

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 553

AN ACT

To repeal sections 208.909 and 660.023, RSMo, and to enact in lieu thereof two new sections relating to the requirement for an electronic verification system for certain home and community-based providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 208.909 and 660.023, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as
3 sections 208.909 and 660.023, to read as follows:

4 208.909. 1. Consumers receiving personal care assistance
5 services shall be responsible for:

6 (1) Supervising their personal care attendant;

7 (2) Verifying wages to be paid to the personal care
8 attendant;

9 (3) Preparing and submitting time sheets, signed by both
10 the consumer and personal care attendant, to the vendor on a
11 biweekly basis;

12 (4) Promptly notifying the department within ten days of
13 any changes in circumstances affecting the personal care
14 assistance services plan or in the consumer's place of residence;

15 (5) Reporting any problems resulting from the quality of
16 services rendered by the personal care attendant to the vendor.

1 If the consumer is unable to resolve any problems resulting from
2 the quality of service rendered by the personal care attendant
3 with the vendor, the consumer shall report the situation to the
4 department; and

5 (6) Providing the vendor with all necessary information to
6 complete required paperwork for establishing the employer
7 identification number.

8 2. Participating vendors shall be responsible for:

9 (1) Collecting time sheets or reviewing reports of
10 delivered services and certifying the accuracy thereof;

11 (2) The Medicaid reimbursement process, including the
12 filing of claims and reporting data to the department as required
13 by rule;

14 (3) Transmitting the individual payment directly to the
15 personal care attendant on behalf of the consumer;

16 (4) Monitoring the performance of the personal care
17 assistance services plan.

18 3. No state or federal financial assistance shall be
19 authorized or expended to pay for services provided to a consumer
20 under sections 208.900 to 208.927, if the primary benefit of the
21 services is to the household unit, or is a household task that
22 the members of the consumer's household may reasonably be
23 expected to share or do for one another when they live in the
24 same household, unless such service is above and beyond typical
25 activities household members may reasonably provide for another
26 household member without a disability.

27 4. No state or federal financial assistance shall be
28 authorized or expended to pay for personal care assistance

1 services provided by a personal care attendant who is listed on
2 any of the background check lists in the family care safety
3 registry under sections 210.900 to 210.937, unless a good cause
4 waiver is first obtained from the department in accordance with
5 section 660.317.

6 5. (1) All vendors shall, by [July 1, 2015] a contingent
7 effective date determined by the provisions of subsection 8 of
8 this section, have, maintain, and use [a telephone tracking] an
9 electronic system for the purpose of reporting and verifying the
10 delivery of consumer-directed services as authorized by the
11 department of health and senior services or its designee. Use of
12 such a system prior to [July 1, 2015] such contingent effective
13 date, shall be voluntary. The [telephone tracking] electronic
14 system shall be used [to process payroll for employees and] for
15 submitting claims for reimbursement to the MO HealthNet division.
16 At a minimum, the [telephone tracking] electronic system shall:

17 (a) Record the exact date services are delivered;

18 (b) Record the exact time the services begin and exact time
19 the services end;

20 (c) Verify [the telephone number from which the services
21 are] that the services are being delivered at the location where
22 registered;

23 (d) [Verify that the number from which the call is placed
24 is a telephone number unique to the client;

25 (e)] Require a personal identification number unique to
26 each personal care attendant;

27 [(f)] (e) Be capable of producing reports of services
28 delivered, tasks performed, client identity, beginning and ending

1 times of service and date of service in summary fashion that
2 constitute adequate documentation of service; and

3 [(g)] (f) Be capable of producing reimbursement requests
4 for consumer approval that assures accuracy and compliance with
5 program expectations for both the consumer and vendor.

6 (2) The [department of health and senior services] office
7 of administration, in collaboration with the Missouri Medicaid
8 audit and compliance unit or any successor unit or division
9 within the department of social services that conducts Medicaid
10 audits and monitors compliance and other appropriate agencies,
11 including centers for independent living, shall establish
12 [telephone] electronic tracking system pilot projects,
13 implemented in two regions of the state, with [one] two in an
14 urban area and [one] two in a rural area. Each pilot project
15 shall meet the requirements of this section and section 208.918.
16 The [department of health and senior services] office of
17 administration shall, by [December 31, 2013] July 1, 2018, submit
18 a report to the governor and general assembly detailing the
19 outcomes of these pilot projects. The report shall take into
20 consideration the:

21 (a) Impact of [a telephone tracking] an electronic system
22 on the quality of the services delivered to the consumer and the
23 principles of self-directed care;

24 (b) Continued need for a paper system and the impact of
25 administering a dual paper and electronic system on provider
26 costs, operations, and service delivery;

27 (c) Rates of fraud detection in comparison to a separate
28 and substantially similar set of providers not utilizing an

1 electronic system; and

2 (d) Accuracy of the reporting requirements under paragraphs
3 (a) to (f) of subdivision (1) of subsection 5 of this section.

4 (3) As new technology becomes available, the department
5 ~~[may]~~ shall allow use of ~~[a more advanced tracking]~~ another
6 system, provided that such system is at least as capable of
7 meeting the requirements of this subsection.

8 (4) The department of health and senior services shall
9 promulgate by rule the minimum necessary criteria of the
10 ~~[telephone tracking]~~ electronic system. Any rule or portion of a
11 rule, as that term is defined in section 536.010, that is created
12 under the authority delegated in this section shall become
13 effective only if it complies with and is subject to all of the
14 provisions of chapter 536 and, if applicable, section 536.028.
15 This section and chapter 536 are nonseverable and if any of the
16 powers vested with the general assembly pursuant to chapter 536
17 to review, to delay the effective date, or to disapprove and
18 annul a rule are subsequently held unconstitutional, then the
19 grant of rulemaking authority and any rule proposed or adopted
20 after August 28, 2010, shall be invalid and void.

21 (5) The electronic system shall not interrupt or interfere
22 with the role of the participant as the employer within the
23 consumer directed services program including allowing the
24 employer to verify services without incurring costs and
25 prohibiting the attendant from verifying services without
26 employer authorization.

27 6. In the event that a consensus between centers for
28 independent living and representatives from the executive branch

1 cannot be reached, the [telephony] electronic system report
2 issued to the general assembly and governor shall include a
3 minority report which shall detail those elements of substantial
4 dissent from the main report.

5 7. No interested party, including a center for independent
6 living, shall be required to contract with any particular vendor
7 or provider of [telephony] electronic system services nor bear
8 the full cost of the pilot program.

9 8. The office of administration shall notify the revisor of
10 statutes if, based on the study conducted under subdivision (2)
11 of subsection 5 of this section, there has been a statistically
12 significant rise in fraud detection rates or in the accuracy of
13 the reporting requirements under paragraphs (a) to (f) of
14 subdivision (1) of subsection 5 of this section in comparison to
15 a separate and substantially similar set of providers not
16 utilizing an electronic system. The requirement to have,
17 maintain, and use an electronic system for the purpose of
18 reporting and verifying the delivery of consumer-directed
19 services under subsection 5 of this section shall be in effect
20 one year from the date when such notice is given by the office of
21 administration to the revisor of statutes.

22 660.023. 1. All in-home services provider agencies shall,
23 by [July 1, 2015] a contingent effective date determined by the
24 provisions of subsection 8 of this section, have, maintain, and
25 use [a telephone tracking] an electronic system for the purpose
26 of reporting and verifying the delivery of home- and
27 community-based services as authorized by the department of
28 health and senior services or its designee. Use of such system

1 prior to [July 1, 2015] such contingent effective date, shall be
2 voluntary. At a minimum, the [telephone tracking] electronic
3 system shall:

4 (1) Record the exact date services are delivered;

5 (2) Record the exact time the services begin and exact time
6 the services end;

7 (3) Verify [the telephone number from which the services
8 were] that services are being delivered at the location where
9 registered;

10 (4) [Verify that the number from which the call is placed
11 is a telephone number unique to the client;

12 (5)] Require a personal identification number unique to
13 each personal care attendant; and

14 [(6)] (5) Be capable of producing reports of services
15 delivered, tasks performed, client identity, beginning and ending
16 times of service and date of service in summary fashion that
17 constitute adequate documentation of service.

18 2. The [telephone tracking] electronic system shall be used
19 to process payroll for employees and for submitting claims for
20 reimbursement to the MO HealthNet division.

21 3. The department of health and senior services shall
22 promulgate by rule the minimum necessary criteria of the
23 [telephone tracking] electronic system. Any rule or portion of a
24 rule, as that term is defined in section 536.010, that is created
25 under the authority delegated in this section shall become
26 effective only if it complies with and is subject to all of the
27 provisions of chapter 536 and, if applicable, section 536.028.
28 This section and chapter 536 are nonseverable and if any of the

1 powers vested with the general assembly pursuant to chapter 536
2 to review, to delay the effective date, or to disapprove and
3 annul a rule are subsequently held unconstitutional, then the
4 grant of rulemaking authority and any rule proposed or adopted
5 after August 28, 2010, shall be invalid and void.

6 4. As new technology becomes available, the department
7 ~~[may]~~ shall allow use of ~~[a more advanced tracking]~~ another
8 system, provided that such system is at least as capable of
9 meeting the requirements listed in subsection 1 of this section.

10 5. The ~~[department of health and senior services]~~ office of
11 administration, in collaboration with the Missouri Medicaid audit
12 and compliance unit or any successor unit or division within the
13 department of social services that conducts Medicaid audits and
14 monitors compliance and other appropriate agencies, including
15 in-home services providers, shall establish ~~[telephone]~~
16 electronic tracking system pilot projects, implemented in two
17 regions of the state, with ~~[one]~~ two in an urban area and ~~[one]~~
18 two in a rural area. Each pilot project shall meet the
19 requirements of this section. The ~~[department of health and~~
20 ~~senior services]~~ office of administration shall, by ~~[December 31,~~
21 ~~2013]~~ July 1, 2018, submit a report to the governor and general
22 assembly detailing the outcomes of these pilot projects. The
23 report shall take into consideration the:

24 (a) Impact of ~~[a telephone tracking]~~ an electronic system
25 on the quality of the services delivered to the consumer and the
26 principles of self-directed care;

27 (b) Continued need for a paper system and the impact of
28 administering a dual paper and electronic system on provider

1 costs, operations, and service delivery;

2 (c) Rates of fraud detection in comparison to a separate
3 and substantially similar set of providers not utilizing an
4 electronic system; and

5 (d) Accuracy of the reporting requirements under
6 subdivisions (1) to (5) of subsection 1 of this section.

7 6. In the event that a consensus between in-home service
8 providers and representatives from the executive branch cannot be
9 reached, the [telephony] electronic system report issued to the
10 general assembly and governor shall include a minority report
11 which will detail those elements of substantial dissent from the
12 main report.

13 7. No interested party, including in-home service
14 providers, shall be required to contract with any particular
15 vendor or provider of telephony services nor bear the full cost
16 of the pilot program.

17 8. The office of administration shall notify the revisor of
18 statutes if, based on the study conducted under subsection 5 of
19 this section, there has been a statistically significant rise in
20 fraud detection rates or in the accuracy of the reporting
21 requirements under subdivisions (1) to (5) of subsection 1 of
22 this section in comparison to a separate and substantially
23 similar set of providers not utilizing an electronic system. The
24 requirement to have, maintain, and use an electronic system for
25 the purpose of reporting and verifying the delivery of in-home
26 services under subsection 1 of this section shall be in effect
27 one year from the date when notice is given by the office of
28 administration to the revisor of statutes.