

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 49, 236 & 164

102ND GENERAL ASSEMBLY

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INTRODUCED BY SENATORS MOON, HOSKINS, BRATTIN, CARTER, GANNON, BEAN, COLEMAN, KOENIG, ESLINGER,  
THOMPSON REHDER, FITZWATER, TRENT, BLACK, BROWN (26), LUETKEMEYER, O'LAUGHLIN, SCHROER,  
CRAWFORD AND EIGEL.

0202S.20P

KRISTINA MARTIN, Secretary

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## AN ACT

To repeal sections 208.152, 217.230, and 221.120, RSMo, and to enact in lieu thereof four new sections relating to gender transition procedures.

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

Section A. Sections 208.152, 217.230, and 221.120, RSMo,  
2 are repealed and four new sections enacted in lieu thereof, to  
3 be known as sections 191.1720, 208.152, 217.230, and 221.120,  
4 to read as follows:

191.1720. 1. This section shall be known and may be  
2 cited as the "Missouri Save Adolescents from Experimentation  
3 (SAFE) Act".

4 2. For purposes of this section, the following terms  
5 mean:

6 (1) "Biological sex", the biological indication of  
7 male or female in the context of reproductive potential or  
8 capacity, such as sex chromosomes, naturally occurring sex  
9 hormones, gonads, and nonambiguous internal and external  
10 genitalia present at birth, without regard to an

11 individual's psychological, chosen, or subjective experience  
12 of gender;

13 (2) "Cross-sex hormones", testosterone, estrogen, or  
14 other androgens given to an individual in amounts that are  
15 greater or more potent than would normally occur naturally  
16 in a healthy individual of the same age and sex;

17 (3) "Gender", the psychological, behavioral, social,  
18 and cultural aspects of being male or female;

19 (4) "Gender transition", the process in which an  
20 individual transitions from identifying with and living as a  
21 gender that corresponds to his or her biological sex to  
22 identifying with and living as a gender different from his  
23 or her biological sex, and may involve social, legal, or  
24 physical changes;

25 (5) "Gender transition surgery", a surgical procedure  
26 performed for the purpose of assisting an individual with a  
27 gender transition, including, but not limited to:

28 (a) Surgical procedures that sterilize, including, but  
29 not limited to, castration, vasectomy, hysterectomy,  
30 oophorectomy, orchiectomy, or penectomy;

31 (b) Surgical procedures that artificially construct  
32 tissue with the appearance of genitalia that differs from  
33 the individual's biological sex, including, but not limited  
34 to, metoidioplasty, phalloplasty, or vaginoplasty; or

35 (c) Augmentation mammoplasty or subcutaneous  
36 mastectomy;

37 (6) "Health care provider", an individual who is  
38 licensed, certified, or otherwise authorized by the laws of  
39 this state to administer health care in the ordinary course  
40 of the practice of his or her profession;

41 (7) "Puberty-blocking drugs", gonadotropin-releasing  
42 hormone analogues or other synthetic drugs used to stop

43 luteinizing hormone secretion and follicle stimulating  
44 hormone secretion, synthetic antiandrogen drugs to block the  
45 androgen receptor, or any other drug used to delay or  
46 suppress pubertal development in children for the purpose of  
47 assisting an individual with a gender transition.

48 3. A health care provider shall not knowingly perform  
49 a gender transition surgery on any individual under eighteen  
50 years of age.

51 4. (1) A health care provider shall not knowingly  
52 prescribe or administer cross-sex hormones or puberty-  
53 blocking drugs for the purpose of a gender transition for  
54 any individual under eighteen years of age.

55 (2) The provisions of this subsection shall not apply  
56 to the prescription or administration of cross-sex hormones  
57 or puberty-blocking drugs for any individual under eighteen  
58 years of age who was prescribed or administered such  
59 hormones or drugs prior to August 28, 2023, for the purpose  
60 of assisting the individual with a gender transition.

61 (3) The provisions of this subsection shall expire on  
62 August 28, 2027.

63 5. The performance of a gender transition surgery or  
64 the prescription or administration of cross-sex hormones or  
65 puberty-blocking drugs to an individual under eighteen years  
66 of age in violation of this section shall be considered  
67 unprofessional conduct and any health care provider doing so  
68 shall have his or her license to practice revoked by the  
69 appropriate licensing entity or disciplinary review board  
70 with competent jurisdiction in this state.

71 6. (1) The prescription or administration of cross-  
72 sex hormones or puberty-blocking drugs to an individual  
73 under eighteen years of age for the purpose of a gender  
74 transition shall be considered grounds for a cause of action

75 against the health care provider. The provisions of chapter  
76 538 shall not apply to any action brought under this  
77 subsection.

78 (2) An action brought pursuant to this subsection  
79 shall be brought within fifteen years of the individual  
80 injured attaining the age of twenty-one or of the date the  
81 treatment of the injury at issue in the action by the  
82 defendant has ceased, whichever is later.

83 (3) An individual bringing an action under this  
84 subsection shall be entitled to a rebuttable presumption  
85 that the individual was harmed if the individual is  
86 infertile following the prescription or administration of  
87 cross-sex hormones or puberty-blocking drugs and that the  
88 harm was a direct result of the hormones or drugs prescribed  
89 or administered by the health care provider. Such  
90 presumption may be rebutted only by clear and convincing  
91 evidence.

92 (4) In any action brought pursuant to this subsection,  
93 a plaintiff may recover economic and noneconomic damages and  
94 punitive damages, without limitation to the amount and no  
95 less than five hundred thousand dollars in the aggregate.  
96 The judgment against a defendant in an action brought  
97 pursuant to this subsection shall be in an amount of three  
98 times the amount of any economic and noneconomic damages or  
99 punitive damages assessed. Any award of damages in an  
100 action brought pursuant to this subsection to a prevailing  
101 plaintiff shall include attorney's fees and court costs.

102 (5) An action brought pursuant to this subsection may  
103 be brought in any circuit court of this state.

104 (6) No health care provider shall require a waiver of  
105 the right to bring an action pursuant to this subsection as  
106 a condition of services. The right to bring an action by or

107 through an individual under the age of eighteen shall not be  
108 waived by a parent or legal guardian.

109 (7) A plaintiff to an action brought under this  
110 subsection may enter into a voluntary agreement of  
111 settlement or compromise of the action, but no agreement  
112 shall be valid until approved by the court. No agreement  
113 allowed by the court shall include a provision regarding the  
114 nondisclosure or confidentiality of the terms of such  
115 agreement unless such provision was specifically requested  
116 and agreed to by the plaintiff.

117 (8) If requested by the plaintiff, any pleadings,  
118 attachments, or exhibits filed with the court in any action  
119 brought pursuant to this subsection, as well as any  
120 judgments issued by the court in such actions, shall not  
121 include the personal identifying information of the  
122 plaintiff. Such information shall be provided in a  
123 confidential information filing sheet contemporaneously  
124 filed with the court or entered by the court, which shall  
125 not be subject to public inspection or availability.

126 7. The provisions of this section shall not apply to  
127 any speech protected by the First Amendment of the United  
128 States Constitution.

129 8. The provisions of this section shall not apply to  
130 the following:

131 (1) Services to individuals born with a medically-  
132 verifiable disorder of sex development, including, but not  
133 limited to, an individual with external biological sex  
134 characteristics that are irresolvably ambiguous, such as  
135 those born with 46,XX chromosomes with virilization, 46,XY  
136 chromosomes with undervirilization, or having both ovarian  
137 and testicular tissue;

138           (2) Services provided when a physician has otherwise  
139 diagnosed an individual with a disorder of sex development  
140 and determined through genetic or biochemical testing that  
141 the individual does not have normal sex chromosome  
142 structure, sex steroid hormone production, or sex steroid  
143 hormone action;

144           (3) The treatment of any infection, injury, disease,  
145 or disorder that has been caused by or exacerbated by the  
146 performance of gender transition surgery or the prescription  
147 or administration of cross-sex hormones or puberty-blocking  
148 drugs regardless of whether the surgery was performed or the  
149 hormones or drugs were prescribed or administered in  
150 accordance with state and federal law; or

151           (4) Any procedure undertaken because the individual  
152 suffers from a physical disorder, physical injury, or  
153 physical illness that would, as certified by a physician,  
154 place the individual in imminent danger of death or  
155 impairment of a major bodily function unless surgery is  
156 performed.

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

9           (1) Inpatient hospital services, except to persons in  
10 an institution for mental diseases who are under the age of  
11 sixty-five years and over the age of twenty-one years;  
12 provided that the MO HealthNet division shall provide  
13 through rule and regulation an exception process for

14 coverage of inpatient costs in those cases requiring  
15 treatment beyond the seventy-fifth percentile professional  
16 activities study (PAS) or the MO HealthNet children's  
17 diagnosis length-of-stay schedule; and provided further that  
18 the MO HealthNet division shall take into account through  
19 its payment system for hospital services the situation of  
20 hospitals which serve a disproportionate number of low-  
21 income patients;

22 (2) All outpatient hospital services, payments  
23 therefor to be in amounts which represent no more than  
24 eighty percent of the lesser of reasonable costs or  
25 customary charges for such services, determined in  
26 accordance with the principles set forth in Title XVIII A  
27 and B, Public Law 89-97, 1965 amendments to the federal  
28 Social Security Act (42 U.S.C. Section 301, et seq.), but  
29 the MO HealthNet division may evaluate outpatient hospital  
30 services rendered under this section and deny payment for  
31 services which are determined by the MO HealthNet division  
32 not to be medically necessary, in accordance with federal  
33 law and regulations;

34 (3) Laboratory and X-ray services;

35 (4) Nursing home services for participants, except to  
36 persons with more than five hundred thousand dollars equity  
37 in their home or except for persons in an institution for  
38 mental diseases who are under the age of sixty-five years,  
39 when residing in a hospital licensed by the department of  
40 health and senior services or a nursing home licensed by the  
41 department of health and senior services or appropriate  
42 licensing authority of other states or government-owned and -  
43 operated institutions which are determined to conform to  
44 standards equivalent to licensing requirements in Title XIX  
45 of the federal Social Security Act (42 U.S.C. Section 301,

46 et seq.), as amended, for nursing facilities. The MO  
47 HealthNet division may recognize through its payment  
48 methodology for nursing facilities those nursing facilities  
49 which serve a high volume of MO HealthNet patients. The MO  
50 HealthNet division when determining the amount of the  
51 benefit payments to be made on behalf of persons under the  
52 age of twenty-one in a nursing facility may consider nursing  
53 facilities furnishing care to persons under the age of  
54 twenty-one as a classification separate from other nursing  
55 facilities;

56 (5) Nursing home costs for participants receiving  
57 benefit payments under subdivision (4) of this subsection  
58 for those days, which shall not exceed twelve per any period  
59 of six consecutive months, during which the participant is  
60 on a temporary leave of absence from the hospital or nursing  
61 home, provided that no such participant shall be allowed a  
62 temporary leave of absence unless it is specifically  
63 provided for in his plan of care. As used in this  
64 subdivision, the term "temporary leave of absence" shall  
65 include all periods of time during which a participant is  
66 away from the hospital or nursing home overnight because he  
67 is visiting a friend or relative;

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

70 (7) Subject to appropriation, up to twenty visits per  
71 year for services limited to examinations, diagnoses,  
72 adjustments, and manipulations and treatments of  
73 malpositioned articulations and structures of the body  
74 provided by licensed chiropractic physicians practicing  
75 within their scope of practice. Nothing in this subdivision  
76 shall be interpreted to otherwise expand MO HealthNet  
77 services;



78           (8)   Drugs and medicines when prescribed by a licensed  
79   physician, dentist, podiatrist, or an advanced practice  
80   registered nurse; except that no payment for drugs and  
81   medicines prescribed on and after January 1, 2006, by a  
82   licensed physician, dentist, podiatrist, or an advanced  
83   practice registered nurse may be made on behalf of any  
84   person who qualifies for prescription drug coverage under  
85   the provisions of P.L. 108-173;

86           (9)   Emergency ambulance services and, effective  
87   January 1, 1990, medically necessary transportation to  
88   scheduled, physician-prescribed nonelective treatments;

89           (10)  Early and periodic screening and diagnosis of  
90   individuals who are under the age of twenty-one to ascertain  
91   their physical or mental defects, and health care,  
92   treatment, and other measures to correct or ameliorate  
93   defects and chronic conditions discovered thereby.  Such  
94   services shall be provided in accordance with the provisions  
95   of Section 6403 of P.L. 101-239 and federal regulations  
96   promulgated thereunder;

97           (11)  Home health care services;

98           (12)  Family planning as defined by federal rules and  
99   regulations; provided, however, that such family planning  
100   services shall not include abortions or any abortifacient  
101   drug or device that is used for the purpose of inducing an  
102   abortion unless such abortions are certified in writing by a  
103   physician to the MO HealthNet agency that, in the  
104   physician's professional judgment, the life of the mother  
105   would be endangered if the fetus were carried to term;

106           (13)  Inpatient psychiatric hospital services for  
107   individuals under age twenty-one as defined in Title XIX of  
108   the federal Social Security Act (42 U.S.C. Section 1396d, et  
109   seq.);

110           (14) Outpatient surgical procedures, including  
111 presurgical diagnostic services performed in ambulatory  
112 surgical facilities which are licensed by the department of  
113 health and senior services of the state of Missouri; except,  
114 that such outpatient surgical services shall not include  
115 persons who are eligible for coverage under Part B of Title  
116 XVIII, Public Law 89-97, 1965 amendments to the federal  
117 Social Security Act, as amended, if exclusion of such  
118 persons is permitted under Title XIX, Public Law 89-97, 1965  
119 amendments to the federal Social Security Act, as amended;

120           (15) Personal care services which are medically  
121 oriented tasks having to do with a person's physical  
122 requirements, as opposed to housekeeping requirements, which  
123 enable a person to be treated by his or her physician on an  
124 outpatient rather than on an inpatient or residential basis  
125 in a hospital, intermediate care facility, or skilled  
126 nursing facility. Personal care services shall be rendered  
127 by an individual not a member of the participant's family  
128 who is qualified to provide such services where the services  
129 are prescribed by a physician in accordance with a plan of  
130 treatment and are supervised by a licensed nurse. Persons  
131 eligible to receive personal care services shall be those  
132 persons who would otherwise require placement in a hospital,  
133 intermediate care facility, or skilled nursing facility.  
134 Benefits payable for personal care services shall not exceed  
135 for any one participant one hundred percent of the average  
136 statewide charge for care and treatment in an intermediate  
137 care facility for a comparable period of time. Such  
138 services, when delivered in a residential care facility or  
139 assisted living facility licensed under chapter 198 shall be  
140 authorized on a tier level based on the services the  
141 resident requires and the frequency of the services. A

142 resident of such facility who qualifies for assistance under  
143 section 208.030 shall, at a minimum, if prescribed by a  
144 physician, qualify for the tier level with the fewest  
145 services. The rate paid to providers for each tier of  
146 service shall be set subject to appropriations. Subject to  
147 appropriations, each resident of such facility who qualifies  
148 for assistance under section 208.030 and meets the level of  
149 care required in this section shall, at a minimum, if  
150 prescribed by a physician, be authorized up to one hour of  
151 personal care services per day. Authorized units of  
152 personal care services shall not be reduced or tier level  
153 lowered unless an order approving such reduction or lowering  
154 is obtained from the resident's personal physician. Such  
155 authorized units of personal care services or tier level  
156 shall be transferred with such resident if he or she  
157 transfers to another such facility. Such provision shall  
158 terminate upon receipt of relevant waivers from the federal  
159 Department of Health and Human Services. If the Centers for  
160 Medicare and Medicaid Services determines that such  
161 provision does not comply with the state plan, this  
162 provision shall be null and void. The MO HealthNet division  
163 shall notify the revisor of statutes as to whether the  
164 relevant waivers are approved or a determination of  
165 noncompliance is made;

166 (16) Mental health services. The state plan for  
167 providing medical assistance under Title XIX of the Social  
168 Security Act, 42 U.S.C. Section 301, as amended, shall  
169 include the following mental health services when such  
170 services are provided by community mental health facilities  
171 operated by the department of mental health or designated by  
172 the department of mental health as a community mental health  
173 facility or as an alcohol and drug abuse facility or as a

174 child-serving agency within the comprehensive children's  
175 mental health service system established in section  
176 630.097. The department of mental health shall establish by  
177 administrative rule the definition and criteria for  
178 designation as a community mental health facility and for  
179 designation as an alcohol and drug abuse facility. Such  
180 mental health services shall include:

181 (a) Outpatient mental health services including  
182 preventive, diagnostic, therapeutic, rehabilitative, and  
183 palliative interventions rendered to individuals in an  
184 individual or group setting by a mental health professional  
185 in accordance with a plan of treatment appropriately  
186 established, implemented, monitored, and revised under the  
187 auspices of a therapeutic team as a part of client services  
188 management;

189 (b) Clinic mental health services including  
190 preventive, diagnostic, therapeutic, rehabilitative, and  
191 palliative interventions rendered to individuals in an  
192 individual or group setting by a mental health professional  
193 in accordance with a plan of treatment appropriately  
194 established, implemented, monitored, and revised under the  
195 auspices of a therapeutic team as a part of client services  
196 management;

197 (c) Rehabilitative mental health and alcohol and drug  
198 abuse services including home and community-based  
199 preventive, diagnostic, therapeutic, rehabilitative, and  
200 palliative interventions rendered to individuals in an  
201 individual or group setting by a mental health or alcohol  
202 and drug abuse professional in accordance with a plan of  
203 treatment appropriately established, implemented, monitored,  
204 and revised under the auspices of a therapeutic team as a  
205 part of client services management. As used in this

206 section, mental health professional and alcohol and drug  
207 abuse professional shall be defined by the department of  
208 mental health pursuant to duly promulgated rules. With  
209 respect to services established by this subdivision, the  
210 department of social services, MO HealthNet division, shall  
211 enter into an agreement with the department of mental  
212 health. Matching funds for outpatient mental health  
213 services, clinic mental health services, and rehabilitation  
214 services for mental health and alcohol and drug abuse shall  
215 be certified by the department of mental health to the MO  
216 HealthNet division. The agreement shall establish a  
217 mechanism for the joint implementation of the provisions of  
218 this subdivision. In addition, the agreement shall  
219 establish a mechanism by which rates for services may be  
220 jointly developed;

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

226 (18) The services of an advanced practice registered  
227 nurse with a collaborative practice agreement to the extent  
228 that such services are provided in accordance with chapters  
229 334 and 335, and regulations promulgated thereunder;

230 (19) Nursing home costs for participants receiving  
231 benefit payments under subdivision (4) of this subsection to  
232 reserve a bed for the participant in the nursing home during  
233 the time that the participant is absent due to admission to  
234 a hospital for services which cannot be performed on an  
235 outpatient basis, subject to the provisions of this  
236 subdivision:

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

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

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

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

250 (c) For each day that nursing home costs are paid on  
251 behalf of a participant under this subdivision during any  
252 period of six consecutive months such participant shall,  
253 during the same period of six consecutive months, be  
254 ineligible for payment of nursing home costs of two  
255 otherwise available temporary leave of absence days provided  
256 under subdivision (5) of this subsection; and

257 (d) The provisions of this subdivision shall not apply  
258 unless the nursing home receives notice from the participant  
259 or the participant's responsible party that the participant  
260 intends to return to the nursing home following the hospital  
261 stay. If the nursing home receives such notification and  
262 all other provisions of this subsection have been satisfied,  
263 the nursing home shall provide notice to the participant or  
264 the participant's responsible party prior to release of the  
265 reserved bed;

266 (20) Prescribed medically necessary durable medical  
267 equipment. An electronic web-based prior authorization  
268 system using best medical evidence and care and treatment

269 guidelines consistent with national standards shall be used  
270 to verify medical need;

271 (21) Hospice care. As used in this subdivision, the  
272 term "hospice care" means a coordinated program of active  
273 professional medical attention within a home, outpatient and  
274 inpatient care which treats the terminally ill patient and  
275 family as a unit, employing a medically directed  
276 interdisciplinary team. The program provides relief of  
277 severe pain or other physical symptoms and supportive care  
278 to meet the special needs arising out of physical,  
279 psychological, spiritual, social, and economic stresses  
280 which are experienced during the final stages of illness,  
281 and during dying and bereavement and meets the Medicare  
282 requirements for participation as a hospice as are provided  
283 in 42 CFR Part 418. The rate of reimbursement paid by the  
284 MO HealthNet division to the hospice provider for room and  
285 board furnished by a nursing home to an eligible hospice  
286 patient shall not be less than ninety-five percent of the  
287 rate of reimbursement which would have been paid for  
288 facility services in that nursing home facility for that  
289 patient, in accordance with subsection (c) of Section 6408  
290 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

291 (22) Prescribed medically necessary dental services.  
292 Such services shall be subject to appropriations. An  
293 electronic web-based prior authorization system using best  
294 medical evidence and care and treatment guidelines  
295 consistent with national standards shall be used to verify  
296 medical need;

297 (23) Prescribed medically necessary optometric  
298 services. Such services shall be subject to  
299 appropriations. An electronic web-based prior authorization  
300 system using best medical evidence and care and treatment

301 guidelines consistent with national standards shall be used  
302 to verify medical need;

303 (24) Blood clotting products-related services. For  
304 persons diagnosed with a bleeding disorder, as defined in  
305 section 338.400, reliant on blood clotting products, as  
306 defined in section 338.400, such services include:

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

310 (b) Medically necessary ancillary infusion equipment  
311 and supplies required to administer the blood clotting  
312 products; and

313 (c) Assessments conducted in the participant's home by  
314 a pharmacist, nurse, or local home health care agency  
315 trained in bleeding disorders when deemed necessary by the  
316 participant's treating physician;

317 (25) The MO HealthNet division shall, by January 1,  
318 2008, and annually thereafter, report the status of MO  
319 HealthNet provider reimbursement rates as compared to one  
320 hundred percent of the Medicare reimbursement rates and  
321 compared to the average dental reimbursement rates paid by  
322 third-party payors licensed by the state. The MO HealthNet  
323 division shall, by July 1, 2008, provide to the general  
324 assembly a four-year plan to achieve parity with Medicare  
325 reimbursement rates and for third-party payor average dental  
326 reimbursement rates. Such plan shall be subject to  
327 appropriation and the division shall include in its annual  
328 budget request to the governor the necessary funding needed  
329 to complete the four-year plan developed under this  
330 subdivision.

331 2. Additional benefit payments for medical assistance  
332 shall be made on behalf of those eligible needy children,



333 pregnant women and blind persons with any payments to be  
334 made on the basis of the reasonable cost of the care or  
335 reasonable charge for the services as defined and determined  
336 by the MO HealthNet division, unless otherwise hereinafter  
337 provided, for the following:

338 (1) Dental services;

339 (2) Services of podiatrists as defined in section  
340 330.010;

341 (3) Optometric services as described in section  
342 336.010;

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

345 (5) Hospice care. As used in this subdivision, the  
346 term "hospice care" means a coordinated program of active  
347 professional medical attention within a home, outpatient and  
348 inpatient care which treats the terminally ill patient and  
349 family as a unit, employing a medically directed  
350 interdisciplinary team. The program provides relief of  
351 severe pain or other physical symptoms and supportive care  
352 to meet the special needs arising out of physical,  
353 psychological, spiritual, social, and economic stresses  
354 which are experienced during the final stages of illness,  
355 and during dying and bereavement and meets the Medicare  
356 requirements for participation as a hospice as are provided  
357 in 42 CFR Part 418. The rate of reimbursement paid by the  
358 MO HealthNet division to the hospice provider for room and  
359 board furnished by a nursing home to an eligible hospice  
360 patient shall not be less than ninety-five percent of the  
361 rate of reimbursement which would have been paid for  
362 facility services in that nursing home facility for that  
363 patient, in accordance with subsection (c) of Section 6408  
364 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

365           (6) Comprehensive day rehabilitation services  
366 beginning early posttrauma as part of a coordinated system  
367 of care for individuals with disabling impairments.  
368 Rehabilitation services must be based on an individualized,  
369 goal-oriented, comprehensive and coordinated treatment plan  
370 developed, implemented, and monitored through an  
371 interdisciplinary assessment designed to restore an  
372 individual to optimal level of physical, cognitive, and  
373 behavioral function. The MO HealthNet division shall  
374 establish by administrative rule the definition and criteria  
375 for designation of a comprehensive day rehabilitation  
376 service facility, benefit limitations and payment  
377 mechanism. Any rule or portion of a rule, as that term is  
378 defined in section 536.010, that is created under the  
379 authority delegated in this subdivision shall become  
380 effective only if it complies with and is subject to all of  
381 the provisions of chapter 536 and, if applicable, section  
382 536.028. This section and chapter 536 are nonseverable and  
383 if any of the powers vested with the general assembly  
384 pursuant to chapter 536 to review, to delay the effective  
385 date, or to disapprove and annul a rule are subsequently  
386 held unconstitutional, then the grant of rulemaking  
387 authority and any rule proposed or adopted after August 28,  
388 2005, shall be invalid and void.

389           3. The MO HealthNet division may require any  
390 participant receiving MO HealthNet benefits to pay part of  
391 the charge or cost until July 1, 2008, and an additional  
392 payment after July 1, 2008, as defined by rule duly  
393 promulgated by the MO HealthNet division, for all covered  
394 services except for those services covered under  
395 subdivisions (15) and (16) of subsection 1 of this section  
396 and sections 208.631 to 208.657 to the extent and in the

397 manner authorized by Title XIX of the federal Social  
398 Security Act (42 U.S.C. Section 1396, et seq.) and  
399 regulations thereunder. When substitution of a generic drug  
400 is permitted by the prescriber according to section 338.056,  
401 and a generic drug is substituted for a name-brand drug, the  
402 MO HealthNet division may not lower or delete the  
403 requirement to make a co-payment pursuant to regulations of  
404 Title XIX of the federal Social Security Act. A provider of  
405 goods or services described under this section must collect  
406 from all participants the additional payment that may be  
407 required by the MO HealthNet division under authority  
408 granted herein, if the division exercises that authority, to  
409 remain eligible as a provider. Any payments made by  
410 participants under this section shall be in addition to and  
411 not in lieu of payments made by the state for goods or  
412 services described herein except the participant portion of  
413 the pharmacy professional dispensing fee shall be in  
414 addition to and not in lieu of payments to pharmacists. A  
415 provider may collect the co-payment at the time a service is  
416 provided or at a later date. A provider shall not refuse to  
417 provide a service if a participant is unable to pay a  
418 required payment. If it is the routine business practice of  
419 a provider to terminate future services to an individual  
420 with an unclaimed debt, the provider may include uncollected  
421 co-payments under this practice. Providers who elect not to  
422 undertake the provision of services based on a history of  
423 bad debt shall give participants advance notice and a  
424 reasonable opportunity for payment. A provider,  
425 representative, employee, independent contractor, or agent  
426 of a pharmaceutical manufacturer shall not make co-payment  
427 for a participant. This subsection shall not apply to other  
428 qualified children, pregnant women, or blind persons. If

429 the Centers for Medicare and Medicaid Services does not  
430 approve the MO HealthNet state plan amendment submitted by  
431 the department of social services that would allow a  
432 provider to deny future services to an individual with  
433 uncollected co-payments, the denial of services shall not be  
434 allowed. The department of social services shall inform  
435 providers regarding the acceptability of denying services as  
436 the result of unpaid co-payments.

437 4. The MO HealthNet division shall have the right to  
438 collect medication samples from participants in order to  
439 maintain program integrity.

440 5. Reimbursement for obstetrical and pediatric  
441 services under subdivision (6) of subsection 1 of this  
442 section shall be timely and sufficient to enlist enough  
443 health care providers so that care and services are  
444 available under the state plan for MO HealthNet benefits at  
445 least to the extent that such care and services are  
446 available to the general population in the geographic area,  
447 as required under subparagraph (a)(30)(A) of 42 U.S.C.  
448 Section 1396a and federal regulations promulgated thereunder.

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

454 7. Beginning July 1, 1990, the department of social  
455 services shall provide notification and referral of children  
456 below age five, and pregnant, breast-feeding, or postpartum  
457 women who are determined to be eligible for MO HealthNet  
458 benefits under section 208.151 to the special supplemental  
459 food programs for women, infants and children administered  
460 by the department of health and senior services. Such

461 notification and referral shall conform to the requirements  
462 of Section 6406 of P.L. 101-239 and regulations promulgated  
463 thereunder.

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

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

476 10. The MO HealthNet division may enroll qualified  
477 residential care facilities and assisted living facilities,  
478 as defined in chapter 198, as MO HealthNet personal care  
479 providers.

480 11. Any income earned by individuals eligible for  
481 certified extended employment at a sheltered workshop under  
482 chapter 178 shall not be considered as income for purposes  
483 of determining eligibility under this section.

484 12. If the Missouri Medicaid audit and compliance unit  
485 changes any interpretation or application of the  
486 requirements for reimbursement for MO HealthNet services  
487 from the interpretation or application that has been applied  
488 previously by the state in any audit of a MO HealthNet  
489 provider, the Missouri Medicaid audit and compliance unit  
490 shall notify all affected MO HealthNet providers five  
491 business days before such change shall take effect. Failure  
492 of the Missouri Medicaid audit and compliance unit to notify

493 a provider of such change shall entitle the provider to  
494 continue to receive and retain reimbursement until such  
495 notification is provided and shall waive any liability of  
496 such provider for recoupment or other loss of any payments  
497 previously made prior to the five business days after such  
498 notice has been sent. Each provider shall provide the  
499 Missouri Medicaid audit and compliance unit a valid email  
500 address and shall agree to receive communications  
501 electronically. The notification required under this  
502 section shall be delivered in writing by the United States  
503 Postal Service or electronic mail to each provider.

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

507 14. Beginning July 1, 2016, and subject to  
508 appropriations, providers of behavioral, social, and  
509 psychophysiological services for the prevention, treatment,  
510 or management of physical health problems shall be  
511 reimbursed utilizing the behavior assessment and  
512 intervention reimbursement codes 96150 to 96154 or their  
513 successor codes under the Current Procedural Terminology  
514 (CPT) coding system. Providers eligible for such  
515 reimbursement shall include psychologists.

516 **15. There shall be no payments made under this section**  
517 **for gender transition surgeries, cross-sex hormones, or**  
518 **puberty-blocking drugs, as such terms are defined in section**  
519 **191.1720, for the purpose of a gender transition.**

217.230. The director shall arrange for necessary  
2 health care services for offenders confined in correctional  
3 centers, **which shall not include any gender transition**  
4 **surgery, as defined in section 191.1720.**

221.120. 1. If any prisoner confined in the county  
2 jail is sick and in the judgment of the jailer, requires the  
3 attention of a physician, dental care, or medicine, the  
4 jailer shall procure the necessary medicine, dental care or  
5 medical attention necessary or proper to maintain the health  
6 of the prisoner; **provided, that this shall not include any**  
7 **gender transition surgery, as defined in section 191.1720.**

8 The costs of such medicine, dental care, or medical  
9 attention shall be paid by the prisoner through any health  
10 insurance policy as defined in subsection 3 of this section,  
11 from which the prisoner is eligible to receive benefits. If  
12 the prisoner is not eligible for such health insurance  
13 benefits then the prisoner shall be liable for the payment  
14 of such medical attention, dental care, or medicine, and the  
15 assets of such prisoner may be subject to levy and execution  
16 under court order to satisfy such expenses in accordance  
17 with the provisions of section 221.070, and any other  
18 applicable law. The county commission of the county may at  
19 times authorize payment of certain medical costs that the  
20 county commission determines to be necessary and  
21 reasonable. As used in this section, the term "medical  
22 costs" includes the actual costs of medicine, dental care or  
23 other medical attention and necessary costs associated with  
24 such medical care such as transportation, guards and  
25 inpatient care.

26 2. The county commission may, in their discretion,  
27 employ a physician by the year, to attend such prisoners,  
28 and make such reasonable charge for his service and  
29 medicine, when required, to be taxed and collected as  
30 provided by law.

31 3. As used in this section, the following terms mean:

32           (1) "Assets", property, tangible or intangible, real  
33 or personal, belonging to or due a prisoner or a former  
34 prisoner, including income or payments to such prisoner from  
35 Social Security, workers' compensation, veterans'  
36 compensation, pension benefits, previously earned salary or  
37 wages, bonuses, annuities, retirement benefits, compensation  
38 paid to the prisoner per work or services performed while a  
39 prisoner or from any other source whatsoever, including any  
40 of the following:

41           (a) Money or other tangible assets received by the  
42 prisoner as a result of a settlement of a claim against the  
43 state, any agency thereof, or any claim against an employee  
44 or independent contractor arising from and in the scope of  
45 the employee's or contractor's official duties on behalf of  
46 the state or any agency thereof;

47           (b) A money judgment received by the prisoner from the  
48 state as a result of a civil action in which the state, an  
49 agency thereof or any state employee or independent  
50 contractor where such judgment arose from a claim arising  
51 from the conduct of official duties on behalf of the state  
52 by the employee or subcontractor or for any agency of the  
53 state;

54           (c) A current stream of income from any source  
55 whatsoever, including a salary, wages, disability benefits,  
56 retirement benefits, pension benefits, insurance or annuity  
57 benefits, or similar payments; and

58           (2) "Health insurance policy", any group insurance  
59 policy providing coverage on an expense-incurred basis, any  
60 group service or indemnity contract issued by a not-for-  
61 profit health services corporation or any self-insured group  
62 health benefit plan of any type or description.

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