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Rebecca McDowell Cook
Secretary of State

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 24, *Missouri Register*, page 27. The approved short form of citation is 24 MoReg 27.

The rules are identified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo Supp. 1999. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

EMERGENCY AMENDMENT

7 CSR 10-14.020 Definitions. The commission proposes to amend previous sections (3), (7), (9), and (10) and add new sections (9) and (12).

PURPOSE: This emergency amendment contains additional definitions of terms used in this chapter.

EMERGENCY STATEMENT: The Missouri Highways and Transportation Commission is responsible for maintaining its property in a condition that is not dangerous thus not creating a reasonable foreseeable risk of harm of injury. A moratorium based upon safety concerns in the City of St. Louis has been affirmed by a federal court recognizing that there are safety issues regarding the adopt-a-highway program. The previous rule did not provide a definition for violent criminal activity and to make the adopt-a-highway regulations more clear, they must include this definition since those groups convicted of violent criminal activity, including but not limited to hate crimes, are prohibited from participation in the program. Vandalism and theft of state property has occurred as a result of allowing these groups to participate in the program.

Therefore, this rule must be enacted in order for the commission to maintain the state highway right-of-way in a condition that is not dangerous to the adopters, traveling public, and Missouri Department of Transportation employees. The commission finds that vandalism and theft occurring on state highway right-of-way creates an immediate danger to the health, safety and welfare to the citizens of Missouri. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The commission believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency Amendment filed February 8, 2000, effective February 18, 2000, expires August 15, 2000.

(3) Adopter representative means a group member designated to represent the volunteer group and serve as its liaison with the commission. [Usually the person who signs the agreement is the adopter representative.] The adopter representative is the person who signs the agreement.

(7) Department means the [Missouri Highways and Transportation Department] Missouri Department of Transportation.

(9) Participant means any individual or group who will be participating in the program activity.

[[9]] (10) Program means the Adopt-A-Highway Program.

[[10]] (11) Program activity means litter pickup and/or beautification and/or mowing.

(12) Violent criminal activity means any offenses having as an element the use, attempted use, or threatened use of physical force against the person or property of another or any offense involving weapons, hate crimes, sexual assault, aggravated harassment, civil rights violations, and offenses defined under the Racketeer Influenced and Corrupt Organizations Act (RICO), United States Code title 18, or for whom state or federal courts have taken judicial notice of an applicant's unlawful activity or advocating of violence.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

EMERGENCY AMENDMENT

7 CSR 10-14.030 Application for Participation. The commission proposes to amend the previous section (1) and subsections (2)(A), (2)(B), and (2)(C) and add a new section (1) and subsections (2)(B), and (2)(C).

PURPOSE: This emergency amendment is to further identify criteria for eligible adopters and criteria in determining whether an application is rejected or accepted.

EMERGENCY STATEMENT: The Missouri Highways and Transportation Commission is responsible for maintaining its

property in a condition that is not dangerous thus not creating a reasonable foreseeable risk of harm of injury. A moratorium based upon safety concerns in the City of St. Louis has been affirmed by a federal court recognizing that there are safety issues regarding the adopt-a-highway program. The previous rule did not clearly provide that applicants convicted of violent criminal activity, including but not limited to hate crimes, or that applicants who overtly deny membership on the basis of race would be prohibited from participation in the program. Vandalism and theft of state property has occurred as a result of allowing these groups to participate in the program. Therefore, this rule must be enacted in order for the commission to maintain the state highway right-of-way in a condition that is not dangerous to the adopters, traveling public, and Missouri Department of Transportation employees. The commission finds that vandalism and theft occurring on state highway right-of-way creates an immediate danger to the health, safety and welfare to the citizens of Missouri. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The commission believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency Amendment filed February 8, 2000, effective February 18, 2000, expires August 15, 2000.

(1) The adopter representative of a group who desires to participate in the program shall submit an application to the commission on a form provided by the commission.

[(1)] **(2) Eligible Adopters.** Eligible adopters include civic and nonprofit organizations, commercial and private enterprises and individuals who have not been convicted of or who are not associated with organizations who have been convicted of a violent criminal activity, do not practice any action which constitutes a hate crime, and do not overtly deny membership on the basis of race. *[The program is not intended as a means of providing a public forum for the participants to use in promoting name recognition or political causes.]* The commission reserves the right to limit the number of adoptions for a single group.

[(2)] **(3) Acceptance of Application.** The commission will have sole responsibility in determining whether an application is rejected or accepted and determining what highways will or will not be eligible for adoption.

(A) The commission may refuse to grant a request to participant if, in its opinion, granting the request would jeopardize the program, or the safety of the adopters, traveling public or Missouri Department of Transportation (MoDOT) employees, or otherwise be counterproductive to *[its]* the program's purpose or have undesirable results such as increased litter, vandalism or sign theft.

(B) The commission may refuse to grant a request to participate if the applicant has submitted false statements of a material fact or has practiced or attempted to practice any fraud or deception in an application.

(C) An application completed by an individual on behalf of a group or organization must identify the group or organization for which the application is being submitted and failure to identify the group or organization on the application will result in rejecting the application.

[(B)] **(D)** Applicants must adhere to the restrictions of all state and federal nondiscrimination laws including state executive orders. Specifically, the applicant must not discriminate on the basis of race, religion, color, national origin or disability. The adopter representative will certify on the application form that the group or organization does not overtly deny membership on the basis of race. Such discrimination disqualifies the applicant from participation in the program.

[(C)] **(E)** Applicants with a history of unlawfully violent *[or]* criminal *[behavior]* activity as defined in this chapter will be prohibited from participation in the program.

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation
Commission
Chapter 14—Adopt-A-Highway Program**

EMERGENCY AMENDMENT

7 CSR 10-14.040 Agreement [Terms]; Responsibilities of Adopter and Commission. The commission proposes amending the rule title and to amend previous subsection (2)(C), and add new subsections (2)(B), (2)(E), (2)(F), (2)(S), (2)(T) and (3)(D) and delete section (4).

PURPOSE: This emergency amendment provides for additional terms of the written agreement between the adopter and the commission to promote the safety of the program and to develop a record-keeping system for tracking the program's success.

EMERGENCY STATEMENT: The Missouri Highways and Transportation Commission is responsible for maintaining its property in a condition that is not dangerous thus not creating a reasonable foreseeable risk of harm of injury. A moratorium based upon safety concerns in the City of St. Louis has been affirmed by a federal court recognizing that there are safety issues regarding the adopt-a-highway program. The previous rule did not provide for the requirement of the adopter to advise the commission of any change of adopter representative or advise that each member of the group participating in the program attend a safety training meeting. The previous rule did not require that an after action report be submitted by the adopter representative or that the responsibilities of the adopter not be subcontracted or assigned unless the assignee is also an active adopter. Further, the previous rule did not require the commission to provide safety training to the adopter representative. As a result of not including these provisions, it has been difficult for the commission to promptly contact adopter representative when they are not meeting the requirements of the agreement, to keep accurate record of the program's success, to ensure that the adopter representative is properly trained in safety, and to ensure that each member of the group participating in the program has attended a safety training meeting. Therefore, this rule must be enacted in order for the commission to maintain the state highway right-of-way in a condition that is not dangerous to the adopters, traveling public, and Missouri Department of Transportation employees. The commission finds that by not having information to promptly contact adopter, information as to the program activity, and by not ensuring that each member participating in the program attend the required safety training meeting creates an immediate danger to the health, safety and welfare to the citizens of Missouri. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The commission believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency Amendment filed February 8, 2000, effective February 18, 2000, expires August 15, 2000.

(2) Responsibilities of Adopter. The adopter shall—

(B) Provide to the commission, in writing, the name and complete mailing address, including street address, of the adopter representative and to notify the commission within thirty (30) days, in writing, of any change of adopter representative name or address.

/(B)/(C) Abide by all safety requirements as listed in the department's Safety Tips brochure;

/(C)/(D) Have [all members of the group] each adopter representative participating in the program activity attend a safety training meeting conducted by the [adopter representative, or designee,] commission before participation in any program activity;

(E) Have all members of the group participating in the program activity attend a safety training meeting conducted by the adopter representative, or designee, before participation in any program activity;

(F) Have the adopter representative provide to the commission, in writing, the name of each member of the group who will be participating in the program activity, indicating that each member has attended a safety training meeting.

/(D)/(G) Properly use all safety equipment provided by the department and perform the work in a safe and professional manner;

/(E)/(H) Provide one (1) adult supervisor for every eight (8) participants between thirteen and seventeen (13-17) years of age and one (1) adult supervisor for every four (4) participants between six and twelve (6-12) years of age. No one under the age of six (6) will be allowed to participate in the program;

/(F)/(I) Adopt a section of highway right-of-way for a minimum of three (3) years;

/(G)/(J) Collect litter along the adopted section a minimum of four (4) times per year, or as required by the commission;

/(H)/(K) Adopt for litter pickup a minimum of two (2) miles in rural areas and one-half (1/2) mile in urban areas. Shorter lengths may be permissible in special circumstances;

/(I)/(L) Provide prior notice, as required by the commission, before performing any program activity;

/(J)/(M) Restrict program activities to the areas of right-of-way outside the pavement and shoulder areas;

/(K)/(N) Perform program activity between the hours of one (1) hour after sunrise to one (1) hour before sunset and not during inclement weather;

/(L)/(O) Prohibit members from possessing, consuming, or being under the influence of alcohol or drugs while participating in the program;

/(M)/(P) Place litter in trash bags provided by the department and place filled trash bags at a designated location;

/(N)/(Q) Separate tires, batteries and other trash as needed for proper disposal according to local landfill requirements; and

/(O)/(R) Indemnify and hold harmless the commission and department and their officers, employees and agents from any claim, lawsuit or liability which may arise from adopter's participation in the program.

(S) Have the adopter representative submit to the commission within five (5) working days an after action report using a form provided by MoDOT. This form will enable MoDOT to monitor the program's success.

(T) Not subcontract or assign its responsibilities under this program to any other enterprise, organization, or individual unless assignee is also an active adopter.

(3) Responsibilities of Commission. The commission shall—

(D) Provide safety training to the adopter representative which includes but is not limited to a safety video and safety tips brochure.

/(D)/(E) Provide the adopter with safety equipment; and

/(E)/(F) Remove and dispose of filled trash bags from the adopted section as soon as practical after the litter pickup is finished.

/(4) Termination of Agreement. The commission reserves the right to terminate the agreement and remove the signs when, in the sole judgment of the commission, it is found the adopter has not met the terms and conditions of the agreement or there is concern about the safety of the adopters, traveling public or Missouri Highways and Transportation Department (MHTD) employees.]

AUTHORITY: section 227.030, RSMo 1994. Original rule filed Feb. 15, 1995, effective July 30, 1995. Emergency amendment filed Feb. 8, 2000, effective Feb. 18, 2000, expires Aug. 15, 2000. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options**

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 1994, the plan hereby terminates an emergency amendment effective February 18, 2000:

22 CSR 10-2.040 Indemnity Plan Summary of Medical Benefits is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the Missouri Register on January 3, 2000 (25 MoReg 8-9). A new rule regarding Indemnity Plan Summary of Medical Benefits will become effective on February 18, 2000. Therefore, in order to avoid having two amendments regarding 22 CSR 10-2.040 effective at the same time, the MCHCP will terminate the emergency amendment effective February 18, 2000.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options**

EMERGENCY AMENDMENT

22 CSR 10-2.040 Indemnity Plan Summary of Medical Benefits. The board is amending sections (1), (3), (4), (7) and (9).

PURPOSE: The amendment includes changes made by the board of trustees regarding medical benefits for participants in the Missouri Consolidated Health Care Plan.

EMERGENCY STATEMENT: This rule has a variety of changes from the current regulation. It must be in place by February 18, 2000, in accordance with the renewal of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies responsibility for eligible charges, beginning with the first day of coverage for the new plan year. It also provides further direction for appeals related to the operation of the plan. Many of these changes are required by either federal or state law. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately

in order to maintain the integrity of the current health care plan. This emergency amendment must become effective February 18, 2000, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the Missouri and United States Constitutions and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed February 8, 2000, becomes effective February 18, 2000, and expires on June 28, 2000.

(1) Lifetime maximum, [one (1)] **three (3)** million dollars.

(3) Deductible Amount—Per individual for the indemnity plan [and the limited indemnity plan] each calendar year, three hundred dollars (\$300), family limit each calendar year, nine hundred dollars (\$900).

(4) [Copayment] Coinsurance.

(C) [Limited Indemnity Plan] **Non-Network Services**—Same as subsections (4)(A) and (B), except covered charges are reimbursed on a seventy percent (70%) basis.

(7) [Health Check] **Clinical Management**—Certain benefits are subject to a utilization review (UR) program. The program consists of four (4) parts, as described in the following:

(9) Prescription Drug Program—The indemnity plan provides [a carve-out program for prescription drugs. The program consists of] coverage for maintenance and nonmaintenance medications, as described in the following:

[(A) **Nonmaintenance Medications**—For those prescription drugs needed for short-term use only, the member will be responsible for twenty percent (20%) of a discounted rate after satisfaction of the twenty-five dollar (\$25) individual deductible (seventy-five dollars (\$75) maximum family deductible).

1. The prescription must be written for less than a thirty (30)-day supply.

2. If the member chooses a brand name medication when there is a generic available, s/he will be responsible for twenty percent (20%) of the generic medication's cost (after satisfaction of the deductible), as well as the difference between the cost of the brand name medication and the generic medication. This difference does not apply to the out-of-pocket maximum. This provision does not apply if the doctor has indicated on the prescription that the brand name is necessary.

(B) **Maintenance Medications**—For those medications listed on the maintenance medication list, as determined by the claims administrator, the member will be responsible for a fifteen-dollar (\$15) copayment for each brand name medication and a five-dollar (\$5) copayment for each generic medication.

1. The prescription must be written for a thirty to ninety (30–90) day supply.

2. Maintenance medications may be purchased from either a participating local pharmacy or the mail order facility.

3. Unless an exception is approved by the drug/claims administrator for a medically necessary reason, oral contraceptives must be obtained from an approved formulary list.

(C) **Out-of-Pocket Maximum**—There is a maximum out-of-pocket (including deductibles) of four hundred dollars (\$400) per individual, with a maximum family out-of-pocket

of twelve hundred dollars (\$1,200). The out-of-pocket maximum applies to both maintenance and nonmaintenance medications. Once a member has reached the four hundred dollar (\$400)-maximum his/her covered drugs will be covered at 100% for the remainder of the calendar year.]

(A) **Medications**—

1. **In-Network**

A. **\$5 Copay for 30-day supply for generic drug on the formulary**

B. **\$15 Copay for 30-day supply for brand drug on the formulary**

C. **\$25 Copay for 30-day supply for non-formulary drug**

2. **Non-Network**—The deductible will apply. After satisfaction of the deductible, claims will be paid at 50% coinsurance. Charges will not be applied to the out-of-pocket maximum.

3. **Mail Order Program**—Prescriptions may be filled through a mail order program for up to a 90-day supply for twice the regular copayment for a drug on the maintenance list.

[(D)] (B) **Nonparticipating Pharmacies**—If a member chooses to use a nonparticipating pharmacy, s/he will be required to pay the full cost of the prescription, then file a claim with the prescription drug administrator. S/he will be reimbursed the amount that would have been allowed at a participating pharmacy, less any applicable deductibles or coinsurance. Any difference between the amount paid by the member at a nonparticipating pharmacy and the amount that would have been allowed at a participating pharmacy will not be applied to the out-of-pocket maximum.

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