3302S01.02S

SENATE AMENDMENT NO. 1

Offered by EIGEL of 23

Amend Senate Bill No. 748, Page 1, Section TITLE, Line 5,

2 by striking "reimbursement allowance taxes" and inserting in
3 lieu thereof the following: "MO HealthNet"; and
4 Further amend said bill and page, Section 198.439, line 2, by
5 inserting after all of said line the following:
6 "208.152. 1. MO HealthNet payments shall be made on
7 behalf of those eligible needy persons as described in
8 section 208.151 who are unable to provide for it in whole or
9 in part, with any payments to be made on the basis of the
10 reasonable cost of the care or reasonable charge for the
11 services as defined and determined by the MO HealthNet
12 division, unless otherwise hereinafter provided, for the
13 following:
14 (1) Inpatient hospital services, except to persons in
15 an institution for mental diseases who are under the age of
16 sixty-five years and over the age of twenty-one years;
17 provided that the MO HealthNet division shall provide
18 through rule and regulation an exception process for
19 coverage of inpatient costs in those cases requiring
20 treatment beyond the seventy-fifth percentile professional
21 activities study (PAS) or the MO HealthNet children's
22 diagnosis length-of-stay schedule; and provided further that
23 the MO HealthNet division shall take into account through
24 its payment system for hospital services the situation of
25 hospitals which serve a disproportionate number of low-
26 income patients;

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27 (2) All outpatient hospital services, payments
28 therefor to be in amounts which represent no more than
29 eighty percent of the lesser of reasonable costs or
30 customary charges for such services, determined in
31 accordance with the principles set forth in Title XVIII A
32 and B, Public Law 89-97, 1965 amendments to the federal
33 Social Security Act (42 U.S.C. Section 301, et seq.), but
34 the MO HealthNet division may evaluate outpatient hospital
35 services rendered under this section and deny payment for
36 services which are determined by the MO HealthNet division
37 not to be medically necessary, in accordance with federal
38 law and regulations;
39 (3) Laboratory and X-ray services;
40 (4) Nursing home services for participants, except to
41 persons with more than five hundred thousand dollars equity
42 in their home or except for persons in an institution for
43 mental diseases who are under the age of sixty-five years,
44 when residing in a hospital licensed by the department of
45 health and senior services or a nursing home licensed by the
46 department of health and senior services or appropriate
47 licensing authority of other states or government-owned and -
48 operated institutions which are determined to conform to
49 standards equivalent to licensing requirements in Title XIX
50 of the federal Social Security Act (42 U.S.C. Section 301,
51 et seq.), as amended, for nursing facilities. The MO
52 HealthNet division may recognize through its payment
53 methodology for nursing facilities those nursing facilities
54 which serve a high volume of MO HealthNet patients. The MO
55 HealthNet division when determining the amount of the
56 benefit payments to be made on behalf of persons under the
57 age of twenty-one in a nursing facility may consider nursing
58 facilities furnishing care to persons under the age of

59 twenty-one as a classification separate from other nursing
60 facilities;
61 (5) Nursing home costs for participants receiving
62 benefit payments under subdivision (4) of this subsection
63 for those days, which shall not exceed twelve per any period
64 of six consecutive months, during which the participant is
65 on a temporary leave of absence from the hospital or nursing
66 home, provided that no such participant shall be allowed a
67 temporary leave of absence unless it is specifically
68 provided for in his plan of care. As used in this
69 subdivision, the term "temporary leave of absence" shall
70 include all periods of time during which a participant is
71 away from the hospital or nursing home overnight because he
72 is visiting a friend or relative;
73 (6) Physicians' services, whether furnished in the
74 office, home, hospital, nursing home, or elsewhere;
75 (7) Subject to appropriation, up to twenty visits per
76 year for services limited to examinations, diagnoses,
77 adjustments, and manipulations and treatments of
78 malpositioned articulations and structures of the body
79 provided by licensed chiropractic physicians practicing
80 within their scope of practice. Nothing in this subdivision
81 shall be interpreted to otherwise expand MO HealthNet
82 services;
83 (8) Drugs and medicines when prescribed by a licensed
84 physician, dentist, podiatrist, or an advanced practice
85 registered nurse; except that no payment for drugs and
86 medicines prescribed on and after January 1, 2006, by a
87 licensed physician, dentist, podiatrist, or an advanced
88 practice registered nurse may be made on behalf of any
89 person who qualifies for prescription drug coverage under
90 the provisions of P.L. 108-173;

91 (9) Emergency ambulance services and, effective
92 January 1, 1990, medically necessary transportation to
93 scheduled, physician-prescribed nonelective treatments;
94 (10) Early and periodic screening and diagnosis of
95 individuals who are under the age of twenty-one to ascertain
96 their physical or mental defects, and health care,
97 treatment, and other measures to correct or ameliorate
98 defects and chronic conditions discovered thereby. Such
99 services shall be provided in accordance with the provisions
100 of Section 6403 of P.L. 101-239 and federal regulations
101 promulgated thereunder;
102 (11) Home health care services;
103 (12) Family planning as defined by federal rules and
104 regulations; provided, however, that such family planning
105 services shall not include abortions or any abortifacient
106 drug or device that is used for the purpose of inducing an
107 abortion unless such abortions are certified in writing by a
108 physician to the MO HealthNet agency that, in the
109 physician's professional judgment, the life of the mother
110 would be endangered if the fetus were carried to term;
111 (13) Inpatient psychiatric hospital services for
112 individuals under age twenty-one as defined in Title XIX of
113 the federal Social Security Act (42 U.S.C. Section 1396d, et
114 seq.);
115 (14) Outpatient surgical procedures, including
116 presurgical diagnostic services performed in ambulatory
117 surgical facilities which are licensed by the department of
118 health and senior services of the state of Missouri; except,
119 that such outpatient surgical services shall not include
120 persons who are eligible for coverage under Part B of Title
121 XVIII, Public Law 89-97, 1965 amendments to the federal
122 Social Security Act, as amended, if exclusion of such

123 persons is permitted under Title XIX, Public Law 89-97, 1965
124 amendments to the federal Social Security Act, as amended;
125 (15) Personal care services which are medically
126 oriented tasks having to do with a person's physical
127 requirements, as opposed to housekeeping requirements, which
128 enable a person to be treated by his or her physician on an
129 outpatient rather than on an inpatient or residential basis
130 in a hospital, intermediate care facility, or skilled
131 nursing facility. Personal care services shall be rendered
132 by an individual not a member of the participant's family
133 who is qualified to provide such services where the services
134 are prescribed by a physician in accordance with a plan of
135 treatment and are supervised by a licensed nurse. Persons
136 eligible to receive personal care services shall be those
137 persons who would otherwise require placement in a hospital,
138 intermediate care facility, or skilled nursing facility.
139 Benefits payable for personal care services shall not exceed
140 for any one participant one hundred percent of the average
141 statewide charge for care and treatment in an intermediate
142 care facility for a comparable period of time. Such
143 services, when delivered in a residential care facility or
144 assisted living facility licensed under chapter 198 shall be
145 authorized on a tier level based on the services the
146 resident requires and the frequency of the services. A
147 resident of such facility who qualifies for assistance under
148 section 208.030 shall, at a minimum, if prescribed by a
149 physician, qualify for the tier level with the fewest
150 services. The rate paid to providers for each tier of
151 service shall be set subject to appropriations. Subject to
152 appropriations, each resident of such facility who qualifies
153 for assistance under section 208.030 and meets the level of
154 care required in this section shall, at a minimum, if
155 prescribed by a physician, be authorized up to one hour of

156 personal care services per day. Authorized units of
157 personal care services shall not be reduced or tier level
158 lowered unless an order approving such reduction or lowering
159 is obtained from the resident's personal physician. Such
160 authorized units of personal care services or tier level
161 shall be transferred with such resident if he or she
162 transfers to another such facility. Such provision shall
163 terminate upon receipt of relevant waivers from the federal
164 Department of Health and Human Services. If the Centers for
165 Medicare and Medicaid Services determines that such
166 provision does not comply with the state plan, this
167 provision shall be null and void. The MO HealthNet division
168 shall notify the revisor of statutes as to whether the
169 relevant waivers are approved or a determination of
170 noncompliance is made;
171 (16) Mental health services. The state plan for
172 providing medical assistance under Title XIX of the Social
173 Security Act, 42 U.S.C. Section 301, as amended, shall
174 include the following mental health services when such
175 services are provided by community mental health facilities
176 operated by the department of mental health or designated by
177 the department of mental health as a community mental health
178 facility or as an alcohol and drug abuse facility or as a
179 child-serving agency within the comprehensive children's
180 mental health service system established in section
181 630.097. The department of mental health shall establish by
182 administrative rule the definition and criteria for
183 designation as a community mental health facility and for
184 designation as an alcohol and drug abuse facility. Such
185 mental health services shall include:
186 (a) Outpatient mental health services including
187 preventive, diagnostic, therapeutic, rehabilitative, and
188 palliative interventions rendered to individuals in an

189 individual or group setting by a mental health professional
190 in accordance with a plan of treatment appropriately
191 established, implemented, monitored, and revised under the
192 auspices of a therapeutic team as a part of client services
193 management;
194 (b) Clinic mental health services including
195 preventive, diagnostic, therapeutic, rehabilitative, and
196 palliative interventions rendered to individuals in an
197 individual or group setting by a mental health professional
198 in accordance with a plan of treatment appropriately
199 established, implemented, monitored, and revised under the
200 auspices of a therapeutic team as a part of client services
201 management;
202 (c) Rehabilitative mental health and alcohol and drug
203 abuse services including home and community-based
204 preventive, diagnostic, therapeutic, rehabilitative, and
205 palliative interventions rendered to individuals in an
206 individual or group setting by a mental health or alcohol
207 and drug abuse professional in accordance with a plan of
208 treatment appropriately established, implemented, monitored,
209 and revised under the auspices of a therapeutic team as a
210 part of client services management. As used in this
211 section, mental health professional and alcohol and drug
212 abuse professional shall be defined by the department of
213 mental health pursuant to duly promulgated rules. With
214 respect to services established by this subdivision, the
215 department of social services, MO HealthNet division, shall
216 enter into an agreement with the department of mental
217 health. Matching funds for outpatient mental health
218 services, clinic mental health services, and rehabilitation
219 services for mental health and alcohol and drug abuse shall
220 be certified by the department of mental health to the MO
221 HealthNet division. The agreement shall establish a

222 mechanism for the joint implementation of the provisions of
223 this subdivision. In addition, the agreement shall
224 establish a mechanism by which rates for services may be
225 jointly developed;
226 (17) Such additional services as defined by the MO
227 HealthNet division to be furnished under waivers of federal
228 statutory requirements as provided for and authorized by the
229 federal Social Security Act (42 U.S.C. Section 301, et seq.)
230 subject to appropriation by the general assembly;
231 (18) The services of an advanced practice registered
232 nurse with a collaborative practice agreement to the extent
233 that such services are provided in accordance with chapters
234 334 and 335, and regulations promulgated thereunder;
235 (19) Nursing home costs for participants receiving
236 benefit payments under subdivision (4) of this subsection to
237 reserve a bed for the participant in the nursing home during
238 the time that the participant is absent due to admission to
239 a hospital for services which cannot be performed on an
240 outpatient basis, subject to the provisions of this
241 subdivision:
242 (a) The provisions of this subdivision shall apply
243 only if:
244 a. The occupancy rate of the nursing home is at or
245 above ninety-seven percent of MO HealthNet certified
246 licensed beds, according to the most recent quarterly census
247 provided to the department of health and senior services
248 which was taken prior to when the participant is admitted to
249 the hospital; and
250 b. The patient is admitted to a hospital for a medical
251 condition with an anticipated stay of three days or less;
252 (b) The payment to be made under this subdivision
253 shall be provided for a maximum of three days per hospital
254 stay;

255 (c) For each day that nursing home costs are paid on
256 behalf of a participant under this subdivision during any
257 period of six consecutive months such participant shall,
258 during the same period of six consecutive months, be
259 ineligible for payment of nursing home costs of two
260 otherwise available temporary leave of absence days provided
261 under subdivision (5) of this subsection; and
262 (d) The provisions of this subdivision shall not apply
263 unless the nursing home receives notice from the participant
264 or the participant's responsible party that the participant
265 intends to return to the nursing home following the hospital
266 stay. If the nursing home receives such notification and
267 all other provisions of this subsection have been satisfied,
268 the nursing home shall provide notice to the participant or
269 the participant's responsible party prior to release of the
270 reserved bed;
271 (20) Prescribed medically necessary durable medical
272 equipment. An electronic web-based prior authorization
273 system using best medical evidence and care and treatment
274 guidelines consistent with national standards shall be used
275 to verify medical need;
276 (21) Hospice care. As used in this subdivision, the
277 term "hospice care" means a coordinated program of active
278 professional medical attention within a home, outpatient and
279 inpatient care which treats the terminally ill patient and
280 family as a unit, employing a medically directed
281 interdisciplinary team. The program provides relief of
282 severe pain or other physical symptoms and supportive care
283 to meet the special needs arising out of physical,
284 psychological, spiritual, social, and economic stresses
285 which are experienced during the final stages of illness,
286 and during dying and bereavement and meets the Medicare
287 requirements for participation as a hospice as are provided

288 in 42 CFR Part 418. The rate of reimbursement paid by the
289 MO HealthNet division to the hospice provider for room and
290 board furnished by a nursing home to an eligible hospice
291 patient shall not be less than ninety-five percent of the
292 rate of reimbursement which would have been paid for
293 facility services in that nursing home facility for that
294 patient, in accordance with subsection (c) of Section 6408
295 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);
296 (22) Prescribed medically necessary dental services.
297 Such services shall be subject to appropriations. An
298 electronic web-based prior authorization system using best
299 medical evidence and care and treatment guidelines
300 consistent with national standards shall be used to verify
301 medical need;
302 (23) Prescribed medically necessary optometric
303 services. Such services shall be subject to
304 appropriations. An electronic web-based prior authorization
305 system using best medical evidence and care and treatment
306 guidelines consistent with national standards shall be used
307 to verify medical need;
308 (24) Blood clotting products-related services. For
309 persons diagnosed with a bleeding disorder, as defined in
310 section 338.400, reliant on blood clotting products, as
311 defined in section 338.400, such services include:
312 (a) Home delivery of blood clotting products and
313 ancillary infusion equipment and supplies, including the
314 emergency deliveries of the product when medically necessary;
315 (b) Medically necessary ancillary infusion equipment
316 and supplies required to administer the blood clotting
317 products; and
318 (c) Assessments conducted in the participant's home by
319 a pharmacist, nurse, or local home health care agency

320 trained in bleeding disorders when deemed necessary by the
321 participant's treating physician;
322 (25) The MO HealthNet division shall, by January 1,
323 2008, and annually thereafter, report the status of MO
324 HealthNet provider reimbursement rates as compared to one
325 hundred percent of the Medicare reimbursement rates and
326 compared to the average dental reimbursement rates paid by
327 third-party payors licensed by the state. The MO HealthNet
328 division shall, by July 1, 2008, provide to the general
329 assembly a four-year plan to achieve parity with Medicare
330 reimbursement rates and for third-party payor average dental
331 reimbursement rates. Such plan shall be subject to
332 appropriation and the division shall include in its annual
333 budget request to the governor the necessary funding needed
334 to complete the four-year plan developed under this
335 subdivision.
336 2. Additional benefit payments for medical assistance
337 shall be made on behalf of those eligible needy children,
338 pregnant women and blind persons with any payments to be
339 made on the basis of the reasonable cost of the care or
340 reasonable charge for the services as defined and determined
341 by the MO HealthNet division, unless otherwise hereinafter
342 provided, for the following:
343 (1) Dental services;
344 (2) Services of podiatrists as defined in section
345 330.010;
346 (3) Optometric services as described in section
347 336.010;
348 (4) Orthopedic devices or other prosthetics, including
349 eye glasses, dentures, hearing aids, and wheelchairs;
350 (5) Hospice care. As used in this subdivision, the
351 term "hospice care" means a coordinated program of active
352 professional medical attention within a home, outpatient and

353 inpatient care which treats the terminally ill patient and
354 family as a unit, employing a medically directed
355 interdisciplinary team. The program provides relief of
356 severe pain or other physical symptoms and supportive care
357 to meet the special needs arising out of physical,
358 psychological, spiritual, social, and economic stresses
359 which are experienced during the final stages of illness,
360 and during dying and bereavement and meets the Medicare
361 requirements for participation as a hospice as are provided
362 in 42 CFR Part 418. The rate of reimbursement paid by the
363 MO HealthNet division to the hospice provider for room and
364 board furnished by a nursing home to an eligible hospice
365 patient shall not be less than ninety-five percent of the
366 rate of reimbursement which would have been paid for
367 facility services in that nursing home facility for that
368 patient, in accordance with subsection (c) of Section 6408
369 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);
370 (6) Comprehensive day rehabilitation services
371 beginning early posttrauma as part of a coordinated system
372 of care for individuals with disabling impairments.
373 Rehabilitation services must be based on an individualized,
374 goal-oriented, comprehensive and coordinated treatment plan
375 developed, implemented, and monitored through an
376 interdisciplinary assessment designed to restore an
377 individual to optimal level of physical, cognitive, and
378 behavioral function. The MO HealthNet division shall
379 establish by administrative rule the definition and criteria
380 for designation of a comprehensive day rehabilitation
381 service facility, benefit limitations and payment
382 mechanism. Any rule or portion of a rule, as that term is
383 defined in section 536.010, that is created under the
384 authority delegated in this subdivision shall become
385 effective only if it complies with and is subject to all of

386 the provisions of chapter 536 and, if applicable, section
387 536.028. This section and chapter 536 are nonseverable and
388 if any of the powers vested with the general assembly
389 pursuant to chapter 536 to review, to delay the effective
390 date, or to disapprove and annul a rule are subsequently
391 held unconstitutional, then the grant of rulemaking
392 authority and any rule proposed or adopted after August 28,
393 2005, shall be invalid and void.
394 3. The MO HealthNet division may require any
395 participant receiving MO HealthNet benefits to pay part of
396 the charge or cost until July 1, 2008, and an additional
397 payment after July 1, 2008, as defined by rule duly
398 promulgated by the MO HealthNet division, for all covered
399 services except for those services covered under
400 subdivisions (15) and (16) of subsection 1 of this section
401 and sections 208.631 to 208.657 to the extent and in the
402 manner authorized by Title XIX of the federal Social
403 Security Act (42 U.S.C. Section 1396, et seq.) and
404 regulations thereunder. When substitution of a generic drug
405 is permitted by the prescriber according to section 338.056,
406 and a generic drug is substituted for a name-brand drug, the
407 MO HealthNet division may not lower or delete the
408 requirement to make a co-payment pursuant to regulations of
409 Title XIX of the federal Social Security Act. A provider of
410 goods or services described under this section must collect
411 from all participants the additional payment that may be
412 required by the MO HealthNet division under authority
413 granted herein, if the division exercises that authority, to
414 remain eligible as a provider. Any payments made by
415 participants under this section shall be in addition to and
416 not in lieu of payments made by the state for goods or
417 services described herein except the participant portion of
418 the pharmacy professional dispensing fee shall be in

419 addition to and not in lieu of payments to pharmacists. A
420 provider may collect the co-payment at the time a service is
421 provided or at a later date. A provider shall not refuse to
422 provide a service if a participant is unable to pay a
423 required payment. If it is the routine business practice of
424 a provider to terminate future services to an individual
425 with an unclaimed debt, the provider may include uncollected
426 co-payments under this practice. Providers who elect not to
427 undertake the provision of services based on a history of
428 bad debt shall give participants advance notice and a
429 reasonable opportunity for payment. A provider,
430 representative, employee, independent contractor, or agent
431 of a pharmaceutical manufacturer shall not make co-payment
432 for a participant. This subsection shall not apply to other
433 qualified children, pregnant women, or blind persons. If
434 the Centers for Medicare and Medicaid Services does not
435 approve the MO HealthNet state plan amendment submitted by
436 the department of social services that would allow a
437 provider to deny future services to an individual with
438 uncollected co-payments, the denial of services shall not be
439 allowed. The department of social services shall inform
440 providers regarding the acceptability of denying services as
441 the result of unpaid co-payments.
442 4. The MO HealthNet division shall have the right to
443 collect medication samples from participants in order to
444 maintain program integrity.
445 5. Reimbursement for obstetrical and pediatric
446 services under subdivision (6) of subsection 1 of this
447 section shall be timely and sufficient to enlist enough
448 health care providers so that care and services are
449 available under the state plan for MO HealthNet benefits at
450 least to the extent that such care and services are
451 available to the general population in the geographic area,

452 as required under subparagraph (a)(30)(A) of 42 U.S.C.
453 Section 1396a and federal regulations promulgated thereunder.
454 6. Beginning July 1, 1990, reimbursement for services
455 rendered in federally funded health centers shall be in
456 accordance with the provisions of subsection 6402(c) and
457 Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation
458 Act of 1989) and federal regulations promulgated thereunder.
459 7. Beginning July 1, 1990, the department of social
460 services shall provide notification and referral of children
461 below age five, and pregnant, breast-feeding, or postpartum
462 women who are determined to be eligible for MO HealthNet
463 benefits under section 208.151 to the special supplemental
464 food programs for women, infants and children administered
465 by the department of health and senior services. Such
466 notification and referral shall conform to the requirements
467 of Section 6406 of P.L. 101-239 and regulations promulgated
468 thereunder.
469 8. Providers of long-term care services shall be
470 reimbursed for their costs in accordance with the provisions
471 of Section 1902 (a)(13)(A) of the Social Security Act, 42
472 U.S.C. Section 1396a, as amended, and regulations
473 promulgated thereunder.
474 9. Reimbursement rates to long-term care providers
475 with respect to a total change in ownership, at arm's
476 length, for any facility previously licensed and certified
477 for participation in the MO HealthNet program shall not
478 increase payments in excess of the increase that would
479 result from the application of Section 1902 (a)(13)(C) of
480 the Social Security Act, 42 U.S.C. Section 1396a (a)(13)(C).
481 10. The MO HealthNet division may enroll qualified
482 residential care facilities and assisted living facilities,
483 as defined in chapter 198, as MO HealthNet personal care
484 providers.

485 11. Any income earned by individuals eligible for
486 certified extended employment at a sheltered workshop under
487 chapter 178 shall not be considered as income for purposes
488 of determining eligibility under this section.
489 12. If the Missouri Medicaid audit and compliance unit
490 changes any interpretation or application of the
491 requirements for reimbursement for MO HealthNet services
492 from the interpretation or application that has been applied
493 previously by the state in any audit of a MO HealthNet
494 provider, the Missouri Medicaid audit and compliance unit
495 shall notify all affected MO HealthNet providers five
496 business days before such change shall take effect. Failure
497 of the Missouri Medicaid audit and compliance unit to notify
498 a provider of such change shall entitle the provider to
499 continue to receive and retain reimbursement until such
500 notification is provided and shall waive any liability of
501 such provider for recoupment or other loss of any payments
502 previously made prior to the five business days after such
503 notice has been sent. Each provider shall provide the
504 Missouri Medicaid audit and compliance unit a valid email
505 address and shall agree to receive communications
506 electronically. The notification required under this
507 section shall be delivered in writing by the United States
508 Postal Service or electronic mail to each provider.
509 13. Nothing in this section shall be construed to
510 abrogate or limit the department's statutory requirement to
511 promulgate rules under chapter 536.
512 14. Beginning July 1, 2016, and subject to
513 appropriations, providers of behavioral, social, and
514 psychophysiological services for the prevention, treatment,
515 or management of physical health problems shall be
516 reimbursed utilizing the behavior assessment and
517 intervention reimbursement codes 96150 to 96154 or their

518 successor codes under the Current Procedural Terminology
519 (CPT) coding system. Providers eligible for such
520 reimbursement shall include psychologists.
521 15. There shall be no payments made under this section
522 for gender transition surgeries, cross-sex hormones, or
523 puberty-blocking drugs, as such terms are defined in section
524 191.1720, for the purpose of a gender transition.
525 16. Notwithstanding any provision of law to the
526 contrary, no MO HealthNet funds shall be expended to any
527 abortion facility, as defined in section 188.015, or to any
528 person who or entity that is an affiliate of any entity that
529 operates as an abortion facility in this or any other state
530 or that refers patients to an abortion facility."; and
531 Further amend the title and enacting clause accordingly.