

# SENATE BILL NO. 1568

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

6718S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 208.080 and 208.156, RSMo, and to enact in lieu thereof two new sections relating to administrative remedies in MO HealthNet cases.

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

Section A. Sections 208.080 and 208.156, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 208.080 and 208.156, to read as follows:

208.080. 1. Any applicant for or recipient of  
2 benefits or services provided by law by the family support  
3 division, children's division, [or] MO HealthNet division,  
4 **or Missouri Medicaid audit and compliance unit** may appeal to  
5 the director of the respective division **or unit** from a  
6 decision in any of the following cases:

7 (1) If his or her right to make application for any  
8 such benefits or services is denied; or

9 (2) If his or her application is disallowed in whole  
10 or in part, or is not acted upon within a reasonable time  
11 after it is filed; or

12 (3) If it is proposed to cancel or modify benefits or  
13 services; or

14 (4) If he or she is adversely affected by any  
15 determination of the family support division, children's  
16 division, [or] MO HealthNet division, **or Missouri Medicaid**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 **audit and compliance unit** in the administration of the  
18 programs administered by such divisions **or unit**; or

19 (5) If a determination is made pursuant to subsection  
20 2 of section 208.180 that payment of benefits on behalf of a  
21 dependent child shall not be made to the relative with whom  
22 he or she lives.

23 2. If a division **or unit** proposes to terminate or  
24 modify the payment of benefits or the providing of services  
25 to the recipient or a division **or unit** has terminated or  
26 modified the payment of benefits or providing of services to  
27 the recipient and the recipient appeals, the decision of the  
28 director as to the eligibility of the recipient at the time  
29 such action was proposed or taken shall be based on the  
30 facts shown by the evidence presented at the hearing of the  
31 appeal to have existed at the time such action to terminate  
32 or modify was proposed or was taken.

33 3. In the case of a proposed action by the family  
34 support division, children's division, **[or]** MO HealthNet  
35 division, **or Missouri Medicaid audit and compliance unit** to  
36 reduce, modify, or discontinue benefits or services to a  
37 recipient, the recipient of such benefits or services shall  
38 have ten days from the date of the mailing of notice of the  
39 proposed action to reduce, modify, or discontinue benefits  
40 or services within which to request an appeal to the  
41 director of the division **or unit**. In the notice to the  
42 recipient of such proposed action, the appropriate division  
43 **or unit** shall notify the recipient of all his or her rights  
44 of appeal under this section. Proper blank forms for appeal  
45 to the director of the division **or unit** shall be furnished  
46 by the appropriate division **or unit** to any aggrieved  
47 recipient. Every such appeal to the director of the  
48 division **or unit** shall be transmitted by the appropriate

49 division **or unit** immediately upon the same being filed with  
50 the appropriate division **or unit**. If an appeal is  
51 requested, benefits or services shall continue undiminished  
52 or unchanged until such appeal is heard and a decision has  
53 been rendered thereon, except that in an aid to families  
54 with dependent children case the recipient may request that  
55 benefits or services not be continued undiminished or  
56 unchanged during the appeal.

57 4. When a case has been closed or modified and no  
58 appeal was requested prior to closing or modification, the  
59 recipient shall have ninety days from the date of closing or  
60 modification to request an appeal to the director of the  
61 division **or unit**. Each recipient who has not requested an  
62 appeal prior to the closing or modification of his or her  
63 case shall be notified at the time of such closing or  
64 modification of his or her right to request an appeal during  
65 this ninety-day period. Proper blank forms for requesting  
66 an appeal to the director of the division **or unit** shall be  
67 furnished by the appropriate division **or unit** to any  
68 aggrieved applicant. Every such request made in any manner  
69 for an appeal to the director of the division **or unit** shall  
70 be transmitted by the appropriate division **or unit** to the  
71 director of the division **or unit** immediately upon the same  
72 being filed with the appropriate division **or unit**. If an  
73 appeal is requested in the ninety-day period subsequent to  
74 the closing or modification, benefits or services shall not  
75 be continued at their prior level during the pendency of the  
76 appeal.

77 5. In the case of a rejection of an application for  
78 benefits or services, the aggrieved applicant shall have  
79 ninety days from the date of the notice of the action in  
80 which to request an appeal to the director of the division

81 **or unit.** In the rejection notice the applicant for benefits  
82 or services shall be notified of all of his or her rights of  
83 appeal under this section. Proper blank forms for  
84 requesting an appeal to the director of the division **or unit**  
85 shall be furnished by the appropriate division **or unit** to  
86 any aggrieved applicant. Any such request made in any  
87 manner for an appeal shall be transmitted by the appropriate  
88 division **or unit** to the director of the division **or unit**,  
89 immediately upon the same being filed with the appropriate  
90 division **or unit.**

91 6. If the division **or unit** has rejected an application  
92 for benefits or services and the applicant appeals, the  
93 decision of the director as to the eligibility of the  
94 applicant at the time such rejection was made shall be based  
95 upon the facts shown by the evidence presented at the  
96 hearing of the appeal to have existed at the time the  
97 rejection was made.

98 7. The director of the division **or unit** shall give the  
99 applicant for benefits or services or the recipient of  
100 benefits or services reasonable notice of, and an  
101 opportunity for, a fair hearing in the county of his or her  
102 residence at the time the adverse action was taken. The  
103 hearing shall be conducted by the director of the division  
104 **or unit** or such director's designee. Every applicant or  
105 recipient, on appeal to the director of the division **or**  
106 **unit**, shall be entitled to be present at the hearing, in  
107 person and by attorney or representative, and shall be  
108 entitled to introduce into the record of such hearing any  
109 and all evidence, by witnesses or otherwise, pertinent to  
110 such applicant's or recipient's eligibility between the time  
111 he or she applied for benefits or services and the time the  
112 application was denied or the benefits or services were

terminated or modified, and all such evidence shall be taken down, preserved, and shall become a part of the applicant's or recipient's appeal record. Upon the record so made, the director of the division **or unit** shall determine all questions presented by the appeal, and shall make such decision as to the granting of benefits or services as in his or her opinion is justified and is in conformity with the provisions of the law. The director shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

8. All appeal requests may initially be made orally or in any written form, but all such requests shall be transcribed on forms furnished by the division **or unit** and signed by the aggrieved applicant or recipient or his or her representative prior to the commencement of the hearing.

208.156. 1. The family support division or the MO HealthNet division shall provide for granting an opportunity for a fair hearing under section 208.080 to any applicant or recipient whose claim for medical assistance is denied or is not acted upon with reasonable promptness.

2. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 whose claim for reimbursement for such services is denied or is not acted upon with reasonable promptness shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

3. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is denied participation in any program or programs established under the provisions of

chapter 208 shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

4. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is aggrieved by any rule or regulation promulgated by the department of social services or any division **or unit** therein shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

5. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is aggrieved by any rule or regulation, contractual agreement, or decision, as provided for in section 208.166, by the department of social services or any division **or unit** therein shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

6. No provider of service may file a petition for a hearing before the administrative hearing commission unless the amount for which he **or she** seeks reimbursement exceeds five hundred dollars.

7. One or more providers of service as will fairly insure adequate representation of others having similar claims against the department of social services or any division **or unit** therein may institute the hearing on behalf of all in the class if there is a common question of law or fact affecting the several rights and a common relief is sought.

8. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 and who is entitled to a hearing as

provided for in the preceding sections shall have thirty days from the date of mailing or delivery of a decision of the department of social services or its designated division **or unit** in which to file his **or her** petition for review with the administrative hearing commission except that claims of less than five hundred dollars may be accumulated until they total that sum and at which time the provider shall have ninety days to file his **or her** petition.

9. When a person entitled to a hearing as provided for in this section applies to the administrative hearing commission for a stay order staying the actions of the department of social services or its divisions **or units**, the administrative hearing commission shall not grant such stay order until after a full hearing on such application. The application shall be advanced on the docket for immediate hearing and determination. The person applying for such stay order shall not be granted such stay order unless that person shall show that immediate and irreparable injury, loss, or damage will result if such stay order is denied, or that such person has a reasonable likelihood of success upon the merits of his **or her** claim; and provided further that no stay order shall be issued without the person seeking such order posting a bond in such sum as the administrative hearing commission finds sufficient to protect and preserve the interest of the department of social services or its divisions **or units**. [In no event may the administrative hearing commission grant such stay order where the claim arises under a program or programs funded by federal funds or by any combination of state and federal funds, unless it is specified in writing by the financial section of the appropriate federal agency that federal financial participation will be continued under the stay order.]

81           10. The other provisions of this section  
82 notwithstanding, a person receiving or providing benefits  
83 shall have the right to bring an action in appealing from  
84 the administrative hearing commission in the circuit court  
85 of Cole County, Missouri, or the county of his **or her**  
86 residence pursuant to section 536.050.

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