

SECOND REGULAR SESSION

SENATE BILL NO. 1568

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

6718S.01I

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Section A. Sections 208.080 and 208.156, RSMo, are 2 repealed and two new sections enacted in lieu thereof, to be 3 known as sections 208.080 and 208.156, to read as follows: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

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

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

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

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

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

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

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

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

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

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

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

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

57 9. When a person entitled to a hearing as provided for
58 in this section applies to the administrative hearing
59 commission for a stay order staying the actions of the
60 department of social services or its divisions **or units**, the
61 administrative hearing commission shall not grant such stay
62 order until after a full hearing on such application. The
63 application shall be advanced on the docket for immediate
64 hearing and determination. The person applying for such
65 stay order shall not be granted such stay order unless that
66 person shall show that immediate and irreparable injury,
67 loss, or damage will result if such stay order is denied, or
68 that such person has a reasonable likelihood of success upon
69 the merits of his **or her** claim; and provided further that no
70 stay order shall be issued without the person seeking such
71 order posting a bond in such sum as the administrative
72 hearing commission finds sufficient to protect and preserve
73 the interest of the department of social services or its
74 divisions **or units**. [In no event may the administrative
75 hearing commission grant such stay order where the claim
76 arises under a program or programs funded by federal funds
77 or by any combination of state and federal funds, unless it
78 is specified in writing by the financial section of the
79 appropriate federal agency that federal financial
80 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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