

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 597

AN ACT

To repeal section 208.152, RSMo, and to enact in lieu thereof one new section relating to chiropractic services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 208.152, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 208.152,
3 to read as follows:

4 208.152. 1. MO HealthNet payments shall be made on behalf
5 of those eligible needy persons as described in section 208.151
6 who are unable to provide for it in whole or in part, with any
7 payments to be made on the basis of the reasonable cost of the
8 care or reasonable charge for the services as defined and
9 determined by the MO HealthNet division, unless otherwise
10 hereinafter provided, for the following:

11 (1) Inpatient hospital services, except to persons in an
12 institution for mental diseases who are under the age of
13 sixty-five years and over the age of twenty-one years; provided
14 that the MO HealthNet division shall provide through rule and
15 regulation an exception process for coverage of inpatient costs
16 in those cases requiring treatment beyond the seventy-fifth
17 percentile professional activities study (PAS) or the MO
18 HealthNet children's diagnosis length-of-stay schedule; and
19 provided further that the MO HealthNet division shall take into

1 account through its payment system for hospital services the
2 situation of hospitals which serve a disproportionate number of
3 low-income patients;

4 (2) All outpatient hospital services, payments therefor to
5 be in amounts which represent no more than eighty percent of the
6 lesser of reasonable costs or customary charges for such
7 services, determined in accordance with the principles set forth
8 in Title XVIII A and B, Public Law 89-97, 1965 amendments to the
9 federal Social Security Act (42 U.S.C. Section 301, et seq.),
10 but the MO HealthNet division may evaluate outpatient hospital
11 services rendered under this section and deny payment for
12 services which are determined by the MO HealthNet division not to
13 be medically necessary, in accordance with federal law and
14 regulations;

15 (3) Laboratory and X-ray services;

16 (4) Nursing home services for participants, except to
17 persons with more than five hundred thousand dollars equity in
18 their home or except for persons in an institution for mental
19 diseases who are under the age of sixty-five years, when residing
20 in a hospital licensed by the department of health and senior
21 services or a nursing home licensed by the department of health
22 and senior services or appropriate licensing authority of other
23 states or government-owned and -operated institutions which are
24 determined to conform to standards equivalent to licensing
25 requirements in Title XIX of the federal Social Security Act (42
26 U.S.C. Section 301, et seq.), as amended, for nursing facilities.
27 The MO HealthNet division may recognize through its payment
28 methodology for nursing facilities those nursing facilities which

1 serve a high volume of MO HealthNet patients. The MO HealthNet
2 division when determining the amount of the benefit payments to
3 be made on behalf of persons under the age of twenty-one in a
4 nursing facility may consider nursing facilities furnishing care
5 to persons under the age of twenty-one as a classification
6 separate from other nursing facilities;

7 (5) Nursing home costs for participants receiving benefit
8 payments under subdivision (4) of this subsection for those days,
9 which shall not exceed twelve per any period of six consecutive
10 months, during which the participant is on a temporary leave of
11 absence from the hospital or nursing home, provided that no such
12 participant shall be allowed a temporary leave of absence unless
13 it is specifically provided for in his plan of care. As used in
14 this subdivision, the term "temporary leave of absence" shall
15 include all periods of time during which a participant is away
16 from the hospital or nursing home overnight because he is
17 visiting a friend or relative;

18 (6) Physicians' services, whether furnished in the office,
19 home, hospital, nursing home, or elsewhere;

20 (7) Examinations, diagnoses, adjustments, and manipulations
21 and treatments of malpositioned articulations and structures of
22 the body provided by licensed chiropractic physicians practicing
23 within their scope of practice. Nothing in this subdivision
24 shall be interpreted to otherwise expand MO HealthNet services;

25 (8) Drugs and medicines when prescribed by a licensed
26 physician, dentist, podiatrist, or an advanced practice
27 registered nurse; except that no payment for drugs and medicines
28 prescribed on and after January 1, 2006, by a licensed physician,

1 dentist, podiatrist, or an advanced practice registered nurse may
2 be made on behalf of any person who qualifies for prescription
3 drug coverage under the provisions of P.L. 108-173;

4 [(8)] (9) Emergency ambulance services and, effective
5 January 1, 1990, medically necessary transportation to scheduled,
6 physician-prescribed nonelective treatments;

7 [(9)] (10) Early and periodic screening and diagnosis of
8 individuals who are under the age of twenty-one to ascertain
9 their physical or mental defects, and health care, treatment, and
10 other measures to correct or ameliorate defects and chronic
11 conditions discovered thereby. Such services shall be provided
12 in accordance with the provisions of Section 6403 of P.L. 101-239
13 and federal regulations promulgated thereunder;

14 [(10)] (11) Home health care services;

15 [(11)] (12) Family planning as defined by federal rules and
16 regulations; provided, however, that such family planning
17 services shall not include abortions unless such abortions are
18 certified in writing by a physician to the MO HealthNet agency
19 that, in the physician's professional judgment, the life of the
20 mother would be endangered if the fetus were carried to term;

21 [(12)] (13) Inpatient psychiatric hospital services for
22 individuals under age twenty-one as defined in Title XIX of the
23 federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

24 [(13)] (14) Outpatient surgical procedures, including
25 presurgical diagnostic services performed in ambulatory surgical
26 facilities which are licensed by the department of health and
27 senior services of the state of Missouri; except, that such
28 outpatient surgical services shall not include persons who are

1 eligible for coverage under Part B of Title XVIII, Public Law
2 89-97, 1965 amendments to the federal Social Security Act, as
3 amended, if exclusion of such persons is permitted under Title
4 XIX, Public Law 89-97, 1965 amendments to the federal Social
5 Security Act, as amended;

6 [(14)] (15) Personal care services which are medically
7 oriented tasks having to do with a person's physical
8 requirements, as opposed to housekeeping requirements, which
9 enable a person to be treated by his or her physician on an
10 outpatient rather than on an inpatient or residential basis in a
11 hospital, intermediate care facility, or skilled nursing
12 facility. Personal care services shall be rendered by an
13 individual not a member of the participant's family who is
14 qualified to provide such services where the services are
15 prescribed by a physician in accordance with a plan of treatment
16 and are supervised by a licensed nurse. Persons eligible to
17 receive personal care services shall be those persons who would
18 otherwise require placement in a hospital, intermediate care
19 facility, or skilled nursing facility. Benefits payable for
20 personal care services shall not exceed for any one participant
21 one hundred percent of the average statewide charge for care and
22 treatment in an intermediate care facility for a comparable
23 period of time. Such services, when delivered in a residential
24 care facility or assisted living facility licensed under chapter
25 198 shall be authorized on a tier level based on the services the
26 resident requires and the frequency of the services. A resident
27 of such facility who qualifies for assistance under section
28 208.030 shall, at a minimum, if prescribed by a physician,

1 qualify for the tier level with the fewest services. The rate
2 paid to providers for each tier of service shall be set subject
3 to appropriations. Subject to appropriations, each resident of
4 such facility who qualifies for assistance under section 208.030
5 and meets the level of care required in this section shall, at a
6 minimum, if prescribed by a physician, be authorized up to one
7 hour of personal care services per day. Authorized units of
8 personal care services shall not be reduced or tier level lowered
9 unless an order approving such reduction or lowering is obtained
10 from the resident's personal physician. Such authorized units of
11 personal care services or tier level shall be transferred with
12 such resident if he or she transfers to another such facility.
13 Such provision shall terminate upon receipt of relevant waivers
14 from the federal Department of Health and Human Services. If the
15 Centers for Medicare and Medicaid Services determines that such
16 provision does not comply with the state plan, this provision
17 shall be null and void. The MO HealthNet division shall notify
18 the revisor of statutes as to whether the relevant waivers are
19 approved or a determination of noncompliance is made;

20 [(15)] (16) Mental health services. The state plan for
21 providing medical assistance under Title XIX of the Social
22 Security Act, 42 U.S.C. Section 301, as amended, shall include
23 the following mental health services when such services are
24 provided by community mental health facilities operated by the
25 department of mental health or designated by the department of
26 mental health as a community mental health facility or as an
27 alcohol and drug abuse facility or as a child-serving agency
28 within the comprehensive children's mental health service system

1 established in section 630.097. The department of mental health
2 shall establish by administrative rule the definition and
3 criteria for designation as a community mental health facility
4 and for designation as an alcohol and drug abuse facility. Such
5 mental health services shall include:

6 (a) Outpatient mental health services including preventive,
7 diagnostic, therapeutic, rehabilitative, and palliative
8 interventions rendered to individuals in an individual or group
9 setting by a mental health professional in accordance with a plan
10 of treatment appropriately established, implemented, monitored,
11 and revised under the auspices of a therapeutic team as a part of
12 client services management;

13 (b) Clinic mental health services including preventive,
14 diagnostic, therapeutic, rehabilitative, and palliative
15 interventions rendered to individuals in an individual or group
16 setting by a mental health professional in accordance with a plan
17 of treatment appropriately established, implemented, monitored,
18 and revised under the auspices of a therapeutic team as a part of
19 client services management;

20 (c) Rehabilitative mental health and alcohol and drug abuse
21 services including home and community-based preventive,
22 diagnostic, therapeutic, rehabilitative, and palliative
23 interventions rendered to individuals in an individual or group
24 setting by a mental health or alcohol and drug abuse professional
25 in accordance with a plan of treatment appropriately established,
26 implemented, monitored, and revised under the auspices of a
27 therapeutic team as a part of client services management. As
28 used in this section, mental health professional and alcohol and

1 drug abuse professional shall be defined by the department of
2 mental health pursuant to duly promulgated rules. With respect
3 to services established by this subdivision, the department of
4 social services, MO HealthNet division, shall enter into an
5 agreement with the department of mental health. Matching funds
6 for outpatient mental health services, clinic mental health
7 services, and rehabilitation services for mental health and
8 alcohol and drug abuse shall be certified by the department of
9 mental health to the MO HealthNet division. The agreement shall
10 establish a mechanism for the joint implementation of the
11 provisions of this subdivision. In addition, the agreement shall
12 establish a mechanism by which rates for services may be jointly
13 developed;

14 [(16)] (17) Such additional services as defined by the MO
15 HealthNet division to be furnished under waivers of federal
16 statutory requirements as provided for and authorized by the
17 federal Social Security Act (42 U.S.C. Section 301, et seq.)
18 subject to appropriation by the general assembly;

19 [(17)] (18) The services of an advanced practice registered
20 nurse with a collaborative practice agreement to the extent that
21 such services are provided in accordance with chapters 334 and
22 335, and regulations promulgated thereunder;

23 [(18)] (19) Nursing home costs for participants receiving
24 benefit payments under subdivision (4) of this subsection to
25 reserve a bed for the participant in the nursing home during the
26 time that the participant is absent due to admission to a
27 hospital for services which cannot be performed on an outpatient
28 basis, subject to the provisions of this subdivision:

1 (a) The provisions of this subdivision shall apply only if:

2 a. The occupancy rate of the nursing home is at or above
3 ninety-seven percent of MO HealthNet certified licensed beds,
4 according to the most recent quarterly census provided to the
5 department of health and senior services which was taken prior to
6 when the participant is admitted to the hospital; and

7 b. The patient is admitted to a hospital for a medical
8 condition with an anticipated stay of three days or less;

9 (b) The payment to be made under this subdivision shall be
10 provided for a maximum of three days per hospital stay;

11 (c) For each day that nursing home costs are paid on behalf
12 of a participant under this subdivision during any period of six
13 consecutive months such participant shall, during the same period
14 of six consecutive months, be ineligible for payment of nursing
15 home costs of two otherwise available temporary leave of absence
16 days provided under subdivision (5) of this subsection; and

17 (d) The provisions of this subdivision shall not apply
18 unless the nursing home receives notice from the participant or
19 the participant's responsible party that the participant intends
20 to return to the nursing home following the hospital stay. If
21 the nursing home receives such notification and all other
22 provisions of this subsection have been satisfied, the nursing
23 home shall provide notice to the participant or the participant's
24 responsible party prior to release of the reserved bed;

25 ~~[(19)]~~ (20) Prescribed medically necessary durable medical
26 equipment. An electronic web-based prior authorization system
27 using best medical evidence and care and treatment guidelines
28 consistent with national standards shall be used to verify

1 medical need;

2 [(20)] (21) Hospice care. As used in this subdivision, the
3 term "hospice care" means a coordinated program of active
4 professional medical attention within a home, outpatient and
5 inpatient care which treats the terminally ill patient and family
6 as a unit, employing a medically directed interdisciplinary team.
7 The program provides relief of severe pain or other physical
8 symptoms and supportive care to meet the special needs arising
9 out of physical, psychological, spiritual, social, and economic
10 stresses which are experienced during the final stages of
11 illness, and during dying and bereavement and meets the Medicare
12 requirements for participation as a hospice as are provided in 42
13 CFR Part 418. The rate of reimbursement paid by the MO HealthNet
14 division to the hospice provider for room and board furnished by
15 a nursing home to an eligible hospice patient shall not be less
16 than ninety-five percent of the rate of reimbursement which would
17 have been paid for facility services in that nursing home
18 facility for that patient, in accordance with subsection (c) of
19 Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act
20 of 1989);

21 [(21)] (22) Prescribed medically necessary dental services.
22 Such services shall be subject to appropriations. An electronic
23 web-based prior authorization system using best medical evidence
24 and care and treatment guidelines consistent with national
25 standards shall be used to verify medical need;

26 [(22)] (23) Prescribed medically necessary optometric
27 services. Such services shall be subject to appropriations. An
28 electronic web-based prior authorization system using best

1 medical evidence and care and treatment guidelines consistent
2 with national standards shall be used to verify medical need;

3 ~~[(23)]~~ (24) Blood clotting products-related services. For
4 persons diagnosed with a bleeding disorder, as defined in section
5 338.400, reliant on blood clotting products, as defined in
6 section 338.400, such services include:

7 (a) Home delivery of blood clotting products and ancillary
8 infusion equipment and supplies, including the emergency
9 deliveries of the product when medically necessary;

10 (b) Medically necessary ancillary infusion equipment and
11 supplies required to administer the blood clotting products; and

12 (c) Assessments conducted in the participant's home by a
13 pharmacist, nurse, or local home health care agency trained in
14 bleeding disorders when deemed necessary by the participant's
15 treating physician;

16 ~~[(24)]~~ (25) The MO HealthNet division shall, by January 1,
17 2008, and annually thereafter, report the status of MO HealthNet
18 provider reimbursement rates as compared to one hundred percent
19 of the Medicare reimbursement rates and compared to the average
20 dental reimbursement rates paid by third-party payors licensed by
21 the state. The MO HealthNet division shall, by July 1, 2008,
22 provide to the general assembly a four-year plan to achieve
23 parity with Medicare reimbursement rates and for third-party
24 payor average dental reimbursement rates. Such plan shall be
25 subject to appropriation and the division shall include in its
26 annual budget request to the governor the necessary funding
27 needed to complete the four-year plan developed under this
28 subdivision.

1 2. Additional benefit payments for medical assistance shall
2 be made on behalf of those eligible needy children, pregnant
3 women and blind persons with any payments to be made on the basis
4 of the reasonable cost of the care or reasonable charge for the
5 services as defined and determined by the MO HealthNet division,
6 unless otherwise hereinafter provided, for the following:

7 (1) Dental services;

8 (2) Services of podiatrists as defined in section 330.010;

9 (3) Optometric services as described in section 336.010;

10 (4) Orthopedic devices or other prosthetics, including eye
11 glasses, dentures, hearing aids, and wheelchairs;

12 (5) Hospice care. As used in this subdivision, the term
13 "hospice care" means a coordinated program of active professional
14 medical attention within a home, outpatient and inpatient care
15 which treats the terminally ill patient and family as a unit,
16 employing a medically directed interdisciplinary team. The
17 program provides relief of severe pain or other physical symptoms
18 and supportive care to meet the special needs arising out of
19 physical, psychological, spiritual, social, and economic stresses
20 which are experienced during the final stages of illness, and
21 during dying and bereavement and meets the Medicare requirements
22 for participation as a hospice as are provided in 42 CFR Part
23 418. The rate of reimbursement paid by the MO HealthNet division
24 to the hospice provider for room and board furnished by a nursing
25 home to an eligible hospice patient shall not be less than
26 ninety-five percent of the rate of reimbursement which would have
27 been paid for facility services in that nursing home facility for
28 that patient, in accordance with subsection (c) of Section 6408

1 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

2 (6) Comprehensive day rehabilitation services beginning
3 early posttrauma as part of a coordinated system of care for
4 individuals with disabling impairments. Rehabilitation services
5 must be based on an individualized, goal-oriented, comprehensive
6 and coordinated treatment plan developed, implemented, and
7 monitored through an interdisciplinary assessment designed to
8 restore an individual to optimal level of physical, cognitive,
9 and behavioral function. The MO HealthNet division shall
10 establish by administrative rule the definition and criteria for
11 designation of a comprehensive day rehabilitation service
12 facility, benefit limitations and payment mechanism. Any rule or
13 portion of a rule, as that term is defined in section 536.010,
14 that is created under the authority delegated in this subdivision
15 shall become effective only if it complies with and is subject to
16 all of the provisions of chapter 536 and, if applicable, section
17 536.028. This section and chapter 536 are nonseverable and if
18 any of the powers vested with the general assembly pursuant to
19 chapter 536 to review, to delay the effective date, or to
20 disapprove and annul a rule are subsequently held
21 unconstitutional, then the grant of rulemaking authority and any
22 rule proposed or adopted after August 28, 2005, shall be invalid
23 and void.

24 3. The MO HealthNet division may require any participant
25 receiving MO HealthNet benefits to pay part of the charge or cost
26 until July 1, 2008, and an additional payment after July 1, 2008,
27 as defined by rule duly promulgated by the MO HealthNet division,
28 for all covered services except for those services covered under

1 subdivisions [(14)] (15) and [(15)] (16) of subsection 1 of this
2 section and sections 208.631 to 208.657 to the extent and in the
3 manner authorized by Title XIX of the federal Social Security Act
4 (42 U.S.C. Section 1396, et seq.) and regulations thereunder.
5 When substitution of a generic drug is permitted by the
6 prescriber according to section 338.056, and a generic drug is
7 substituted for a name-brand drug, the MO HealthNet division may
8 not lower or delete the requirement to make a co-payment pursuant
9 to regulations of Title XIX of the federal Social Security Act.
10 A provider of goods or services described under this section must
11 collect from all participants the additional payment that may be
12 required by the MO HealthNet division under authority granted
13 herein, if the division exercises that authority, to remain
14 eligible as a provider. Any payments made by participants under
15 this section shall be in addition to and not in lieu of payments
16 made by the state for goods or services described herein except
17 the participant portion of the pharmacy professional dispensing
18 fee shall be in addition to and not in lieu of payments to
19 pharmacists. A provider may collect the co-payment at the time a
20 service is provided or at a later date. A provider shall not
21 refuse to provide a service if a participant is unable to pay a
22 required payment. If it is the routine business practice of a
23 provider to terminate future services to an individual with an
24 unclaimed debt, the provider may include uncollected co-payments
25 under this practice. Providers who elect not to undertake the
26 provision of services based on a history of bad debt shall give
27 participants advance notice and a reasonable opportunity for
28 payment. A provider, representative, employee, independent

1 contractor, or agent of a pharmaceutical manufacturer shall not
2 make co-payment for a participant. This subsection shall not
3 apply to other qualified children, pregnant women, or blind
4 persons. If the Centers for Medicare and Medicaid Services does
5 not approve the MO HealthNet state plan amendment submitted by
6 the department of social services that would allow a provider to
7 deny future services to an individual with uncollected
8 co-payments, the denial of services shall not be allowed. The
9 department of social services shall inform providers regarding
10 the acceptability of denying services as the result of unpaid
11 co-payments.

12 4. The MO HealthNet division shall have the right to
13 collect medication samples from participants in order to maintain
14 program integrity.

15 5. Reimbursement for obstetrical and pediatric services
16 under subdivision (6) of subsection 1 of this section shall be
17 timely and sufficient to enlist enough health care providers so
18 that care and services are available under the state plan for MO
19 HealthNet benefits at least to the extent that such care and
20 services are available to the general population in the
21 geographic area, as required under subparagraph (a) (30) (A) of 42
22 U.S.C. Section 1396a and federal regulations promulgated
23 thereunder.

24 6. Beginning July 1, 1990, reimbursement for services
25 rendered in federally funded health centers shall be in
26 accordance with the provisions of subsection 6402(c) and Section
27 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989)
28 and federal regulations promulgated thereunder.

1 7. Beginning July 1, 1990, the department of social
2 services shall provide notification and referral of children
3 below age five, and pregnant, breast-feeding, or postpartum women
4 who are determined to be eligible for MO HealthNet benefits under
5 section 208.151 to the special supplemental food programs for
6 women, infants and children administered by the department of
7 health and senior services. Such notification and referral shall
8 conform to the requirements of Section 6406 of P.L. 101-239 and
9 regulations promulgated thereunder.

10 8. Providers of long-term care services shall be reimbursed
11 for their costs in accordance with the provisions of Section 1902
12 (a) (13) (A) of the Social Security Act, 42 U.S.C. Section 1396a,
13 as amended, and regulations promulgated thereunder.

14 9. Reimbursement rates to long-term care providers with
15 respect to a total change in ownership, at arm's length, for any
16 facility previously licensed and certified for participation in
17 the MO HealthNet program shall not increase payments in excess of
18 the increase that would result from the application of Section
19 1902 (a) (13) (C) of the Social Security Act, 42 U.S.C. Section
20 1396a (a) (13) (C).

21 10. The MO HealthNet division may enroll qualified
22 residential care facilities and assisted living facilities, as
23 defined in chapter 198, as MO HealthNet personal care providers.

24 11. Any income earned by individuals eligible for certified
25 extended employment at a sheltered workshop under chapter 178
26 shall not be considered as income for purposes of determining
27 eligibility under this section.

28 12. If the Missouri Medicaid audit and compliance unit

1 changes any interpretation or application of the requirements for
2 reimbursement for MO HealthNet services from the interpretation
3 or application that has been applied previously by the state in
4 any audit of a MO HealthNet provider, the Missouri Medicaid audit
5 and compliance unit shall notify all affected MO HealthNet
6 providers five business days before such change shall take
7 effect. Failure of the Missouri Medicaid audit and compliance
8 unit to notify a provider of such change shall entitle the
9 provider to continue to receive and retain reimbursement until
10 such notification is provided and shall waive any liability of
11 such provider for recoupment or other loss of any payments
12 previously made prior to the five business days after such notice
13 has been sent. Each provider shall provide the Missouri Medicaid
14 audit and compliance unit a valid email address and shall agree
15 to receive communications electronically. The notification
16 required under this section shall be delivered in writing by the
17 United States Postal Service or electronic mail to each provider.

18 13. Nothing in this section shall be construed to abrogate
19 or limit the department's statutory requirement to promulgate
20 rules under chapter 536.

21 14. Beginning July 1, 2016, and subject to appropriations,
22 providers of behavioral, social, and psychophysiological services
23 for the prevention, treatment, or management of physical health
24 problems shall be reimbursed utilizing the behavior assessment
25 and intervention reimbursement codes 96150 to 96154 or their
26 successor codes under the Current Procedural Terminology (CPT)
27 coding system. Providers eligible for such reimbursement shall
28 include psychologists.