

FIRST REGULAR SESSION

SENATE BILL NO. 15

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0240S.011

AN ACT

To repeal sections 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and to enact in lieu thereof six new sections relating to the long-term care partnership act.

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

Section A. Sections 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, 2 and 660.557, RSMo, are repealed and six new sections enacted in lieu thereof, to 3 be known as sections 208.690, 208.692, 208.694, 208.696, 208.698, and 208.699, 4 to read as follows:

208.690. 1. This act shall be known and may be cited as the
2 **"Missouri Long-term Care Partnership Program Act".**

3 **2. As used in sections 208.690 to 208.699, the following terms shall**
4 **mean:**

5 **(1) "Asset disregard," the disregard of any assets or resources in**
6 **an amount equal to the insurance benefit payments that are used on**
7 **behalf of the individual;**

8 **(2) "Missouri Qualified Long-term Care Partnership approved**
9 **policy", a long-term care insurance policy certified by the director of the**
10 **department of insurance, financial institutions and professional**
11 **registration as meeting the requirements of:**

12 **(a) The National Association of Insurance Commissioners' Long-**
13 **term Care Insurance Model Act and Regulation as specified in 42 U.S.C.**
14 **1917(b); and**

15 **(b) The provisions of Section 6021 of the Federal Deficit**
16 **Reduction Act of 2005.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 **(3) "State Medicaid program", the medical assistance program**
18 **established in this state under Title XIX of the federal Social Security**
19 **Act;**

20 **(4) "State plan amendment", a state Medicaid plan amendment to**
21 **the federal Department of Health and Human Services that, in**
22 **determining eligibility for state Medicaid benefits, provides for the**
23 **disregard of any assets or resources in an amount equal to the insurance**
24 **benefit payments that are made to or on behalf of an individual who is**
25 **a beneficiary under a qualified long-term care insurance partnership**
26 **policy.**

208.692. 1. In accordance with Section 6021 of the Federal Deficit
2 **Reduction Act of 2005, there is established the Missouri Long-term Care**
3 **Partnership Program, which shall be administered by the department of**
4 **social services in conjunction with the department of insurance,**
5 **financial institutions and professional registration. The program shall:**

6 **(1) Provide incentives for individuals to insure against the costs**
7 **of providing for their long-term care needs;**

8 **(2) Provide a mechanism for individuals to qualify for coverage**
9 **of the cost of their long-term care needs under the state Medicaid**
10 **program without first being required to substantially exhaust their**
11 **resources; and**

12 **(3) Alleviate the financial burden on the state's Medicaid program**
13 **by encouraging the pursuit of private initiatives.**

14 **2. Upon the exhaustion of benefits or upon the diminishment of**
15 **assets below the anticipated remaining benefits under a Missouri**
16 **qualified long-term care partnership approved policy, certain assets of**
17 **an individual, as provided in subsection 3 of this section, shall be**
18 **disregarded when determining any of the following:**

19 **(1) Medicaid eligibility;**

20 **(2) The amount of any Medicaid payment; and**

21 **(3) Any subsequent recovery by the state of a payment for medical**
22 **services.**

23 **3. The department of social services shall:**

24 **(1) Within one hundred eighty days of the effective date of**
25 **sections 208.690 to 208.699, make application to the federal Department**
26 **of Health and Human Services for a state plan amendment to establish**
27 **a program that, in determining eligibility for state Medicaid benefits,**

28 provides for the disregard of any assets or resources in an amount equal
29 to the insurance benefit payments that are made to or on behalf of an
30 individual who is a beneficiary under a qualified long-term care
31 insurance partnership policy; and

32 (2) Provide information and technical assistance to the
33 department of insurance, financial institutions and professional
34 registration to assure that any individual who sells a qualified long-term
35 care insurance partnership policy receives training and demonstrates
36 evidence of an understanding of such policies and how they relate to
37 other public and private coverage of long-term care.

38 4. The department of social services shall promulgate rules to
39 implement the provisions of sections 208.690 to 208.699. Any rule or
40 portion of a rule, as that term is defined in section 536.010, RSMo, that
41 is created under the authority delegated in this section shall become
42 effective only if it complies with and is subject to all of the provisions
43 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
44 section and chapter 536, RSMo, are nonseverable and if any of the
45 powers vested with the general assembly pursuant to chapter 536, RSMo,
46 to review, to delay the effective date, or to disapprove and annul a rule
47 are subsequently held unconstitutional, then the grant of rulemaking
48 authority and any rule proposed or adopted after August 28, 2007, shall
49 be invalid and void.

208.694. 1. An individual who is beneficiary of a Missouri
2 qualified long-term care partnership approved policy is eligible for
3 assistance under the state Medicaid program using asset disregard
4 under sections 208.690 to 208.699.

5 2. If the Missouri long-term care partnership program is
6 discontinued, an individual who purchased a qualified long-term care
7 partnership approved policy prior to the date the program was
8 discontinued shall be eligible to receive asset disregard, as provided by
9 Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005.

10 3. The department of social services may enter into reciprocal
11 agreements with other states that have asset disregard provisions
12 established under Title VI, Section 6021 of the Federal Deficit Reduction
13 Act of 2005 in order to extend the asset disregard to Missouri residents
14 who purchase long-term care policies in another state.

208.696. 1. The director of the department of insurance, financial

2 institutions and professional registration shall:

3 (1) Develop requirements to ensure that any individual who sells
4 a qualified long-term care insurance partnership policy receives training
5 and demonstrates evidence of an understanding of such policies and how
6 they relate to other public and private coverage of long-term care;

7 (2) Impose no requirements affecting the terms or benefits of
8 qualified long-term care partnership policies unless the director imposes
9 such a requirement on all long-term care policies sold in this state,
10 without regard to whether the policy is covered under the partnership
11 or is offered in connection with such partnership; and

12 (3) Develop a summary notice in clear, easily understood language
13 for the consumer purchasing qualified long-term care insurance
14 partnership policies on the current law pertaining to asset disregard
15 and asset tests.

16 2. The director of the department of insurance, financial
17 institutions and professional registration shall promulgate rules to carry
18 out the provisions of this section, and on the process for certifying the
19 qualified long-term care partnership policies. Any rule or portion of a
20 rule, as that term is defined in section 536.010, RSMo, that is created
21 under the authority delegated in this section shall become effective only
22 if it complies with and is subject to all of the provisions of chapter 536,
23 RSMo, and, if applicable, section 536.028, RSMo. This section and
24 chapter 536, RSMo, are nonseverable and if any of the powers vested
25 with the general assembly pursuant to chapter 536, RSMo, to review, to
26 delay the effective date, or to disapprove and annul a rule are
27 subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 2007, shall
29 be invalid and void.

208.698. The issuers of qualified long-term care partnership
2 policies in this state shall provide regular reports to both the Secretary
3 of the Department of Health and Human Services in accordance with
4 federal law and regulations and to the department of social services and
5 the department of insurance, financial institutions and professional
6 registration as provided in Section 6021 of the Federal Deficit Reduction
7 Act of 2005.

208.699. Under section 23.253, RSMo, of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections

3 **208.690 to 208.698 shall sunset automatically six years after the effective**
4 **date of said sections unless reauthorized by an act of the general**
5 **assembly; and**

6 **(2) If such program is reauthorized, the program authorized**
7 **under sections 208.690 to 208.698 shall sunset automatically twelve years**
8 **after the effective date of the reauthorization of sections 208.690 to**
9 **208.698; and**

10 **(3) Sections 208.690 to 208.698 shall terminate on September first**
11 **of the calendar year immediately following the calendar year in which**
12 **the program authorized under said sections is sunset.**

[660.546. 1. The department of social services shall
2 coordinate a program entitled the "Missouri Partnership for
3 Long-term Care" whereby private insurance and Medicaid funds
4 shall be combined to finance long-term care. Under such program,
5 an individual may purchase a precertified long-term care insurance
6 policy in an amount commensurate with his resources as defined
7 pursuant to the Medicaid program. Notwithstanding any provision
8 of law to the contrary, the resources of such an individual, to the
9 extent such resources are equal to the amount of long-term care
10 insurance benefit payments as provided in section 660.547, shall
11 not be considered by the department of social services in a
12 determination of:

- 13 (1) His eligibility for Medicaid;
14 (2) The amount of any Medicaid payment.

15 Any subsequent recovery of a payment for medical services by the
16 state shall be as provided by federal law.

17 2. Notwithstanding any provision of law to the contrary, for
18 purposes of recovering any medical assistance paid on behalf of an
19 individual who was allowed an asset or resource disregard based on
20 such long-term care insurance policy, the definition of estate shall
21 be expanded to include any other real or personal property and
22 other assets in which the individual has any legal title or interest
23 at the time of death, to the extent of such interest, including such
24 assets conveyed to a survivor, heir, or assign of the deceased
25 individual through joint tenancy, tenancy in common, survivorship,
26 life estate, living trust or other arrangement.]

[660.547. The department of social services shall request

2 appropriate waiver or waivers from the Secretary of the federal
3 Department of Health and Human Services to permit the use of
4 long-term care insurance for the preservation of resources pursuant
5 to section 660.546. Such preservation shall be provided, to the
6 extent approved by the federal Department of Health and Human
7 Services, for any purchaser of a precertified long-term care
8 insurance policy delivered, issued for delivery or renewed within
9 five years after receipt of the federal approval of the waiver, and
10 shall continue for the life of the original purchaser of the policy,
11 provided that he maintains his obligations pursuant to the
12 precertified long-term care insurance policy. Insurance benefit
13 payments made on behalf of a claimant, for payment of services
14 which would be covered under section 208.152, RSMo, shall be
15 considered to be expenditures of resources as required under
16 chapter 208, RSMo, for eligibility for medical assistance to the
17 extent that such payments are:

18 (1) For services Medicaid approves or covers for its
19 recipients;

20 (2) In an amount not in excess of the charges of the health
21 services provider;

22 (3) For nursing home care, or formal services delivered to
23 insureds in the community as part of a care plan approved by a
24 coordination, assessment and monitoring agency licensed pursuant
25 to chapter 198, RSMo; and

26 (4) For services provided after the individual meets the
27 coverage requirements for long-term care benefits established by
28 the department of social services for this program.

29 The director of the department of social services shall adopt
30 regulations in accordance with chapter 536, RSMo, to implement
31 the provisions of sections 660.546 to 660.557, relating to
32 determining eligibility of applicants for Medicaid and the coverage
33 requirements for long-term care benefits.]

[660.549. The department of social services shall establish
2 an outreach program to educate consumers to:

3 (1) The mechanisms for financing long-term; and

4 (2) The asset protection provided under sections 660.546 to
5 660.557.]

1 [660.551. 1. The department of insurance shall precertify
2 long-term care insurance policies which are issued by insurers who,
3 in addition to complying with other relevant laws and regulations:

4 (1) Alert the purchaser to the availability of consumer
5 information and public education provided by the division of aging
6 and the department of insurance pursuant to sections 660.546 to
7 660.557;

8 (2) Offer the option of home- and community-based services
9 in lieu of nursing home care;

10 (3) Offer automatic inflation protection or optional periodic
11 per diem upgrades until the insured begins to receive long-term
12 care benefits; provided, however, that such inflation protection or
13 upgrades shall not be required of life insurance policies or riders
14 containing accelerated long-term care benefits;

15 (4) Provide for the keeping of records and an explanation of
16 benefits reports to the insured and the department of insurance on
17 insurance payments which count toward Medicaid resource
18 exclusion; and

19 (5) Provide the management information and reports
20 necessary to document the extent of Medicaid resource protection
21 offered and to evaluate the Missouri partnership for long-term care
22 including, but not limited to, the information listed in section
23 660.553.

24 Included among those policies precertified under this section shall
25 be life insurance policies which offer long-term care either by rider
26 or integrated into the life insurance policy.

27 2. No policy shall be precertified pursuant to sections
28 660.546 to 660.557, if it requires prior hospitalization or a prior
29 stay in a nursing home as a condition of providing benefits.

30 3. The department of insurance may adopt regulations to
31 carry out the provisions of sections 660.546 to 660.557.]

[660.553. The department of insurance shall provide public
2 information to assist individuals in choosing appropriate insurance
3 coverage, and shall establish an outreach program to educate
4 consumers as to:

5 (1) The need for long-term; and

6 (2) The availability of long-term care insurance.]

1 [660.555. The director of the department of insurance each
2 year, on January first shall report in writing to the department of
3 social services the following information:

4 (1) The success in implementing the provisions of sections
5 660.546 to 660.557;

6 (2) The number of policies precertified pursuant to sections
7 660.546 to 660.557;

8 (3) The number of individuals filing consumer complaints
9 with respect to precertified policies; and

10 (4) The extent and type of benefits paid, in the aggregate,
11 under such policies that could count toward Medicaid resource
12 protection.]

[660.557. The director of the department of social services
2 shall request the federal approvals necessary to carry out the
3 purposes of sections 660.546 to 660.557. Each year on January
4 first, the director of the department of social services shall report
5 in writing to the general assembly on the progress of the
6 program. Such report will include, but not be limited to:

7 (1) The success in implementing the provisions of sections
8 660.546 to 660.557;

9 (2) The number of policies precertified pursuant to sections
10 660.546 to 660.557;

11 (3) The number of individuals filing consumer complaints
12 with respect to precertified policies;

13 (4) The extent and type of benefits paid, in the aggregate,
14 under such policies that could count toward Medicaid resource
15 protection;

16 (5) Estimates of impact on present and future Medicaid
17 expenditures;

18 (6) The cost effectiveness of the program; and

19 (7) A recommendation regarding the appropriateness of
20 continuing the program.]

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