

SECOND REGULAR SESSION

# SENATE BILL NO. 553

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4572S.011

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## AN ACT

To repeal sections 208.909 and 660.023, RSMo, and to enact in lieu thereof two new sections relating to the requirement of a telephone tracking system for certain home and community-based providers.

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

Section A. Sections 208.909 and 660.023, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.909 and 660.023, to read as follows:

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

- (1) Supervising their personal care attendant;
- (2) Verifying wages to be paid to the personal care attendant;
- (3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;
- (4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence;
- (5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; and
- (6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number.

2. Participating vendors shall be responsible for:

- (1) Collecting time sheets or reviewing reports of delivered services and

19 certifying the accuracy thereof;

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

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

24 (4) Monitoring the performance of the personal care assistance services  
25 plan.

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

33 4. No state or federal financial assistance shall be authorized or expended  
34 to pay for personal care assistance services provided by a personal care attendant  
35 who is listed on any of the background check lists in the family care safety  
36 registry under sections 210.900 to 210.937, unless a good cause waiver is first  
37 obtained from the department in accordance with section 660.317.

38 5. (1) All vendors, **except for vendors who provide administrative**  
39 **services for five or less personal care attendants**, shall, by July 1, 2015,  
40 have, maintain, and use a telephone tracking system for the purpose of reporting  
41 and verifying the delivery of consumer-directed services as authorized by the  
42 department of health and senior services or its designee. Use of such a system  
43 prior to July 1, 2015, shall be voluntary. The telephone tracking system shall be  
44 used to process payroll for employees and for submitting claims for  
45 reimbursement to the MO HealthNet division. At a minimum, the telephone  
46 tracking system shall:

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

48 (b) Record the exact time the services begin and exact time the services  
49 end;

50 (c) Verify the telephone number from which the services are registered;

51 (d) Verify that the number from which the call is placed is a telephone  
52 number unique to the client;

53 (e) Require a personal identification number unique to each personal care  
54 attendant;

55 (f) Be capable of producing reports of services delivered, tasks performed,  
56 client identity, beginning and ending times of service and date of service in  
57 summary fashion that constitute adequate documentation of service; and

58 (g) Be capable of producing reimbursement requests for consumer  
59 approval that assures accuracy and compliance with program expectations for  
60 both the consumer and vendor.

61 (2) The department of health and senior services, in collaboration with  
62 other appropriate agencies, including centers for independent living, shall  
63 establish telephone tracking system pilot projects, implemented in two regions of  
64 the state, with one in an urban area and one in a rural area. Each pilot project  
65 shall meet the requirements of this section and section 208.918. The department  
66 of health and senior services shall, by December 31, 2013, submit a report to the  
67 governor and general assembly detailing the outcomes of these pilot projects. The  
68 report shall take into consideration the impact of a telephone tracking system on  
69 the quality of the services delivered to the consumer and the principles of  
70 self-directed care.

71 (3) As new technology becomes available, the department may allow use  
72 of a more advanced tracking system, provided that such system is at least as  
73 capable of meeting the requirements of this subsection.

74 (4) The department of health and senior services shall promulgate by rule  
75 the minimum necessary criteria of the telephone tracking system. Any rule or  
76 portion of a rule, as that term is defined in section 536.010, that is created under  
77 the authority delegated in this section shall become effective only if it complies  
78 with and is subject to all of the provisions of chapter 536 and, if applicable,  
79 section 536.028. This section and chapter 536 are nonseverable and if any of the  
80 powers vested with the general assembly pursuant to chapter 536 to review, to  
81 delay the effective date, or to disapprove and annul a rule are subsequently held  
82 unconstitutional, then the grant of rulemaking authority and any rule proposed  
83 or adopted after August 28, 2010, shall be invalid and void.

84 6. In the event that a consensus between centers for independent living  
85 and representatives from the executive branch cannot be reached, the telephony  
86 report issued to the general assembly and governor shall include a minority  
87 report which shall detail those elements of substantial dissent from the main  
88 report.

89 7. No interested party, including a center for independent living, shall be  
90 required to contract with any particular vendor or provider of telephony services

91 nor bear the full cost of the pilot program.

660.023. 1. All in-home services provider agencies, **except for in-home**  
2 **provider agencies who employ five or less in-home providers**, shall, by  
3 July 1, 2015, have, maintain, and use a telephone tracking system for the purpose  
4 of reporting and verifying the delivery of home- and community-based services as  
5 authorized by the department of health and senior services or its designee. Use  
6 of such system prior to July 1, 2015, shall be voluntary. At a minimum, the  
7 telephone tracking system shall:

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

9 (2) Record the exact time the services begin and exact time the services  
10 end;

11 (3) Verify the telephone number from which the services were registered;

12 (4) Verify that the number from which the call is placed is a telephone  
13 number unique to the client;

14 (5) Require a personal identification number unique to each personal care  
15 attendant; and

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

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

22 3. The department of health and senior services shall promulgate by rule  
23 the minimum necessary criteria of the telephone tracking system. Any rule or  
24 portion of a rule, as that term is defined in section 536.010, that is created under  
25 the authority delegated in this section shall become effective only if it complies  
26 with and is subject to all of the provisions of chapter 536 and, if applicable,  
27 section 536.028. This section and chapter 536 are nonseverable and if any of the  
28 powers vested with the general assembly pursuant to chapter 536 to review, to  
29 delay the effective date, or to disapprove and annul a rule are subsequently held  
30 unconstitutional, then the grant of rulemaking authority and any rule proposed  
31 or adopted after August 28, 2010, shall be invalid and void.

32 4. As new technology becomes available, the department may allow use  
33 of a more advanced tracking system, provided that such system is at least as  
34 capable of meeting the requirements listed in subsection 1 of this section.

35 5. The department of health and senior services, in collaboration with

36 other appropriate agencies, including in-home services providers, shall establish  
37 telephone tracking system pilot projects, implemented in two regions of the state,  
38 with one in an urban area and one in a rural area. Each pilot project shall meet  
39 the requirements of this section. The department of health and senior services  
40 shall, by December 31, 2013, submit a report to the governor and general  
41 assembly detailing the outcomes of these pilot projects. The report shall take into  
42 consideration the impact of a telephone tracking system on the quality of the  
43 services delivered to the consumer and the principles of self-directed care.

44 6. In the event that a consensus between in-home service providers and  
45 representatives from the executive branch cannot be reached, the telephony  
46 report issued to the general assembly and governor shall include a minority  
47 report which will detail those elements of substantial dissent from the main  
48 report.

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

Bill ✓

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