

FIRST REGULAR SESSION

SENATE BILL NO. 248

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DAYS.

Read 1st time January 10, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0102S.011

AN ACT

To repeal sections 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and to enact in lieu thereof six new sections relating to the long-term care partnership act.

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

Section A. Sections 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, 2 and 660.557, RSMo, are repealed and six new sections enacted in lieu thereof, to 3 be known as sections 208.690, 208.692, 208.694, 208.696, 208.698, and 208.699, 4 to read as follows:

208.690. 1. This act shall be known and may be cited as the 2 "Missouri Long-term Care Partnership Program Act".

3 2. As used in sections 208.690 to 208.699, the following terms shall 4 mean:

5 (1) "Asset disregard", the disregard of any assets or resources in 6 an amount equal to the insurance benefit payments that are used on 7 behalf of the individual;

8 (2) "Missouri qualified long-term care partnership approved 9 policy", a long-term care insurance policy certified by the director of 10 the department of insurance, financial institutions and professional 11 registration as meeting the requirements of:

12 (a) The National Association of Insurance Commissioners' Long- 13 term Care Insurance Model Act and Regulation as specified in 42 U.S.C. 14 1917(b); and

15 (b) The provisions of Section 6021 of the Federal Deficit

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

16 **Reduction Act of 2005.**

17 (3) "State Medicaid program", the medical assistance program
18 established in this state under Title XIX of the federal Social Security
19 Act;

20 (4) "State plan amendment", a state Medicaid plan amendment to
21 the federal Department of Health and Human Services that, in
22 determining eligibility for state Medicaid benefits, provides for the
23 disregard of any assets or resources in an amount equal to the
24 insurance benefit payments that are made to or on behalf of an
25 individual who is a beneficiary under a qualified long-term care
26 insurance partnership policy.

208.692. 1. In accordance with Section 6021 of the Federal
2 Deficit Reduction Act of 2005, there is established the Missouri long-
3 term care partnership program, which shall be administered by the
4 department of social services in conjunction with the department of
5 insurance, financial institutions and professional registration. The
6 program shall:

7 (1) Provide incentives for individuals to insure against the costs
8 of providing for their long-term care needs;

9 (2) Provide a mechanism for individuals to qualify for coverage
10 of the cost of their long-term care needs under the state Medicaid
11 program without first being required to substantially exhaust their
12 resources; and

13 (3) Alleviate the financial burden on the state's Medicaid
14 program by encouraging the pursuit of private initiatives.

15 2. Upon the exhaustion of benefits or upon the diminishment of
16 assets below the anticipated remaining benefits under a Missouri
17 qualified long-term care partnership approved policy, certain assets of
18 an individual, as provided in subsection 3 of this section, shall be
19 disregarded when determining any of the following:

20 (1) Medicaid eligibility;

21 (2) The amount of any Medicaid payment; and

22 (3) Any subsequent recovery by the state of a payment for
23 medical services.

24 3. The department of social services shall:

25 (1) Within one hundred eighty days of the effective date of

26 sections 208.690 to 208.699, make application to the federal Department
27 of Health and Human Services for a state plan amendment to establish
28 a program that, in determining eligibility for state Medicaid benefits,
29 provides for the disregard of any assets or resources in an amount
30 equal to the insurance benefit payments that are made to or on behalf
31 of an individual who is a beneficiary under a qualified long-term care
32 insurance partnership policy; and

33 (2) Provide information and technical assistance to the
34 department of insurance, financial institutions and professional
35 registration to assure that any individual who sells a qualified long-
36 term care insurance partnership policy receives training and
37 demonstrates evidence of an understanding of such policies and how
38 they relate to other public and private coverage of long-term care.

39 4. The department of social services shall promulgate rules to
40 implement the provisions of sections 208.690 to 208.699. Any rule or
41 portion of a rule, as that term is defined in section 536.010, RSMo, that
42 is created under the authority delegated in this section shall become
43 effective only if it complies with and is subject to all of the provisions
44 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
45 section and chapter 536, RSMo, are nonseverable and if any of the
46 powers vested with the general assembly pursuant to chapter 536,
47 RSMo, to review, to delay the effective date, or to disapprove and annul
48 a rule are subsequently held unconstitutional, then the grant of
49 rulemaking authority and any rule proposed or adopted after August
50 28, 2007, shall be invalid and void.

208.694. 1. An individual who is beneficiary of a Missouri
2 qualified long-term care partnership approved policy is eligible for
3 assistance under the state Medicaid program using asset disregard
4 under sections 208.690 to 208.699.

5 2. If the Missouri long-term care partnership program is
6 discontinued, an individual who purchased a qualified long-term care
7 partnership approved policy prior to the date the program was
8 discontinued shall be eligible to receive asset disregard, as provided by
9 Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005.

10 3. The department of social services may enter into reciprocal
11 agreements with other states that have asset disregard provisions

12 established under Title VI, Section 6021 of the Federal Deficit
13 Reduction Act of 2005 in order to extend the asset disregard to Missouri
14 residents who purchase long-term care policies in another state.

208.696. 1. The director of the department of insurance, financial
2 institutions and professional registration shall:

3 (1) Develop requirements to ensure that any individual who sells
4 a qualified long-term care insurance partnership policy receives
5 training and demonstrates evidence of an understanding of such
6 policies and how they relate to other public and private coverage of
7 long-term care;

8 (2) Impose no requirements affecting the terms or benefits of
9 qualified long-term care partnership policies unless the director
10 imposes such a requirement on all long-term care policies sold in this
11 state, without regard to whether the policy is covered under the
12 partnership or is offered in connection with such partnership; and

13 (3) Develop a summary notice in clear, easily understood
14 language for the consumer purchasing qualified long-term care
15 insurance partnership policies on the current law pertaining to asset
16 disregard and asset tests.

17 2. The director of the department of insurance, financial
18 institutions and professional registration shall promulgate rules to
19 carry out the provisions of this section, and on the process for
20 certifying the qualified long-term care partnership policies. Any rule
21 or portion of a rule, as that term is defined in section 536.010, RSMo,
22 that is created under the authority delegated in this section shall
23 become effective only if it complies with and is subject to all of the
24 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
25 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
26 of the powers vested with the general assembly pursuant to chapter
27 536, RSMo, to review, to delay the effective date, or to disapprove and
28 annul a rule are subsequently held unconstitutional, then the grant of
29 rulemaking authority and any rule proposed or adopted after August
30 28, 2007, shall be invalid and void.

208.698. The issuers of qualified long-term care partnership
2 policies in this state shall provide regular reports to both the Secretary
3 of the Department of Health and Human Services in accordance with

4 federal law and regulations and to the department of social services
5 and the department of insurance, financial institutions and
6 professional registration as provided in Section 6021 of the Federal
7 Deficit Reduction Act of 2005.

208.699. Under section 23.253, RSMo, of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections
3 208.690 to 208.698 shall sunset automatically six years after the
4 effective date of said sections unless reauthorized by an act of the
5 general assembly; and

6 (2) If such program is reauthorized, the program authorized
7 under sections 208.690 to 208.698 shall sunset automatically twelve
8 years after the effective date of the reauthorization of sections 208.690
9 to 208.698; and

10 (3) Sections 208.690 to 208.698 shall terminate on September first
11 of the calendar year immediately following the calendar year in which
12 the program authorized under said sections is sunset.

[660.546. 1. The department of social services shall
2 coordinate a program entitled the "Missouri Partnership for
3 Long-term Care" whereby private insurance and Medicaid funds
4 shall be combined to finance long-term care. Under such program,
5 an individual may purchase a precertified long-term care insurance
6 policy in an amount commensurate with his resources as defined
7 pursuant to the Medicaid program. Notwithstanding any provision
8 of law to the contrary, the resources of such an individual, to the
9 extent such resources are equal to the amount of long-term care
10 insurance benefit payments as provided in section 660.547, shall
11 not be considered by the department of social services in a
12 determination of:

13 (1) His eligibility for Medicaid;

14 (2) The amount of any Medicaid payment.

15 Any subsequent recovery of a payment for medical services by the
16 state shall be as provided by federal law.

17 2. Notwithstanding any provision of law to the contrary, for
18 purposes of recovering any medical assistance paid on behalf of an
19 individual who was allowed an asset or resource disregard based
20 on such long-term care insurance policy, the definition of estate

21 shall be expanded to include any other real or personal property
22 and other assets in which the individual has any legal title or
23 interest at the time of death, to the extent of such interest,
24 including such assets conveyed to a survivor, heir, or assign of the
25 deceased individual through joint tenancy, tenancy in common,
26 survivorship, life estate, living trust or other arrangement.]

[660.547. The department of social services shall request
2 appropriate waiver or waivers from the Secretary of the federal
3 Department of Health and Human Services to permit the use of
4 long-term care insurance for the preservation of resources pursuant
5 to section 660.546. Such preservation shall be provided, to the
6 extent approved by the federal Department of Health and Human
7 Services, for any purchaser of a precertified long-term care
8 insurance policy delivered, issued for delivery or renewed within
9 five years after receipt of the federal approval of the waiver, and
10 shall continue for the life of the original purchaser of the policy,
11 provided that he maintains his obligations pursuant to the
12 precertified long-term care insurance policy. Insurance benefit
13 payments made on behalf of a claimant, for payment of services
14 which would be covered under section 208.152, RSMo, shall be
15 considered to be expenditures of resources as required under
16 chapter 208, RSMo, for eligibility for medical assistance to the
17 extent that such payments are:

18 (1) For services Medicaid approves or covers for its
19 recipients;

20 (2) In an amount not in excess of the charges of the health
21 services provider;

22 (3) For nursing home care, or formal services delivered to
23 insureds in the community as part of a care plan approved by a
24 coordination, assessment and monitoring agency licensed pursuant
25 to chapter 198, RSMo; and

26 (4) For services provided after the individual meets the
27 coverage requirements for long-term care benefits established by
28 the department of social services for this program.

29 The director of the department of social services shall adopt
30 regulations in accordance with chapter 536, RSMo, to implement

31 the provisions of sections 660.546 to 660.557, relating to
32 determining eligibility of applicants for Medicaid and the coverage
33 requirements for long-term care benefits.]

[660.549. The department of social services shall establish
2 an outreach program to educate consumers to:

- 3 (1) The mechanisms for financing long-term; and
4 (2) The asset protection provided under sections 660.546 to
5 660.557.]

[660.551. 1. The department of insurance shall precertify
2 long-term care insurance policies which are issued by insurers who,
3 in addition to complying with other relevant laws and regulations:

4 (1) Alert the purchaser to the availability of consumer
5 information and public education provided by the division of aging
6 and the department of insurance pursuant to sections 660.546 to
7 660.557;

8 (2) Offer the option of home- and community-based services
9 in lieu of nursing home care;

10 (3) Offer automatic inflation protection or optional periodic
11 per diem upgrades until the insured begins to receive long-term
12 care benefits; provided, however, that such inflation protection or
13 upgrades shall not be required of life insurance policies or riders
14 containing accelerated long-term care benefits;

15 (4) Provide for the keeping of records and an explanation of
16 benefits reports to the insured and the department of insurance on
17 insurance payments which count toward Medicaid resource
18 exclusion; and

19 (5) Provide the management information and reports
20 necessary to document the extent of Medicaid resource protection
21 offered and to evaluate the Missouri partnership for long-term care
22 including, but not limited to, the information listed in section
23 660.553.

24 Included among those policies precertified under this section shall
25 be life insurance policies which offer long-term care either by rider
26 or integrated into the life insurance policy.

27 2. No policy shall be precertified pursuant to sections
28 660.546 to 660.557, if it requires prior hospitalization or a prior

29 stay in a nursing home as a condition of providing benefits.

30 3. The department of insurance may adopt regulations to
31 carry out the provisions of sections 660.546 to 660.557.]

2 [660.553. The department of insurance shall provide public
3 information to assist individuals in choosing appropriate insurance
4 coverage, and shall establish an outreach program to educate
5 consumers as to:

5 (1) The need for long-term; and

6 (2) The availability of long-term care insurance.]

2 [660.555. The director of the department of insurance each
3 year, on January first shall report in writing to the department of
4 social services the following information:

4 (1) The success in implementing the provisions of sections
5 660.546 to 660.557;

6 (2) The number of policies precertified pursuant to sections
7 660.546 to 660.557;

8 (3) The number of individuals filing consumer complaints
9 with respect to precertified policies; and

10 (4) The extent and type of benefits paid, in the aggregate,
11 under such policies that could count toward Medicaid resource
12 protection.]

2 [660.557. The director of the department of social services
3 shall request the federal approvals necessary to carry out the
4 purposes of sections 660.546 to 660.557. Each year on January
5 first, the director of the department of social services shall report
6 in writing to the general assembly on the progress of the
7 program. Such report will include, but not be limited to:

7 (1) The success in implementing the provisions of sections
8 660.546 to 660.557;

9 (2) The number of policies precertified pursuant to sections
10 660.546 to 660.557;

11 (3) The number of individuals filing consumer complaints
12 with respect to precertified policies;

13 (4) The extent and type of benefits paid, in the aggregate,
14 under such policies that could count toward Medicaid resource
15 protection;

- 16 (5) Estimates of impact on present and future Medicaid
- 17 expenditures;
- 18 (6) The cost effectiveness of the program; and
- 19 (7) A recommendation regarding the appropriateness of
- 20 continuing the program.]



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