

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 878**  
95TH GENERAL ASSEMBLY

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Reported from the Committee on Health, Mental Health, Seniors and Families, March 4, 2010, with recommendation that the Senate Committee Substitute do pass.

4691S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal section 143.790, RSMo, and to enact in lieu thereof two new sections relating to a debt setoff for unpaid healthcare expenses.

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

Section A. Section 143.790, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.789 and 143.790, to read as follows:

**143.789. The director of the department shall have the authority to impose an offset against a refund owed to any taxpayer for the following items and in the following order of priority:**

- (1) Delinquent taxes owed by the taxpayer to the state of Missouri;**
  - (2) Child support obligations, owed by such taxpayer, which are enforced by the division of family services on behalf of a person who is receiving support enforcement services under section 454.425;**
  - (3) Debts owed by such taxpayer to any state agency;**
  - (4) Collection assistance fees authorized under section 143.790;**
- and**
- (5) Eligible claims under section 143.790.**

143.790. 1. [Any hospital or health care provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208, RSMo, and

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

6 the health insurance for uninsured children under sections 208.631 to 208.657,  
7 RSMo, at the time such health care services were administered, and such person  
8 has failed to pay for such services for a period greater than ninety days, may  
9 submit a claim to the director of the department of health and senior services for  
10 the unpaid health care services. The director of the department of health and  
11 senior services shall review such claim. If the claim appears meritorious on its  
12 face, the claim for the unpaid medical services shall constitute a debt of the  
13 department of health and senior services for purposes of sections 143.782 to  
14 143.788, and the director may certify the debt to the department of revenue in  
15 order to set off the debtor's income tax refund. Once the debt has been certified,  
16 the director of the department of health and senior services shall submit the debt  
17 to the department of revenue under the setoff procedure established under section  
18 143.783.

19 2. At the time of certification, the director of the department of health and  
20 senior services shall supply any information necessary to identify each debtor  
21 whose refund is sought to be set off pursuant to section 143.784 and certify the  
22 amount of the debt or debts owed by each such debtor.

23 3. If a debtor identified by the director of the department of health and  
24 senior services is determined by the department of revenue to be entitled to a  
25 refund, the department of revenue shall notify the department of health and  
26 senior services that a refund has been set off on behalf of the department of  
27 health and senior services for purposes of this section and shall certify the  
28 amount of such setoff, which shall not exceed the amount of the claimed debt  
29 certified. When the refund owed exceeds the claimed debt, the department shall  
30 send the excess amount to the debtor within a reasonable time after such excess  
31 is determined.

32 4. The department of revenue shall notify the debtor by certified mail the  
33 taxpayer whose refund is sought to be set off that such setoff will be made. The  
34 notice shall contain the provisions contained in subsection 3 of section 143.794,  
35 including the opportunity for a hearing to contest the setoff provided therein, and  
36 shall otherwise substantially comply with the provisions of subsection 3 of section  
37 143.784.

38 5. Once a debt has been set off and finally determined under the  
39 applicable provisions of sections 143.782 to 143.788, and the department of health  
40 and senior services has received the funds transferred from the department of  
41 revenue, the department of health and senior services shall settle with each

42 hospital or health care provider for the amounts that the department of revenue  
43 set off for such party. At the time of each settlement, each hospital or health care  
44 provider shall be charged for administration expenses which shall not exceed  
45 twenty percent of the collected amount.

46 6. Lottery prize payouts made under section 313.321, RSMo, shall also be  
47 subject to the setoff procedures established in this section and any rules and  
48 regulations promulgated thereto.

49 7. The director of the department of revenue shall have priority to offset  
50 any delinquent tax owed to the state of Missouri. Any remaining refund shall be  
51 offset to pay a state agency debt or to meet a child support obligation that is  
52 enforced by the division of family services on behalf of a person who is receiving  
53 support enforcement services under section 454.425, RSMo.

54 **8.] As used in this section, the following terms shall mean:**

55 **(1) "Appeals committee", a committee consisting of at least three**  
56 **people appointed by a provider to hear patient appeals of review**  
57 **officer rulings:**

58 **(a) That the provider has a valid claim;**

59 **(b) Regarding the amount of the claim;**

60 **(c) That a claim qualifies as an eligible claim under this section;**

61 **(2) "Collection assistance fee", a fee in the amount of seven**  
62 **dollars payable to the department for each debt setoff being processed**  
63 **and an additional seventeen dollars payable to the claim clearinghouse**  
64 **for each debt being processed by the claim clearinghouse shall be**  
65 **recovered from each eligible claim to recover the costs incurred in**  
66 **collecting debts under this section;**

67 **(3) "Court", the supreme court, court of appeals, or any circuit**  
68 **court of the state;**

69 **(4) "Department", the department of revenue;**

70 **(5) "Claim", a claim by a provider to receive payment of fifty**  
71 **dollars or more for health care services provided by such provider to**  
72 **a patient which has not been paid in whole or in part by the patient or**  
73 **third party payer for more than ninety days after the date the patient**  
74 **was first billed for such health care services;**

75 **(6) "Claim clearinghouse", an entity that submits eligible claims**  
76 **on behalf of a provider in accordance with this section. A claim**  
77 **clearinghouse shall be an entity designated by the Missouri ambulance**

78 services industry, acceptable to the department and registered with the  
79 department as a claim clearinghouse. Once a claim clearinghouse  
80 registers with, and is approved by, the department under this  
81 subsection, no other claim clearinghouse may register to submit debts  
82 for collection under this section;

83 (7) "Health care services", any services that a provider renders  
84 to a patient in the course of such provider's furnishing of ambulance  
85 services. Health care services shall include, but not be limited to,  
86 treatment of patients and transporting of patients incidental, or  
87 pursuant, to the delivery of ambulance services by a provider or in  
88 furtherance of the purposes for which such provider is organized and  
89 licensed;

90 (8) "Patient", an individual who has received health care services  
91 from a provider and who was not, at the time such health care services  
92 were provided, eligible to receive benefits under the state's medical  
93 assistance program for needy persons under chapter 208 and the health  
94 insurance for uninsured children under sections 208.631 to 208.657;

95 (9) "Provider", any provider of ambulance services licensed by  
96 the Missouri department of health and senior services in accordance  
97 with chapter 190;

98 (10) "Refund", a patient's Missouri income tax refund which the  
99 department determines to be due pursuant to the provisions of this  
100 chapter;

101 (11) "Review officer", a person designated by a provider to review  
102 claims, at the request of a patient, to determine whether such provider  
103 has a valid claim, the amount of such claim, and whether such claim  
104 qualifies as an eligible claim under this section.

105 2. Prior to submission of a claim to the claim clearinghouse, a  
106 provider shall send written notice to a patient that such provider  
107 intends to submit a claim to the claim clearinghouse for collection by  
108 setoff under this section. The notice shall:

109 (1) Provide the basis for the claim;

110 (2) State that the provider intends to request that the  
111 department apply the patient's refund against the claim;

112 (3) State that a collection assistance fee will be added to the  
113 claim if it is submitted for setoff;

114 (4) Inform the patient of the right to contest the validity or

115 amount such claim by filing a request for a review with the provider;  
116 and

117 (5) State the time limit and procedure for requesting such  
118 review, and that failure to request a review within thirty days  
119 following receipt of the notice required under this section shall result  
120 in submission of the claim to the claim clearinghouse for setoff of the  
121 debt by the department.

122 3. Upon receipt of the notice required under subsection 2 of this  
123 section, any patient seeking review of a claim with the provider shall  
124 file a written request for review within thirty days of receipt of such  
125 notice. A request for a review shall be deemed filed when properly  
126 addressed and delivered to the United States Postal Service for mailing  
127 with postage prepaid. A review officer shall be appointed by the  
128 provider to review such claim. In reviewing a claim, any issue that has  
129 previously been litigated in a court proceeding shall not be considered  
130 by the review officer. If the patient seeks a review of the claim and the  
131 review officer finds either that the claim is invalid or the claim does  
132 not qualify as an eligible claim under this section, the review officer's  
133 determination shall be final and binding on the provider and such  
134 provider shall have no right to appeal such determination. If all or  
135 part of the claim is found by the review officer to be valid and eligible  
136 for setoff under this section, the review officer shall notify the provider  
137 and the patient of such fact. Such notice shall:

138 (1) Inform the patient that the patient has the right to appeal the  
139 review officer's determination by filing an appeal with the appeals  
140 committee;

141 (2) State the time limit and procedure for requesting such an  
142 appeal; and

143 (3) State that failure to request the appeal within thirty days  
144 following receipt of the notice required under this subsection shall  
145 result in submission of the claim to the claim clearinghouse for setoff  
146 of the debt by the department.

147 4. Upon receipt of the notice required under subsection 3 of this  
148 section, any patient seeking an appeal of a determination of a review  
149 officer under subsection 4 of this section shall file a written request for  
150 such appeal within thirty days following receipt of such notice. An  
151 appeal shall be deemed filed when properly addressed and delivered to

152 the United States Postal Service for mailing with postage prepaid. An  
153 appeal of a review officer's determination shall be heard by an appeals  
154 committee. In an appeal under this section, any issue that has been  
155 previously litigated in a court proceeding shall not be considered. A  
156 decision made after an appeal under this section shall determine  
157 whether a claim is owed to the provider, the amount of the claim, and  
158 whether the claim is an eligible claim under this section. If the appeals  
159 committee finds a claim to be invalid or otherwise ineligible under this  
160 section, the decision of the appeals committee shall be final and  
161 binding on the provider and may not be appealed by the provider. If  
162 a claim is found by the appeals committee to be valid and eligible for  
163 setoff under this section, the provider shall submit the claim to the  
164 claim clearinghouse for setoff by the department.

165 5. Any provider may submit a claim to the claim clearinghouse  
166 for review. If the claim clearinghouse receives sufficient evidence that  
167 a provider has fully complied with the notice requirements provided  
168 under this section and finds the claim valid, the claim shall be deemed  
169 eligible for setoff by the department under this section and shall be  
170 forwarded to the department.

171 6. If a provider is found to have failed to comply with any  
172 applicable requirements contained in this section, such provider shall  
173 send the patient the entire amount of the claim setoff by the  
174 department plus an amount equal to the collection assistance fee.

175 7. If the department determines that a patient identified by a  
176 provider in an eligible claim filed with the department is entitled to a  
177 refund, the department shall notify the claim clearinghouse that a  
178 refund is available for setoff and the amount of such refund.

179 8. At that time, the department shall also notify the patient by  
180 regular mail that setoff against his or her tax refund has been  
181 authorized under this section. The notice shall include the following  
182 information:

183 (1) The amount of the eligible claim and the name of the provider  
184 seeking setoff;

185 (2) That a setoff to the patient's refund against the eligible claim  
186 has been performed;

187 (3) Any amount of the refund remaining after the offset of the  
188 eligible claim; and

189           **(4) The patient's right to request a hearing to contest the setoff,**  
190 **including information regarding how to make such a request, which**  
191 **shall include but not be limited to:**

192           **(a) The name and mailing address of the department for**  
193 **purposes of requesting such a hearing;**

194           **(b) A statement regarding all information that the patient must**  
195 **include for the hearing;**

196           **(c) A statement that the patient's failure to apply for such a**  
197 **hearing, in writing, within thirty days of the notice provided under this**  
198 **subsection, shall be deemed a waiver of the opportunity to contest the**  
199 **setoff and shall cause the refund to be reduced by the amount of the**  
200 **eligible claim and the collection assistance fee.**

201           **9. If an application for hearing by the department alleges a**  
202 **defense to the nature or amount of the claim upon which the setoff is**  
203 **based which requires an evidentiary hearing, the department shall**  
204 **promptly conduct such hearing in accordance with the provisions of**  
205 **chapter 536. If the eligible claim is based on a court or administrative**  
206 **order, the patient shall be entitled to assert only those defenses which**  
207 **arose subsequent to such court or administrative order, and no issue**  
208 **may be raised at the hearing which has previously been litigated. If no**  
209 **factual issue has been raised by an application for a hearing contesting**  
210 **a setoff or the eligible claim upon which the setoff is based, or the only**  
211 **issues raised have been previously litigated, the department may enter**  
212 **its order without conducting an evidentiary hearing, and such order**  
213 **shall be a final decision entitled to judicial review as provided in**  
214 **sections 536.100 to 536.140. Appeals from actions taken at the hearing**  
215 **allowed under this section shall be in accordance with the provisions**  
216 **of chapter 536.**

217           **10. Only after all applicable provisions of this section have been**  
218 **satisfied, the department shall pay to the claim clearinghouse**  
219 **requesting a setoff under this section the amount that the department**  
220 **has setoff for such provider, which shall include the collection**  
221 **assistance allocable to the claim clearing. In the event the department**  
222 **is unable to setoff the entire eligible claim and collection assistance fee**  
223 **under this section, the setoff of the collection assistance fee shall have**  
224 **priority over the setoff of the eligible claim.**

225           **11. In addition to refunds, lottery prize payouts made under**

226 **section 313.321 shall be subject to the setoff procedures established in**  
227 **this section.**

228         **12.** The director of the department of revenue and the director of the  
229 department of health and senior services shall promulgate rules and regulations  
230 necessary to administer the provisions of this section. Any rule or portion of a  
231 rule, as that term is defined in section 536.010, RSMo, that is created under the  
232 authority delegated in this section shall become effective only if it complies with  
233 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
234 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
235 and if any of the powers vested with the general assembly pursuant to chapter  
236 536, RSMo, to review, to delay the effective date, or to disapprove and annul a  
237 rule are subsequently held unconstitutional, then the grant of rulemaking  
238 authority and any rule proposed or adopted after August 28, 2007, shall be  
239 invalid and void.

✓

Bill

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