulary for all prescription drugs and durable and nondurable medical equipment used by the Missouri health care system;

(3) Instruct each district advisory council to conduct at least one public hearing in at least two areas of its region to gather public comment on the proposed plan. The board shall provide the district advisory councils with staff assistance in the development of such hearings;

(4) Hold at least two public hearings to gather public comment on the proposed plan.

3. The comprehensive state health plan shall, to the extent practical, seek to assure the most cost-effective delivery of health care by reflecting the following priorities:

(1) Quality of care to be achieved through the following:

(a) Increased emphasis on primary and preventive services;

(b) Accountability of providers to payers and consumers for both the outcomes and consumer acceptability of the care they render;

(c) Continuity of care, as embodied in coordination of services to individuals and the community; and

(d) Maintain high levels of professional competence and expertise among health care providers;

(2) Access to care through the equitable distribution of resources within the health care delivery system on the basis of community need;

(3) Efficient use of resources through:

(a) Elimination of unnecessary administrative and overhead expense;

(b) Establishment of a limit on aggregate reimbursements to manufacturers of pharmaceuticals and manufacturers of durable and nondurable medical equipment;

(c) Increased emphasis on innovative and cost-effective modes of care, including, but not limited to:

a. Community, nonmedical or in-home services that provide alternatives to institutional long-term care;

b. Community health nursing;

c. Services provided by nurse practitioners; and

d. Psychiatric and other mental health services provided on an outpatient basis.

354.768. The board of governors of the Missouri universal health assurance

program shall appoint the executive director of the program.

354.769. 1. The executive director shall serve as secretary to the board and shall perform such duties in the administration of the plan as the board may assign.

2. The board may delegate to the executive director any of its functions or duties pursuant to sections 354.750 to 354.813 except the issuance of rules and the determination of the program.

354.770. The board shall establish and administer the "Missouri Health Care Trust Fund", in which shall be placed all federal payments received as a result of any waiver of requirements granted by the United States Secretary of Health and Human Services under health care programs established pursuant to Title XVIII and Title XIX of the Social Security Act, as amended, all moneys collected pursuant to sections 354.798 and 354.804, and all moneys appropriated by the general assembly to the program pursuant to sections 354.750 to 354.813. Except as provided in sections 354.798 and 354.804, moneys in the fund shall be used solely to establish and maintain primary community prevention programs, to pay participating providers, to provide grants for medical research and development and to support construction, renovation, equipping of health care institutions in accordance with sections 354.750 to 354.813 and rules established by the board of governors of the program and for no other purpose. The board shall have power, in the name and on behalf of the program, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 354.750 to 354.813.

354.771. 1. All money received by or belonging to the program shall be paid to the executive director and deposited by the executive director to the credit of the plan in one or more banks or trust companies. No such money shall be deposited in or be retained by any bank or trust company which does not have on deposit with and for the board at the time the kind and value of collateral required by sections 30.240 and 30.270, RSMo, for depositaries of the state treasurer. The executive director shall be responsible for all funds, securities and property belonging to the program and shall give such corporate surety bond for the faithful handling of the same as the board shall require.

2. Revenues held in the trust fund are not subject to appropriation or allotment by the state or any political subdivision of the state.

3. The board of governors shall administer the fund and shall conduct a quarterly review of the expenditures from and revenues received by the fund.

4. The board may invest the funds of the program as permitted by law.



5. The amount of reserves in the fund at any time shall equal at least the amount of expenditures from the fund during the entire three preceding months.

354.774. 1. The "Prevention Account" is hereby created within the Missouri health care trust fund. Moneys in the prevention account shall be used solely to establish and maintain primary community prevention programs, including preventive screening tests. The board of governors of the Missouri universal health assurance program shall administer the prevention account and shall determine the amount to be allocated to it.

2. The "Health Services Account" is hereby created within the Missouri health care trust fund. Moneys in the health services account shall be used solely to pay participating providers in accordance with section 354.792.

354.777. 1. There is hereby created within the state treasury the "Health Professional Education and Training Fund" which shall consist of all moneys received from federal health professional training moneys and any other funds so allocated by the board pursuant to section 354.765. Upon appropriation by the general assembly, moneys in the health professional education and training fund shall be used by the board solely to pay for the education and training of health professionals, said loan to be forgiven if work in field of training is performed in underserved areas of the state for a length of time commensurate with the length of time spent in health profession education and training.

2. During the five-year period commencing on January 1 following the effective date of this section, the annual amount of state expenditures for the education and training of health professionals shall not be reduced below the level of such expenditures in the previous calendar year.

354.780. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, the moneys in the health care trust fund at the end of any biennium shall not be transferred and placed to the credit of the general revenue fund.

354.783. 1. Every person regardless of preexisting conditions who is a resident of this state is eligible to receive benefits for covered services pursuant to the Missouri universal health assurance program. No person eligible for benefits pursuant to the Missouri universal health assurance program who receives covered services from a participating provider shall be charged an additional amount for such services.

2. Persons who are not residents of this state but who work in Missouri may receive benefits for himself or herself and his or her dependents pursuant to the Missouri universal health assurance program.

3. If a person who is not a resident of the state of Missouri and is not eligible for benefits pursuant to subsection 2 of this section receives medical

treatment in Missouri, such person is subordinated to the state of Missouri for reimbursement from a third-party payor for such medical treatment.

354.786. 1. Every person who is eligible to receive benefits under the program pursuant to section 354.783 is entitled to receive benefits for any covered service furnished within this state by a participating provider, if the service is deemed by the patient and participating provider to be necessary or appropriate for the maintenance of physical and mental health or for the diagnosis or treatment of, or rehabilitation following, injury, disability, or disease.

2. Health care services include, but are not limited to, all services provided pursuant to section 208.152, RSMo, and those community, nonmedical, or in-home services that provide an alternative to institutional long-term care, except:

(1) Surgery for cosmetic purposes other than for reconstructive surgery;

(2) Medical examinations conducted and medical reports prepared for either of the following purposes:

(a) Purchasing or renewing life insurance; or

(b) Participating as a plaintiff or defendant in a civil action for the recovery or settlement of damages;

(3) Custodial care rendered in a nursing home. As used in this subdivision "custodial care" means nonmedical services provided in a residential care facility I or residential care facility II as such terms are defined in section 198.006, RSMo.

354.789. 1. No participating provider shall refuse to furnish services to an eligible person on the basis of race, color, income level, national origin, religion, sex, sexual orientation, or other nonmedical criteria.

2. An eligible person may choose any participating provider.

3. Every participating provider shall furnish such information as may be reasonably required by the board of governors of the plan for utilization review, for the making of payments, and for statistical or other studies of the operation of the program.

4. Every participating provider shall permit the board of governors to examine the provider's records as may be necessary for verification of payment.

5. Physicians and other participating providers must practice according to state and federal laws and according to their accepted professional standards.

6. The Missouri universal health assurance program shall reimburse health care providers that are located outside this state at reasonable rates for care rendered to Missouri eligible persons who require emergency medical care.

354.792. 1. The Missouri universal health assurance program shall pay the expenses of institutional providers of inpatient services on the basis of global budgets that are approved by the board of governors of the program. Such global

budget shall include necessary construction, renovation, or equipment so long as the board has determined that such construction, renovation, or equipment will directly enhance public access to quality health care.

2. Each institutional provider shall negotiate an annual budget with the program to cover its anticipated services for the next year based on past performance and projected changes in factor prices and services levels, and provide a reasonable margin above operating expenses in order to provide for capital depreciation and other long-term needs of the institution.

3. Every physician or other provider employed by a globally budgeted institutional provider shall be paid through and in a manner determined by the institutional provider.

4. The program shall reimburse independent providers of health care services on a fee-for-service basis, using the federal Medicare reimbursement fees as a guideline. The program shall annually negotiate the fee schedule with the appropriate professional group. The fee schedule shall be applied to health care services rendered by independent providers throughout the state. The appropriate professional group to negotiate the fee schedule shall be the professional association chosen by election of members of each health care profession.

5. A provider shall not charge rates that are higher than the negotiated reimbursement level and shall not charge separately for covered services pursuant to section 354.786.

6. In any instance in which the health care provider or the professional group negotiating for the provider is unable to negotiate an annual budget or a fee schedule with the program, the annual budget or the fee schedule set by the board shall be presumed to be correct and a final administrative decision, which may be appealed in the circuit court of Cole County.

7. Policies and rules of institutional providers must be consistent with state and federal laws and with accepted medical and professional nursing standards.

354.795. Insurers, employers and other plans may offer benefits that do not duplicate coverage that is offered by the Missouri universal health assurance program.

354.807. Not later than thirty days after the effective date of this section, the department of social services shall do both of the following:

(1) Apply to the United States Secretary of Health and Human Services for all waivers of requirement under health care programs established pursuant to Title XVIII and Title XIX of the Social Security Act, as amended, that are necessary to enable this state to deposit all federal payments under such programs in the state treasury to the credit of the Missouri health care trust fund created in

section 354.771;

(2) Identify any other federal programs that provide federal funds for payment of health care services to individuals. The department shall comply with any requirements under those programs and apply for any waivers of those requirements that are necessary to enable this state to deposit such federal funds to the credit of the Missouri health care trust fund.

354.810. Not later than thirty days after the effective date of this section, the governor shall make the initial appointments to the board of governors of the Missouri universal health assurance program pursuant to section 354.759.

354.813. The board of governors of the Missouri universal health assurance program shall request that the program established pursuant to the provisions of sections 354.750 to 354.813 be approved for federal employees and retirees while they are residents of the state of Missouri.

Section B. Sections 354.750 to 354.795 of section A of this act shall be effective April 1 of the year following the notice to the revisor of statutes that a waiver has been obtained from the Secretary of the Department of Health and Human Services by the director of the department of social services based on a request filed pursuant to section 354.807 of this act.

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