

SECOND REGULAR SESSION

SENATE BILL NO. 1108

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time February 27, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5321S.011

AN ACT

To repeal section 208.930, RSMo, and to enact in lieu thereof one new section relating to personal care assistance services, with an emergency clause.

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

Section A. Section 208.930, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 208.930, to read as follows:

208.930. 1. As used in this section, the term "department" shall mean the
2 department of health and senior services.

3 2. Subject to appropriations, the department may provide financial
4 assistance for consumer-directed personal care assistance services through
5 eligible vendors, as provided in sections 208.900 through 208.927, to each person
6 who was participating as a non-Medicaid eligible client pursuant to sections
7 178.661 through 178.673, RSMo, [on June 30, 2005,] and who:

8 (1) Makes application to the department;

9 (2) Demonstrates financial need and eligibility under subsection 3 of this
10 section;

11 (3) Meets all the criteria set forth in sections 208.900 through 208.927,
12 except for subdivision (5) of subsection 1 of section 208.903;

13 (4) Has been found by the department of social services not to be eligible
14 to participate under guidelines established by the Medicaid state plan; and

15 (5) Does not have access to affordable employer-sponsored health care
16 insurance or other affordable health care coverage for personal care assistance
17 services as defined in section 208.900. For purposes of this section, "access to
18 affordable employer-sponsored health care insurance or other affordable health
19 care coverage" refers to health insurance requiring a monthly premium less than

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

20 or equal to one hundred thirty-three percent of the monthly average premium
21 required in the state's current Missouri consolidated health care plan.

22 Payments made by the department under the provisions of this section shall be
23 made only after all other available sources of payment have been exhausted.

24 3. (1) In order to be eligible for financial assistance for consumer-directed
25 personal care assistance services under this section, a person shall demonstrate
26 financial need, which shall be based on the adjusted gross income and the assets
27 of the person seeking financial assistance [and such person's spouse].

28 (2) In order to demonstrate financial need, a person seeking financial
29 assistance under this section [and such person's spouse must] **shall** have an
30 adjusted gross income, less disability-related, medical, **and reasonable living**
31 expenses, as approved by the department, that is equal to or less than three
32 hundred percent of the federal poverty level. The adjusted gross income shall be
33 based on the most recent income tax return.

34 (3) No person seeking financial assistance for personal care services under
35 this section [and such person's spouse] shall have assets in excess of two
36 hundred fifty thousand dollars.

37 4. The department shall require applicants [and the applicant's spouse,
38 and consumers and the consumer's spouse] to provide documentation for income,
39 assets, and disability-related, medical, **and reasonable living** expenses, **as**
40 **determined by the department**, for the purpose of determining financial need
41 and eligibility for the program. In addition to the most recent income tax return,
42 such documentation may include, but shall not be limited to:

43 (1) Current wage stubs for the applicant or consumer [and the applicant's
44 or consumer's spouse];

45 (2) A current W-2 form for the applicant or consumer [and the applicant's
46 or consumer's spouse];

47 (3) Statements from the applicant's or consumer's [and the applicant's or
48 consumer's spouse's] **employer or** employers;

49 (4) Wage matches with the division of employment security;

50 (5) Bank statements; and

51 (6) Evidence of disability-related, medical, **and reasonable living**
52 expenses, **as determined by the department**, and proof of payment.

53 5. A personal care assistance services plan shall be developed by the
54 department pursuant to section 208.906 for each person who is determined to be
55 eligible and in financial need under the provisions of this section. The plan

56 developed by the department shall include the maximum amount of financial
57 assistance allowed by the department, subject to appropriation, for such services.

58 6. Each consumer who participates in the program is responsible for a
59 monthly premium equal to [the average premium required for the Missouri
60 consolidated health care plan; provided that the total premium described in this
61 section shall not exceed five percent of the consumer's and the consumer's
62 spouse's adjusted gross income for the year involved] **the following:**

63 **(1) For adjusted gross incomes below one hundred fifty percent**
64 **of the federal poverty level, no monthly premium;**

65 **(2) For adjusted gross incomes between one hundred fifty and**
66 **one hundred eighty-five percent of the federal poverty level, one**
67 **percent of income;**

68 **(3) For adjusted gross incomes between one hundred eighty-five**
69 **and two hundred twenty-five percent of the federal poverty level, three**
70 **percent of income;**

71 **(4) For adjusted gross incomes between two hundred twenty-five**
72 **and three hundred percent of the federal poverty level, five percent of**
73 **adjusted gross income.**

74 7. (1) Nonpayment of the premium required in subsection 6 shall result
75 in the denial or termination of assistance, unless the person demonstrates good
76 cause for such nonpayment.

77 (2) No person denied services for nonpayment of a premium shall receive
78 services unless such person shows good cause for nonpayment and makes
79 payments for past-due premiums as well as current premiums.

80 (3) Any person who is denied services for nonpayment of a premium and
81 who does not make any payments for past-due premiums for sixty consecutive
82 days shall have their enrollment in the program terminated.

83 (4) No person whose enrollment in the program is terminated for
84 nonpayment of a premium when such nonpayment exceeds sixty consecutive days
85 shall be reenrolled unless such person pays any past-due premiums as well as
86 current premiums prior to being reenrolled. Nonpayment shall include payment
87 with a returned, refused, or dishonored instrument.

88 8. (1) Consumers determined eligible for personal care assistance services
89 under the provisions of this section shall be reevaluated annually to verify their
90 continued eligibility and financial need. The amount of financial assistance for
91 consumer-directed personal care assistance services received by the consumer

92 shall be adjusted or eliminated based on the outcome of the reevaluation. Any
93 adjustments made shall be recorded in the consumer's personal care assistance
94 services plan.

95 (2) In performing the annual reevaluation of financial need, the
96 department shall annually send a reverification eligibility form letter to the
97 consumer requiring the consumer to respond within **[ten] thirty** days of receiving
98 the letter and to provide income and disability-related, medical, **and reasonable**
99 **living** expense verification documentation. If the department does not receive
100 the consumer's response and documentation within the **[ten-day] thirty-day**
101 period, the department shall send a letter notifying the consumer that he or she
102 has ten days to file an appeal or the case will be closed.

103 (3) The department shall require the consumer [and the consumer's
104 spouse] to provide **verification** documentation for income and disability-related,
105 medical [expense verification], **and reasonable living expenses as**
106 **determined by the department** for purposes of the eligibility review. Such
107 documentation may include but shall not be limited to the documentation listed
108 in subsection 4 of this section.

109 9. (1) Applicants for personal care assistance services and consumers
110 receiving such services pursuant to this section are entitled to a hearing with the
111 department of social services if eligibility for personal care assistance services is
112 denied, if the type or amount of services is set at a level less than the consumer
113 believes is necessary, if disputes arise after preparation of the personal care
114 assistance plan concerning the provision of such services, or if services are
115 discontinued as provided in section 208.924. Services provided under the
116 provisions of this section shall continue during the appeal process.

117 (2) A request for such hearing shall be made to the department of social
118 services in writing in the form prescribed by the department of social services
119 within ninety days after the mailing or delivery of the written decision of the
120 department of health and senior services. The procedures for such requests and
121 for the hearings shall be as set forth in section 208.080.

122 10. Unless otherwise provided in this section, all other provisions of
123 sections 208.900 through 208.927 shall apply to individuals who are eligible for
124 financial assistance for personal care assistance services under this section.

125 11. The department may promulgate rules and regulations, including
126 emergency rules, to implement the provisions of this section. Any rule or portion
127 of a rule, as that term is defined in section 536.010, RSMo, that is created under

128 the authority delegated in this section shall become effective only if it complies
129 with and is subject to all of the provisions of chapter 536, RSMo, and, if
130 applicable, section 536.028, RSMo. Any provisions of the existing rules regarding
131 the personal care assistance program promulgated by the department of
132 elementary and secondary education in title 5, code of state regulations, division
133 90, chapter 7, which are inconsistent with the provisions of this section are void
134 and of no force and effect.

135 [12. The provisions of this section shall expire on June 30, 2006.]

Section B. Because immediate action is necessary to ensure continued
2 financial assistance for personal care services, section A of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and
4 safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and section A of this act shall be in full force and effect upon its
6 passage and approval.

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Bill

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