

FIRST REGULAR SESSION

# SENATE BILL NO. 526

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time March 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2163S.011

## AN ACT

To repeal sections 208.909 and 208.918, RSMo, and to enact in lieu thereof two new sections relating to vendors of consumer-directed services.

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

Section A. Sections 208.909 and 208.918, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 208.909 and 208.918, to  
3 read as follows:

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

- 3 (1) Supervising their personal care attendant;
- 4 (2) Verifying wages to be paid to the personal care attendant;
- 5 (3) Preparing and submitting time sheets, signed by both the consumer  
6 and personal care attendant, to the vendor on a biweekly basis;
- 7 (4) Promptly notifying the department within ten days of any changes in  
8 circumstances affecting the personal care assistance services plan or in the  
9 consumer's place of residence;
- 10 (5) Reporting any problems resulting from the quality of services rendered  
11 by the personal care attendant to the vendor. If the consumer is unable to resolve  
12 any problems resulting from the quality of service rendered by the personal care  
13 attendant with the vendor, the consumer shall report the situation to the  
14 department; and

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

17 2. Participating vendors shall be responsible for:

- 18 (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. **Such monitoring shall be unscheduled and occur in person during**  
26 **a time when the personal care attendant is scheduled to be at the**  
27 **consumer's home. The vendor shall document that the attendant was**  
28 **present and providing services to the consumer as set forth in the plan**  
29 **of care. If the attendant was not present or not providing services, the**  
30 **vendor shall notify the department and may suspend services to the**  
31 **consumer.**

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

39 4. No state or federal financial assistance shall be authorized or expended  
40 to pay for personal care assistance services provided by a personal care attendant  
41 who is listed on any of the background check lists in the family care safety  
42 registry under sections 210.900 to 210.937, unless a good cause waiver is first  
43 obtained from the department in accordance with section 192.2495.

44 5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a  
45 telephone tracking system for the purpose of reporting and verifying the delivery  
46 of consumer-directed services as authorized by the department of health and  
47 senior services or its designee. Use of such a system prior to July 1, 2015, shall  
48 be voluntary. The telephone tracking system shall be used to process payroll for  
49 employees and for submitting claims for reimbursement to the MO HealthNet  
50 division. At a minimum, the telephone tracking system shall:

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

52 (b) Record the exact time the services begin and exact time the services  
53 end;

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

55 (d) Verify that the number from which the call is placed is a telephone

56 number unique to the client;

57 (e) Require a personal identification number unique to each personal care  
58 attendant;

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

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

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

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

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

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

92 report.

93 7. No interested party, including a center for independent living, shall be  
94 required to contract with any particular vendor or provider of telephony services  
95 nor bear the full cost of the pilot program.

208.918. 1. In order to qualify for an agreement with the department, the  
2 vendor shall have a philosophy that promotes the consumer's ability to live  
3 independently in the most integrated setting or the maximum community  
4 inclusion of persons with physical disabilities, and shall demonstrate the ability  
5 to provide, directly or through contract, the following services:

6 (1) Orientation of consumers concerning the responsibilities of being an  
7 employer, supervision of personal care attendants including the preparation and  
8 verification of time sheets. **Such orientation shall include notifying**  
9 **consumers that falsification of personal care attendant time sheets**  
10 **shall be considered fraud and shall be reported to the**  
11 **department. Such orientation shall take place in the presence of the**  
12 **personal care attendant, to the fullest extent possible;**

13 (2) Training for consumers about the recruitment and training of personal  
14 care attendants;

15 (3) Maintenance of a list of persons eligible to be a personal care  
16 attendant;

17 (4) Processing of inquiries and problems received from consumers and  
18 personal care attendants;

19 (5) Ensuring the personal care attendants are registered with the family  
20 care safety registry as provided in sections 210.900 to 210.937; and

21 (6) The capacity to provide fiscal conduit services through a telephone  
22 tracking system by the date required under section 208.909.

23 2. In order to maintain its agreement with the department, a vendor shall  
24 comply with the provisions of subsection 1 of this section and shall:

25 (1) Demonstrate sound fiscal management as evidenced on accurate  
26 quarterly financial reports and annual audit submitted to the department; and

27 (2) Demonstrate a positive impact on consumer outcomes regarding the  
28 provision of personal care assistance services as evidenced on accurate quarterly  
29 and annual service reports submitted to the department;

30 (3) Implement a quality assurance and supervision process that ensures  
31 program compliance and accuracy of records; and

32 (4) Comply with all provisions of sections 208.900 to 208.927, and the

33 regulations promulgated thereunder.

34           **3. Each vendor shall submit an annual cost report to the**  
35 **department within ninety days following the close of its fiscal**  
36 **year. The following authenticated copies of documents shall be**  
37 **submitted to the department:**

38           **(1) All leases related to the activities of the vendor;**

39           **(2) All management reports;**

40           **(3) All contracts with consultants;**

41           **(4) Federal and state income tax returns for the fiscal year and**  
42 **documentation of expenditures, by line item, made under all restricted**  
43 **and unrestricted grants. For restricted grants, a statement verifying**  
44 **the restriction as specified by the donor.**

45 **Adequate documentation for all line items on the cost report shall be**  
46 **maintained by the facility and shall be submitted to the department**  
47 **upon request. If requested in writing, the department may grant a**  
48 **reasonable extension of the filing date upon a showing of good**  
49 **cause. The department may withhold funding if a vendor does not**  
50 **submit the required documentation under this section. Such funding**  
51 **shall be released upon receipt of the proper documentation.**

✓

Copy