

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 45 & 90

102ND GENERAL ASSEMBLY

0453S.02C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 208.151 and 208.662, RSMo, and to enact in lieu thereof two new sections relating to Medicaid services for certain low-income women, with an emergency clause.

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

Section A. Sections 208.151 and 208.662, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 208.151 and 208.662, to read as follows:

208.151. 1. Medical assistance on behalf of needy
2 persons shall be known as "MO HealthNet". For the purpose
3 of paying MO HealthNet benefits and to comply with Title
4 XIX, Public Law 89-97, 1965 amendments to the federal Social
5 Security Act (42 U.S.C. Section 301, et seq.) as amended,
6 the following needy persons shall be eligible to receive MO
7 HealthNet benefits to the extent and in the manner
8 hereinafter provided:

9 (1) All participants receiving state supplemental
10 payments for the aged, blind and disabled;

11 (2) All participants receiving aid to families with
12 dependent children benefits, including all persons under
13 nineteen years of age who would be classified as dependent
14 children except for the requirements of subdivision (1) of
15 subsection 1 of section 208.040. Participants eligible
16 under this subdivision who are participating in treatment
17 court, as defined in section 478.001, shall have their
18 eligibility automatically extended sixty days from the time

19 their dependent child is removed from the custody of the
20 participant, subject to approval of the Centers for Medicare
21 and Medicaid Services;

22 (3) All participants receiving blind pension benefits;

23 (4) All persons who would be determined to be eligible
24 for old age assistance benefits, permanent and total
25 disability benefits, or aid to the blind benefits under the
26 eligibility standards in effect December 31, 1973, or less
27 restrictive standards as established by rule of the family
28 support division, who are sixty-five years of age or over
29 and are patients in state institutions for mental diseases
30 or tuberculosis;

31 (5) All persons under the age of twenty-one years who
32 would be eligible for aid to families with dependent
33 children except for the requirements of subdivision (2) of
34 subsection 1 of section 208.040, and who are residing in an
35 intermediate care facility, or receiving active treatment as
36 inpatients in psychiatric facilities or programs, as defined
37 in 42 U.S.C. Section 1396d, as amended;

38 (6) All persons under the age of twenty-one years who
39 would be eligible for aid to families with dependent
40 children benefits except for the requirement of deprivation
41 of parental support as provided for in subdivision (2) of
42 subsection 1 of section 208.040;

43 (7) All persons eligible to receive nursing care
44 benefits;

45 (8) All participants receiving family foster home or
46 nonprofit private child-care institution care, subsidized
47 adoption benefits and parental school care wherein state
48 funds are used as partial or full payment for such care;

49 (9) All persons who were participants receiving old
50 age assistance benefits, aid to the permanently and totally

51 disabled, or aid to the blind benefits on December 31, 1973,
52 and who continue to meet the eligibility requirements,
53 except income, for these assistance categories, but who are
54 no longer receiving such benefits because of the
55 implementation of Title XVI of the federal Social Security
56 Act, as amended;

57 (10) Pregnant women who meet the requirements for aid
58 to families with dependent children, except for the
59 existence of a dependent child in the home;

60 (11) Pregnant women who meet the requirements for aid
61 to families with dependent children, except for the
62 existence of a dependent child who is deprived of parental
63 support as provided for in subdivision (2) of subsection 1
64 of section 208.040;

65 (12) Pregnant women or infants under one year of age,
66 or both, whose family income does not exceed an income
67 eligibility standard equal to one hundred eighty-five
68 percent of the federal poverty level as established and
69 amended by the federal Department of Health and Human
70 Services, or its successor agency;

71 (13) Children who have attained one year of age but
72 have not attained six years of age who are eligible for
73 medical assistance under 6401 of P.L. 101-239 (Omnibus
74 Budget Reconciliation Act of 1989) (42 U.S.C. Sections 1396a
75 to 1396b). The family support division shall use an income
76 eligibility standard equal to one hundred thirty-three
77 percent of the federal poverty level established by the
78 Department of Health and Human Services, or its successor
79 agency;

80 (14) Children who have attained six years of age but
81 have not attained nineteen years of age. For children who
82 have attained six years of age but have not attained

19 nineteen years of age, the family support division shall use
20 an income assessment methodology which provides for
21 eligibility when family income is equal to or less than
22 equal to one hundred percent of the federal poverty level
23 established by the Department of Health and Human Services,
24 or its successor agency. As necessary to provide MO
25 HealthNet coverage under this subdivision, the department of
26 social services may revise the state MO HealthNet plan to
27 extend coverage under 42 U.S.C. Section
28 1396a(a)(10)(A)(i)(III) to children who have attained six
29 years of age but have not attained nineteen years of age as
30 permitted by paragraph (2) of subsection (n) of 42 U.S.C.
31 Section 1396d using a more liberal income assessment
32 methodology as authorized by paragraph (2) of subsection (r)
33 of 42 U.S.C. Section 1396a;

34 (15) The family support division shall not establish a
35 resource eligibility standard in assessing eligibility for
36 persons under subdivision (12), (13) or (14) of this
37 subsection. The MO HealthNet division shall define the
38 amount and scope of benefits which are available to
39 individuals eligible under each of the subdivisions (12),
40 (13), and (14) of this subsection, in accordance with the
41 requirements of federal law and regulations promulgated
42 thereunder;

43 (16) Notwithstanding any other provisions of law to
44 the contrary, ambulatory prenatal care shall be made
45 available to pregnant women during a period of presumptive
46 eligibility pursuant to 42 U.S.C. Section 1396r-1, as
47 amended;

48 (17) A child born to a woman eligible for and
49 receiving MO HealthNet benefits under this section on the
50 date of the child's birth shall be deemed to have applied

for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) of this subsection shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy. Pregnant women receiving mental health treatment for postpartum depression or related mental health conditions within sixty days of giving birth shall, subject to appropriations and any necessary federal

approval, be eligible for MO HealthNet benefits for mental health services for the treatment of postpartum depression and related mental health conditions for up to twelve additional months. Pregnant women receiving substance abuse treatment within sixty days of giving birth shall, subject to appropriations and any necessary federal approval, be eligible for MO HealthNet benefits for substance abuse treatment and mental health services for the treatment of substance abuse for no more than twelve additional months, as long as the woman remains adherent with treatment. The department of mental health and the department of social services shall seek any necessary waivers or state plan amendments from the Centers for Medicare and Medicaid Services and shall develop rules relating to treatment plan adherence. No later than fifteen months after receiving any necessary waiver, the department of mental health and the department of social services shall report to the house of representatives budget committee and the senate appropriations committee on the compliance with federal cost neutrality requirements;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the

department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of intellectual disability and developmental disability program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the

241 requirements of paragraph (d) of subdivision (1) of section
242 208.150;

243 (24) (a) All persons who would be determined to be
244 eligible for old age assistance benefits under the
245 eligibility standards in effect December 31, 1973, as
246 authorized by 42 U.S.C. Section 1396a(f), or less
247 restrictive methodologies as contained in the MO HealthNet
248 state plan as of January 1, 2005; except that, on or after
249 July 1, 2005, less restrictive income methodologies, as
250 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to
251 change the income limit if authorized by annual
252 appropriation;

253 (b) All persons who would be determined to be eligible
254 for aid to the blind benefits under the eligibility
255 standards in effect December 31, 1973, as authorized by 42
256 U.S.C. Section 1396a(f), or less restrictive methodologies
257 as contained in the MO HealthNet state plan as of January 1,
258 2005, except that less restrictive income methodologies, as
259 authorized in 42 U.S.C. Section 1396a(r)(2), shall be used
260 to raise the income limit to one hundred percent of the
261 federal poverty level;

262 (c) All persons who would be determined to be eligible
263 for permanent and total disability benefits under the
264 eligibility standards in effect December 31, 1973, as
265 authorized by 42 U.S.C. Section 1396a(f); or less
266 restrictive methodologies as contained in the MO HealthNet
267 state plan as of January 1, 2005; except that, on or after
268 July 1, 2005, less restrictive income methodologies, as
269 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to
270 change the income limit if authorized by annual
271 appropriations. Eligibility standards for permanent and
272 total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. Section 1396a(a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. Section 1396r-1;

(26) Persons who are in foster care under the responsibility of the state of Missouri on the date such persons attained the age of eighteen years, or at any time during the thirty-day period preceding their eighteenth birthday, or persons who received foster care for at least six months in another state, are residing in Missouri, and are at least eighteen years of age, without regard to income or assets, if such persons:

(a) Are under twenty-six years of age;

(b) Are not eligible for coverage under another mandatory coverage group; and

(c) Were covered by Medicaid while they were in foster care;

(27) Any homeless child or homeless youth, as those terms are defined in section 167.020, subject to approval of a state plan amendment by the Centers for Medicare and Medicaid Services;

(28) (a) Beginning on the effective date of this act, pregnant women who are eligible for, have applied for, and have received MO HealthNet benefits under subdivision (2), (10), (11), or (12) of this subsection shall be eligible for medical assistance during the pregnancy and during the twelve-month period that begins on the last day of the woman's pregnancy and ends on the last day of the month in which such twelve-month period ends, consistent with the provisions of 42 U.S.C. Section 1396a(e)(16). The department shall submit a state plan amendment to the

Centers for Medicare and Medicaid Services within sixty days of the effective date of this act;

(b) The provisions of this subdivision shall remain in effect for any period of time during which the federal authority under 42 U.S.C. Section 1396a(e)(16), as amended, or any successor statutes or implementing regulations, is in effect.

2. Rules and regulations to implement this section shall be promulgated in accordance with chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. Section 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. Section 601, et seq., as

337 amended, in at least three of the six months immediately
338 preceding the month in which such family becomes ineligible
339 for such aid, because of hours of employment or income from
340 employment of the caretaker relative, shall remain eligible
341 for MO HealthNet benefits for six calendar months following
342 the month of such ineligibility as long as such family
343 includes a child as provided in 42 U.S.C. Section 1396r-6.
344 Each family which has received such medical assistance
345 during the entire six-month period described in this section
346 and which meets reporting requirements and income tests
347 established by the division and continues to include a child
348 as provided in 42 U.S.C. Section 1396r-6 shall receive MO
349 HealthNet benefits without fee for an additional six
350 months. The MO HealthNet division may provide by rule and
351 as authorized by annual appropriation the scope of MO
352 HealthNet coverage to be granted to such families.

353 4. When any individual has been determined to be
354 eligible for MO HealthNet benefits, such medical assistance
355 will be made available to him or her for care and services
356 furnished in or after the third month before the month in
357 which he made application for such assistance if such
358 individual was, or upon application would have been,
359 eligible for such assistance at the time such care and
360 services were furnished; provided, further, that such
361 medical expenses remain unpaid.

362 5. The department of social services may apply to the
363 federal Department of Health and Human Services for a MO
364 HealthNet waiver amendment to the Section 1115 demonstration
365 waiver or for any additional MO HealthNet waivers necessary
366 not to exceed one million dollars in additional costs to the
367 state, unless subject to appropriation or directed by
368 statute, but in no event shall such waiver applications or

369 amendments seek to waive the services of a rural health
370 clinic or a federally qualified health center as defined in
371 42 U.S.C. Section 1396d(1)(1) and (2) or the payment
372 requirements for such clinics and centers as provided in 42
373 U.S.C. Section 1396a(a)(15) and 1396a(bb) unless such waiver
374 application is approved by the oversight committee created
375 in section 208.955. A request for such a waiver so
376 submitted shall only become effective by executive order not
377 sooner than ninety days after the final adjournment of the
378 session of the general assembly to which it is submitted,
379 unless it is disapproved within sixty days of its submission
380 to a regular session by a senate or house resolution adopted
381 by a majority vote of the respective elected members
382 thereof, unless the request for such a waiver is made
383 subject to appropriation or directed by statute.

384 6. Notwithstanding any other provision of law to the
385 contrary, in any given fiscal year, any persons made
386 eligible for MO HealthNet benefits under subdivisions (1) to
387 (22) of subsection 1 of this section shall only be eligible
388 if annual appropriations are made for such eligibility.
389 This subsection shall not apply to classes of individuals
390 listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

391 7. (1) Notwithstanding any provision of law to the
392 contrary, a military service member, or an immediate family
393 member residing with such military service member, who is a
394 legal resident of this state and is eligible for MO
395 HealthNet developmental disability services, shall have his
396 or her eligibility for MO HealthNet developmental disability
397 services temporarily suspended for any period of time during
398 which such person temporarily resides outside of this state
399 for reasons relating to military service, but shall have his

400 or her eligibility immediately restored upon returning to
401 this state to reside.

402 (2) Notwithstanding any provision of law to the
403 contrary, if a military service member, or an immediate
404 family member residing with such military service member, is
405 not a legal resident of this state, but would otherwise be
406 eligible for MO HealthNet developmental disability services,
407 such individual shall be deemed eligible for MO HealthNet
408 developmental disability services for the duration of any
409 time in which such individual is temporarily present in this
410 state for reasons relating to military service.

208.662. 1. There is hereby established within the
2 department of social services the "Show-Me Healthy Babies
3 Program" as a separate children's health insurance program
4 (CHIP) for any low-income unborn child. The program shall
5 be established under the authority of Title XXI of the
6 federal Social Security Act, the State Children's Health
7 Insurance Program, as amended, and 42 CFR 457.1.

8 2. For an unborn child to be enrolled in the show-me
9 healthy babies program, his or her mother shall not be
10 eligible for coverage under Title XIX of the federal Social
11 Security Act, the Medicaid program, as it is administered by
12 the state, and shall not have access to affordable employer-
13 subsidized health care insurance or other affordable health
14 care coverage that includes coverage for the unborn child.
15 In addition, the unborn child shall be in a family with
16 income eligibility of no more than three hundred percent of
17 the federal poverty level, or the equivalent modified
18 adjusted gross income, unless the income eligibility is set
19 lower by the general assembly through appropriations. In
20 calculating family size as it relates to income eligibility,
21 the family shall include, in addition to other family

members, the unborn child, or in the case of a mother with a multiple pregnancy, all unborn children.

3. Coverage for an unborn child enrolled in the show-me healthy babies program shall include all prenatal care and pregnancy-related services that benefit the health of the unborn child and that promote healthy labor, delivery, and birth. Coverage need not include services that are solely for the benefit of the pregnant mother, that are unrelated to maintaining or promoting a healthy pregnancy, and that provide no benefit to the unborn child. However, the department may include pregnancy-related assistance as defined in 42 U.S.C. Section 139711.

4. There shall be no waiting period before an unborn child may be enrolled in the show-me healthy babies program. In accordance with the definition of child in 42 CFR 457.10, coverage shall include the period from conception to birth. The department shall develop a presumptive eligibility procedure for enrolling an unborn child. There shall be verification of the pregnancy.

5. Coverage for the child shall continue for up to one year after birth, unless otherwise prohibited by law or unless otherwise limited by the general assembly through appropriations.

6. **(1)** Pregnancy-related and postpartum coverage for the mother shall begin on the day the pregnancy ends and extend through the last day of the month that includes the sixtieth day after the pregnancy ends, unless otherwise prohibited by law or unless otherwise limited by the general assembly through appropriations. The department may include pregnancy-related assistance as defined in 42 U.S.C. Section 139711.

53 (2) Beginning on the effective date of this act,
54 mothers eligible to receive coverage under this section
55 shall receive medical assistance benefits during the
56 pregnancy and during the twelve-month period that begins on
57 the last day of the woman's pregnancy and ends on the last
58 day of the month in which such twelve-month period ends,
59 consistent with the provisions of 42 U.S.C. Section
60 1397gg(e)(1)(J). The department shall seek any necessary
61 state plan amendments or waivers to implement the provisions
62 of this subdivision within sixty days of the effective date
63 of this act. The provisions of this subdivision shall
64 remain in effect for any period of time during which the
65 federal authority under 42 U.S.C. Section 1397gg(e)(1)(J),
66 as amended, or any successor statutes or implementing
67 regulations, is in effect.

68 7. The department shall provide coverage for an unborn
69 child enrolled in the show-me healthy babies program in the
70 same manner in which the department provides coverage for
71 the children's health insurance program (CHIP) in the county
72 of the primary residence of the mother.

73 8. The department shall provide information about the
74 show-me healthy babies program to maternity homes as defined
75 in section 135.600, pregnancy resource centers as defined in
76 section 135.630, and other similar agencies and programs in
77 the state that assist unborn children and their mothers.
78 The department shall consider allowing such agencies and
79 programs to assist in the enrollment of unborn children in
80 the program, and in making determinations about presumptive
81 eligibility and verification of the pregnancy.

82 9. Within sixty days after August 28, 2014, the
83 department shall submit a state plan amendment or seek any
84 necessary waivers from the federal Department of Health and

85 Human Services requesting approval for the show-me healthy
86 babies program.

87 10. At least annually, the department shall prepare
88 and submit a report to the governor, the speaker of the
89 house of representatives, and the president pro tempore of
90 the senate analyzing and projecting the cost savings and
91 benefits, if any, to the state, counties, local communities,
92 school districts, law enforcement agencies, correctional
93 centers, health care providers, employers, other public and
94 private entities, and persons by enrolling unborn children
95 in the show-me healthy babies program. The analysis and
96 projection of cost savings and benefits, if any, may include
97 but need not be limited to:

98 (1) The higher federal matching rate for having an
99 unborn child enrolled in the show-me healthy babies program
100 versus the lower federal matching rate for a pregnant woman
101 being enrolled in MO HealthNet or other federal programs;

102 (2) The efficacy in providing services to unborn
103 children through managed care organizations, group or
104 individual health insurance providers or premium assistance,
105 or through other nontraditional arrangements of providing
106 health care;

107 (3) The change in the proportion of unborn children
108 who receive care in the first trimester of pregnancy due to
109 a lack of waiting periods, by allowing presumptive
110 eligibility, or by removal of other barriers, and any
111 resulting or projected decrease in health problems and other
112 problems for unborn children and women throughout pregnancy;
113 at labor, delivery, and birth; and during infancy and
114 childhood;

115 (4) The change in healthy behaviors by pregnant women,
116 such as the cessation of the use of tobacco, alcohol,

117 illicit drugs, or other harmful practices, and any resulting
118 or projected short-term and long-term decrease in birth
119 defects; poor motor skills; vision, speech, and hearing
120 problems; breathing and respiratory problems; feeding and
121 digestive problems; and other physical, mental, educational,
122 and behavioral problems; and

123 (5) The change in infant and maternal mortality,
124 preterm births and low birth weight babies and any resulting
125 or projected decrease in short-term and long-term medical
126 and other interventions.

127 11. The show-me healthy babies program shall not be
128 deemed an entitlement program, but instead shall be subject
129 to a federal allotment or other federal appropriations and
130 matching state appropriations.

131 12. Nothing in this section shall be construed as
132 obligating the state to continue the show-me healthy babies
133 program if the allotment or payments from the federal
134 government end or are not sufficient for the program to
135 operate, or if the general assembly does not appropriate
136 funds for the program.

137 13. Nothing in this section shall be construed as
138 expanding MO HealthNet or fulfilling a mandate imposed by
139 the federal government on the state.

Section B. Because of the importance of ensuring
2 healthy pregnancies and healthy women and children in
3 Missouri in the face of growing maternal mortality, section
4 A of this act is deemed necessary for the immediate
5 preservation of the public health, welfare, peace, and
6 safety, and is hereby declared to be an emergency act within
7 the meaning of the constitution, and section A of this act

8 shall be in full force and effect upon its passage and
9 approval.

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