

FIRST REGULAR SESSION

SENATE BILL NO. 570

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2219S.011

AN ACT

To repeal section 208.930, RSMo, and to enact in lieu thereof one new section relating to consumer-directed personal care assistance services.

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

Section A. Section 208.930, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 208.930, to read as follows:

208.930. 1. As used in this section, the term "department" shall mean the
2 department of health and senior services.

3 2. Subject to appropriations, the department may provide financial
4 assistance for consumer-directed personal care assistance services through
5 eligible vendors, as provided in sections 208.900 through 208.927, to each person
6 who was participating as a non-MO HealthNet eligible client pursuant to sections
7 178.661 through 178.673, RSMo, [on June 30, 2005,] and who:

8 (1) Makes application to the department;

9 (2) Demonstrates financial need and eligibility under subsection 3 of this
10 section;

11 (3) Meets all the criteria set forth in sections 208.900 through 208.927,
12 except for subdivision (5) of subsection 1 of section 208.903;

13 (4) Has been found by the department of social services not to be eligible
14 to participate under guidelines established by the MO HealthNet plan; and

15 (5) Does not have access to affordable employer-sponsored health care
16 insurance or other affordable health care coverage for personal care assistance
17 services as defined in section 208.900. For purposes of this section, "access to
18 affordable employer-sponsored health care insurance or other affordable health
19 care coverage" refers to health insurance requiring a monthly premium less than

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

20 or equal to one hundred thirty-three percent of the monthly average premium
21 required in the state's current Missouri consolidated health care plan.

22 Payments made by the department under the provisions of this section shall be
23 made only after all other available sources of payment have been exhausted.

24 3. (1) In order to be eligible for financial assistance for consumer-directed
25 personal care assistance services under this section, a person shall demonstrate
26 financial need, which shall be based on the adjusted gross income and the assets
27 of the person seeking financial assistance and such person's spouse.

28 (2) In order to demonstrate financial need, a person seeking financial
29 assistance under this section and such person's spouse must have an adjusted
30 gross income, less disability-related medical expenses, as approved by the
31 department, that is equal to or less than three hundred percent of the federal
32 poverty level. The adjusted gross income shall be based on the most recent
33 income tax return.

34 (3) No person seeking financial assistance for personal care services under
35 this section and such person's spouse shall have assets in excess of two hundred
36 fifty thousand dollars.

37 4. The department shall require applicants and the applicant's spouse,
38 and consumers and the consumer's spouse, to provide documentation for income,
39 assets, and disability-related medical expenses for the purpose of determining
40 financial need and eligibility for the program. In addition to the most recent
41 income tax return, such documentation may include, but shall not be limited to:

42 (1) Current wage stubs for the applicant or consumer and the applicant's
43 or consumer's spouse;

44 (2) A current W-2 form for the applicant or consumer and the applicant's
45 or consumer's spouse;

46 (3) Statements from the applicant or consumer's and the applicant's or
47 consumer's spouse's employers;

48 (4) Wage matches with the division of employment security;

49 (5) Bank statements; and

50 (6) Evidence of disability-related medical expenses and proof of payment.

51 5. A personal care assistance services plan shall be developed by the
52 department pursuant to section 208.906 for each person who is determined to be
53 eligible and in financial need under the provisions of this section. The plan
54 developed by the department shall include the maximum amount of financial
55 assistance allowed by the department, subject to appropriation, for such services.

56 6. Each consumer who participates in the program is responsible for a
57 monthly premium equal to the average premium required for the Missouri
58 consolidated health care plan; provided that the total premium described in this
59 section shall not exceed five percent of the consumer's and the consumer's
60 spouse's adjusted gross income for the year involved.

61 7. (1) Nonpayment of the premium required in subsection 6 shall result
62 in the denial or termination of assistance, unless the person demonstrates good
63 cause for such nonpayment.

64 (2) No person denied services for nonpayment of a premium shall receive
65 services unless such person shows good cause for nonpayment and makes
66 payments for past-due premiums as well as current premiums.

67 (3) Any person who is denied services for nonpayment of a premium and
68 who does not make any payments for past-due premiums for sixty consecutive
69 days shall have their enrollment in the program terminated.

70 (4) No person whose enrollment in the program is terminated for
71 nonpayment of a premium when such nonpayment exceeds sixty consecutive days
72 shall be reenrolled unless such person pays any past-due premiums as well as
73 current premiums prior to being reenrolled. Nonpayment shall include payment
74 with a returned, refused, or dishonored instrument.

75 8. (1) Consumers determined eligible for personal care assistance services
76 under the provisions of this section shall be reevaluated annually to verify their
77 continued eligibility and financial need. The amount of financial assistance for
78 consumer-directed personal care assistance services received by the consumer
79 shall be adjusted or eliminated based on the outcome of the reevaluation. Any
80 adjustments made shall be recorded in the consumer's personal care assistance
81 services plan.

82 (2) In performing the annual reevaluation of financial need, the
83 department shall annually send a reverification eligibility form letter to the
84 consumer requiring the consumer to respond within ten days of receiving the
85 letter and to provide income and disability-related medical expense verification
86 documentation. If the department does not receive the consumer's response and
87 documentation within the ten-day period, the department shall send a letter
88 notifying the consumer that he or she has ten days to file an appeal or the case
89 will be closed.

90 (3) The department shall require the consumer and the consumer's spouse
91 to provide documentation for income and disability-related medical expense

92 verification for purposes of the eligibility review. Such documentation may
93 include but shall not be limited to the documentation listed in subsection 4 of this
94 section.

95 9. (1) Applicants for personal care assistance services and consumers
96 receiving such services pursuant to this section are entitled to a hearing with the
97 department of social services if eligibility for personal care assistance services is
98 denied, if the type or amount of services is set at a level less than the consumer
99 believes is necessary, if disputes arise after preparation of the personal care
100 assistance plan concerning the provision of such services, or if services are
101 discontinued as provided in section 208.924. Services provided under the
102 provisions of this section shall continue during the appeal process.

103 (2) A request for such hearing shall be made to the department of social
104 services in writing in the form prescribed by the department of social services
105 within ninety days after the mailing or delivery of the written decision of the
106 department of health and senior services. The procedures for such requests and
107 for the hearings shall be as set forth in section 208.080.

108 10. Unless otherwise provided in this section, all other provisions of
109 sections 208.900 through 208.927 shall apply to individuals who are eligible for
110 financial assistance for personal care assistance services under this section.

111 11. The department may promulgate rules and regulations, including
112 emergency rules, to implement the provisions of this section. Any rule or portion
113 of a rule, as that term is defined in section 536.010, RSMo, that is created under
114 the authority delegated in this section shall become effective only if it complies
115 with and is subject to all of the provisions of chapter 536, RSMo, and, if
116 applicable, section 536.028, RSMo. Any provisions of the existing rules regarding
117 the personal care assistance program promulgated by the department of
118 elementary and secondary education in title 5, code of state regulations, division
119 90, chapter 7, which are inconsistent with the provisions of this section are void
120 and of no force and effect.

121 12. The provisions of this section shall expire on June 30, 2019.

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