Volume 30, Number 19
Pages 1987–2122
October 3, 2005

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

ROBIN CARNAHAN

SECRETARY OF STATE

MISSOURI REGISTER

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division
James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

BARBARA WOOD

•

EDITORS

BARBARA MCDOUGAL JAMES MCCLURE

•

ASSOCIATE EDITORS

CURTIS W. TREAT SALLY L. REID

•

PUBLISHING STAFF

WILBUR HIGHBARGER JACQUELINE D. WHITE

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: $56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
PO Box 1767
Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is http://www.sos.mo.gov/adrules/moreg/moreg.asp and the CSR is http://www.sos.mo.gov/adrules/csr/csr.asp. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2004. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by e-mail at rules@sos.mo.gov.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.

MISSOURI REGISTER

October 3, 2005 Vol. 30 No. 19 **Pages 1987–2122**

IN THIS ISSUE:

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
August 1, 2005	**September 1, 2005**	September 30, 2005	October 30, 2005
August 15, 2005	**September 15, 2005**	September 30, 2005	October 30, 2005
September 1, 2005	**October 3, 2005**	October 31, 2005	November 30, 2005
September 15, 2005	**October 17, 2005**	October 31, 2005	November 30, 2005
October 3, 2005	**November 1, 2005**	November 30, 2005	December 30, 2005
October 17, 2005	**November 15, 2005**	November 30, 2005	December 30, 2005
November 1, 2005	**December 1, 2005**	December 31, 2005	January 30, 2006
November 15, 2005	**December 15, 2005**	December 31, 2005	January 30, 2006
December 1, 2005	**January 3, 2006**	January 29, 2006	February 28, 2006
December 15, 2005	**January 17, 2006**	January 29, 2006	February 28, 2006
January 3, 2006	**February 1, 2006**	February 28, 2006	March 30, 2006
January 17, 2006	**February 15, 2006**	February 28, 2006	March 30, 2006
February 1, 2006	**March 1, 2006**	March 31, 2006	April 30, 2006
February 15, 2006	**March 15, 2006**	March 31, 2006	April 30, 2006
March 1, 2006	**April 3, 2006**	April 30, 2006	May 30, 2006
March 15, 2006	**April 17, 2006**	April 30, 2006	May 30, 2006
April 3, 2006	**May 1, 2006**	May 31, 2006	June 30, 2006
April 17, 2006	**May 15, 2006**	May 31, 2006	June 30, 2006

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. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

Missouri Participating Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2004), are available in the listed participating libraries, as selected by the Missouri State Library:

Jefferson County Library
PO Box 1486, 3021 High Ridge
High Ridge, MO 63049-1486
(314) 677-8689

Jefferson College Library
1000 Viking Drive
Hillsboro, MO 63050-2441
(314) 789-3951 ext. 160

St. Louis Public Library
1301 Olive St.
St. Louis, MO 63103-2389
(314) 539-0376

St. Louis University Law Library
3700 Lindell Blvd.
St. Louis, MO 63108-3478
(314) 977-2742

Eden Theological Seminary/
Webster University
Eden/Webster Library
475 East Lockwood Ave.
St. Louis, MO 63119-3192
(314) 961-2660 ext. 7812

Thomas Jefferson Library
University of Missouri-St. Louis
8001 Natural Bridge Road
St. Louis, MO 63121-4499
(314) 516-5084

Washington University
Washington University Law Library
Campus Box 1171, Mudd Bldg.,
One Brookings Dr.
St. Louis, MO 63130-4899
(314) 935-6443

St. Louis County Library
1640 S. Lindbergh Blvd.
St. Louis, MO 63131-3598
(314) 994-3300 ext. 247

Maryville University Library
13550 Conway Road
St. Louis, MO 63141-7232
(314) 529-9494

St. Charles City-County Library
Middendorf-Kredell Branch
2750 Hwy K
O'Fallon, MO 63366-7859
(636) 978-7997

Truman State University
Pickler Memorial Library
100 E. Normal
Kirksville, MO 63501-4221
(660) 785-7416

Learning Resources Center
Mineral Area College
PO Box 1000
Park Hills, MO 63601-1000
(573) 431-4593

Cape Girardeau Public Library
711 N. Clark
Cape Girardeau, MO 63701-4400
(573) 334-5279

Kent Library
Southeast Missouri State University
One University Plaza
Cape Girardeau, MO 63701-4799
(573) 651-2757

Riverside Regional Library
PO Box 389, 204 South Union St.
Jackson, MO 63755-0389
(573) 243-8141

Rutland Library
Three Rivers Community College
2080 Three Rivers Blvd.
Poplar Bluff, MO 63901-2393
(573) 840-9656

James C. Kirkpatrick Library
Central Missouri State University
142 Edwards Library
Warrensburg, MO 64093-5020
(660) 543-4149

Kansas City Public Library
14 West 10th Street
Kansas City, MO 64105
(816) 701-3546

Law Library
University of Missouri-Kansas City
5100 Rockhill Road
Kansas City, MO 64110-2499
(816) 235-2438

University of Missouri-Kansas City
Miller Nichols Library
5100 Rockhill Road
Kansas City, MO 64110-2499
(816) 235-2438

B.D. Owens Library
Northwest Missouri State University
800 University Drive
Maryville, MO 64468-6001
(660) 562-1841

St. Joseph Public Library
927 Felix Street
St. Joseph, MO 64501-2799
(816) 232-8151

Missouri Western State College
Hearnes Learning Resources Ctr.
4525 Downs Drive
St. Joseph, MO 64507-2294
(816) 271-5802

Library
North Central Missouri College
PO Box 111, 1301 Main Street
Trenton, MO 64683-0107
(660) 359-3948 ext. 325

Missouri Southern State University
Spiva Library
3950 East Newman Road
Joplin, MO 64801-1595
(417) 625-9342

Missouri State Library
600 West Main, PO Box 387
Jefferson City, MO 65102-0387
(573) 751-3615

Missouri State Archives
600 West Main, PO Box 778
Jefferson City, MO 65102-0778
(573) 526-6711

Elmer Ellis Library
University of Missouri-Columbia
106 B Ellis Library
Columbia, MO 65211-5149
(573) 882-0748

Library
State Historical Society of Missouri
1020 Lowry St.
Columbia, MO 65211-7298
(573) 882-9369

Daniel Boone Regional Library
PO Box 1267, 100 West Broadway
Columbia, MO 65205-1267
(573) 443-3161 ext. 359

School of Law
University of Missouri-Columbia
224 Hulston Hall
Columbia, MO 65211-0001
(573) 882-1125

Central Methodist College
Smiley Memorial Library
411 Central Methodist Square
Fayette, MO 65248-1198
(660) 248-6279

Library
University of Missouri-Rolla
1870 Miner Circle
Rolla, MO 65409-0060
(573) 341-4007

Lebanon-Laclede County Library
135 Harwood Ave.
Lebanon, MO 65536-3017
(417) 532-2148

University Library
Southwest Baptist University
1600 University Ave.
Bolivar, MO 65613-2597
(417) 328-1631

Barry-Lawrence Regional Library
213 6th St.
Monett, MO 65708-2147
(417) 235-6646

Lyons Memorial Library
College of the Ozarks
General Delivery
Point Lookout, MO 65726-9999
(417) 334-6411 ext. 3551

Garnett Library
Southwest Missouri State University
304 Cleveland
West Plains, MO 65775-3414
(417) 255-7945

Springfield-Greene County Library
4653 S. Campbell
Springfield, MO 65801-0760
(417) 874-8110

Meyer Library
Southwest Missouri State University
PO Box 175, 901 S. National
Springfield, MO 65804-0095
(417) 836-4533

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified 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 within 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—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. 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 (10) 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 one hundred eighty (180) calendar days or thirty (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 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 5—General Program Procedures

EMERGENCY AMENDMENT

9 CSR 10-5.200 Report of Complaints of Abuse, Neglect and Misuse of Funds/Property. This amendment proposes to amend the Purpose and sections (1), (2), (5), (6) and (10).

PURPOSE: The amendment will amend the definitions of verbal abuse and sexual abuse and misuse of funds/property; add a definition of medication error; indicate which types of medication errors are subject to investigation as abuse or neglect; and limit the right to appeal findings of abuse and neglect to those which would result in placing a perpetrator's name on the DMH disqualification registry. The amendment also makes several updates in language and clarifications.

*PURPOSE: This rule prescribes procedures for reporting and investigating complaints of abuse, neglect and misuse of funds/property in a residential facility, day program or specialized service that is licensed, certified or funded by the Department of Mental Health (department) as required by sections 630.135, **630.167,** 630.168, 630.655 and 630.710, RSMo. The rule also sets forth due process procedures for persons who have been accused of abuse, neglect and misuse of funds/property.*

*EMERGENCY STATEMENT: This emergency amendment revises the definitions of events that constitute sexual abuse, verbal abuse, misuse of client funds/property and neglect, making those definitions the same as those in force under the department's operating regulation. The department has changed the definitions in its internal regulations and the same definitions must be followed in the community to provide a safe environment. This emergency amendment is necessary to protect the public health, safety and welfare because the amendment to the abuse and neglect definitions ensure a safe and therapeutic environment for consumers served by providers of the department. The revision of the definitions of verbal abuse and sexual abuse arise from comments in the field that objectionable behavior took place but was never reported because it did not technically meet the definition of abuse. For example there have been numerous informal allegations that staff have talked in a derogatory manner about a client in the client's presence but not directly to the client. Under the current definition this is not verbal abuse because it was not directed to the client. With regard to sexual abuse, there have been occasions when staff encouraged a client to fondle another client in a sexual way. This did not meet the literal definition of sexual abuse. Since these behaviors do not meet the definition of abuse under current definitions, no records were kept indicating how often they occurred. With respect to medication errors, the new definition is necessary to clarify that only serious medication errors will require investigation as abuse and neglect. During the fiscal year 2005 the department investigated approximately eighty (80) reports of medication variances which were worthy of inquiry but not a full investigation. The new definition will establish consistency in this matter and reserve investigative resources for those instances which meet the criteria of "serious." Further, there is a compelling governmental interest to avoid an equal protection constitutional claim brought by a state employee against the department for providing more due process in non-disqualifying incidents of class II neglect or verbal abuse for provider employees than what is currently provided to a state employee. The hearings involving non-disqualifying incidents for provider employees resulted in thirty-one (31) hearings before the department's hearings administrator in 2004; this is approximately one-half (1/2) of the total number of hearings related to abuse and neglect. A proposed amendment covering this same material was published in the September 15, 2005 issue of the **Missouri Register** (30 MoReg 1924–1925). The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The department has discussed the contents of this emergency amendment with two (2) major provider organizations, namely the Missouri Association of County Developmentally Disabled Services (MACDDS) and the Missouri American Network of Community Options and Resources (MOANCOR); these organizations represent the providers most affected by the rule and both are in agreement with the revisions in this amendment. The Department of Mental Health believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 11, 2005, effective September 16, 2005, expires February 28, 2006.*

(1) The following words and terms, as used in this rule, mean:

(D) Medications.

1. "Medication error," a mistake in prescribing, dispensing, or administering medications. A medication error occurs if a consumer receives an incorrect drug, drug dose, dosage form, quantity, route, concentration, or rate of administration. This includes failing to administer the drug or administering the drug on an incorrect schedule. Levels of medication errors are:

A. "Minimal," medication error is one in which the consumer experiences no or minimal adverse consequences and

receives no treatment or intervention other than monitoring or observation is required;

B. "Moderate," medication error is one in which the consumer experiences short-term reversible adverse consequences and receives treatment and/or intervention in addition to monitoring or observation; and

C. "Serious," medication error is one in which the consumer experiences life-threatening and/or permanent adverse consequences or results in hospitalization or an emergency room episode of care.

2. "Serious" medication errors may be considered abuse or neglect and shall be subject to investigation by the Department of Mental Health;

*[(D)]***(E)** Misuse of funds/property, the misappropriation or conversion **for any purpose** of a consumer's funds or property by an employee *[for another person's benefit]* **or employees with or without the consent of the consumer**;

*[(E)]***(F)** Physical abuse—

1. An employee purposefully beating, striking, wounding or injuring any consumer; or

2. In any manner whatsoever, an employee mistreating or maltreating a consumer in a brutal or inhumane manner. Physical abuse includes handling a consumer with any more force than is reasonable for a consumer's proper control, treatment or management;

*[(F)]***(G)** Sexual abuse, any touching, directly or through clothing, of a consumer by an employee for sexual purpose or in a sexual manner. This includes but is not limited to:

1. Kissing;

2. Touching of the genitals, buttocks or breasts;

3. Causing a consumer to touch the employee for sexual purposes;

4. Promoting or observing for sexual purpose any activity or performance involving consumers including any play, motion picture, photography, dance, or other visual or written representation; or

5. Failing to intervene or attempt to stop, or *[prevent]* **encouraging** inappropriate sexual activity or performance between consumers; and

*[(G)]***(H)** Verbal abuse, an employee using profanity or speaking in a demeaning, nontherapeutic, undignified, threatening or derogatory manner to a consumer **or about a consumer in the presence of a consumer**.

(2) This section applies to any **director, supervisor or** employee *[or consumer]* of any residential facility, day program or specialized service, *[as defined under section 630.005, RSMo]* **that is licensed, certified or funded by the Department of Mental Health**. Facilities, programs and services that are operated by the department are regulated by the department's operating regulations and are not included in this definition.

(A) Any such *[employee who]* **person shall immediately file a written or verbal complaint if that person** has reasonable cause to believe that a consumer has been subjected to *[physical abuse, sexual abuse, misuse of funds/property, class I neglect, class II neglect or verbal abuse]* **any of the following misconducts** while under the care of a residential facility, day program or specialized service**:** *[that is licensed, certified or funded by the department shall immediately make a verbal or written complaint.]*

1. Physical abuse;

2. Sexual abuse;

3. Misuse of funds/property;

4. Class I neglect;

5. Class II neglect;

6. Verbal abuse;

7. Serious medication error; or

8. Diversion of medication from intended use by the consumer for whom it was prescribed.

(B) A complaint under subsection (A) above shall be made to the head of the facility, day program or specialized service, and to the department's regional center, supported community living placement office or *[regional]* **district** administrator office.

(C) The head of the facility, day program or specialized service shall forward the complaint to—

1. The *[Division of Family Services]* **Children's Division** if the alleged victim is under the age of eighteen (18); or

2. The Division of Senior Services **and Regulation** if the alleged victim is a resident or client of a facility licensed by the Division of Senior Services **and Regulation** or receiving services from an entity under contract with the Division of Senior Services **and Regulation**.

(5) A *[board of inquiry, local investigator assigned by the division, or the department's central investigative unit]* **department investigator** shall gather facts and conduct an investigation regarding the alleged abuse or neglect. The investigation shall be conducted in accordance with the procedures and time frames established under the department's operating regulations. Upon completion of *[its]* **the** investigation, the *[board of inquiry, local]* investigator *[or central investigative unit]* shall present *[its]* written findings of facts to the head of the supervising facility.

(6) Within ten (10) working days of receiving the final report from the *[board of inquiry, local]* investigator *[or central investigative unit,]* if there is a preliminary determination of abuse, neglect or misuse of funds/property, the head of the supervising facility or department designee shall send to the alleged perpetrator a summary of the allegations and findings which are the basis for the alleged abuse/neglect/misuse of funds or property; the provider will be copied. The summary shall comply with the constraints regarding confidentiality contained in section 630.167, RSMo and shall be sent by regular and certified mail.

(C) Within ten (10) working days of the meeting, or if no request for a meeting is received within ten (10) working days of the alleged perpetrator's receipt of the summary, the head of the supervising facility or department designee shall make a final determination as to whether abuse/neglect/misuse of funds or property took place. The perpetrator shall be notified of this decision by regular and certified mail; the provider will be copied. **If the charges do not meet the criteria in sections (11) and (12), the decision of the head of the supervising facility or department designee shall be the final decision of the department.**

(D) *[The]* **If the charges meet the criteria in sections (11) and (12), the** letter shall advise the perpetrator that they have ten (10) working days following receipt of the letter to contact the department's hearings administrator if they wish to appeal a finding of abuse, neglect or misuse of funds/property.

(F) The department's effort to notify the alleged perpetrator at his/her last known address by regular and certified mail shall serve as proper notice. The alleged perpetrator's refusal to receive certified mail does not limit the department's ability to make a final determination. **Evidence of the alleged perpetrator's refusal to receive certified mail shall be sufficient notice of the department's determination.**

(10) *[An]* **For those charges in sections (11) and (12), an** alleged perpetrator does not forfeit his/her right to an appeal with the department's hearings administrator when s/he declines to meet with the head of the supervising facility under subsections (6)(A) and (B) of this rule.

*AUTHORITY: sections 630.050, 630.135, 630.168, 630.655 and 630.705, RSMo 2000 and 630.165, 630.167 and 630.170, RSMo Supp. [2003] **2004**. Original rule filed Oct. 29, 1998, effective May 30, 1999. Emergency amendment filed March 29, 2002, effective May 2, 2002, terminated Oct. 30, 2002. Amended: Filed March 29,*

2002, effective Oct. 30, 2002. Amended: Filed May 5, 2003, effective Dec. 30, 2003. Amended: Filed Aug. 11, 2005. Emergency amendment filed Aug. 11, 2005, effective Sept. 16, 2005, expires Feb. 28, 2006.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 19—Energy Assistance

EMERGENCY AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Family Support Division is amending subsection (1)(D) to remove coal and replace with kerosene, amending the monthly income ranges contained in the LIHEAP Income Ranges Chart immediately following subsection (3)(D) of this rule, amending subsection (4)(C) to remove military personnel not living in the home as being ineligible household members; amending subsection (4)(F) to remove use of kerosene in the home as being ineligible, amending section (5) to omit the geographic location as a base for payment level, making only one payment level for the whole state.

PURPOSE: This amendment adjusts the monthly income amounts on the LIHEAP Income Ranges Chart to reflect changes made in the Federal Poverty Guidelines and to adjust other minor areas for eligibility determination.

*EMERGENCY STATEMENT: The division finds that there exists an immediate danger to the public welfare, which requires emergency action. This emergency amendment follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances, complies with the protections extended by the **Missouri** and **United States Constitutions** and limits the scope of the emergency amendment to the circumstances creating the emergency and requiring emergency procedure. An emergency amendment is necessary because of the planned implementation of the program in October 2005. Postponing the date for acceptance of energy assistance applications will result in individuals having their utility service terminated. Termination of utility service can produce a health hazard, particularly to elderly and disabled individuals, since they are more susceptible to hypothermia.*

The amendment is necessary to meet all the energy sources utilized in heating Missourian's households. The past few years there has been no coal use by those who have applied for Energy Assistance; however, kerosene has increased in the crisis arena for secondary heat. Replacing coal with kerosene in coverage with LIHEAP funds would serve Missourians in a more effective way.

The amendment is necessary to preserve a compelling governmental interest requiring an early effective date in that the amendment informs the public regarding income guidelines for receipt of assistance. The eligibility criteria for energy assistance changes each year based on poverty guidelines announced by the federal government. It is essential for persons potentially eligible for low income home energy assistance to have timely information related to the income guidelines prior to the need for assistance. The division finds no need in the recent years to divide the state into two (2) separate benefit levels. The heating days in the North are either equal or less then three percent (3%) higher than those counties listed in the Southern Region. By eliminating the geographical boundaries, all Missourians are benefiting to the highest benefit levels awarded. The procedure employed is fair to all interested parties concerned inasmuch as it equitably allocates energy assistance benefits based on household size and available resources.

This amendment is necessary to provide the maximum assistance allowed for those serving in the military but have been deployed to serve in the war or disaster relief. By allowing this individual to be counted in the household even though they are not living in the house at the time of the application will increase the household size and allow for a small increase in the benefit amount. Emergency amendment filed August 31, 2005, effective October 3, 2005, expires March 31, 2006.

(1) Definitions.

(D) Home energy heat will be defined as electricity, fuel oil, natural gas, propane (tank or cylinder), wood or *[coal]* **kerosene** used as the source for heating a residential home.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

[LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	*Income Range*	*Income Range*	*Income Range*	*Income Range*	*Income Range*
1	*$0–187*	*$188–375*	*$376–563*	*$564–751*	*$752–935*
2	*$0–253*	*$254–507*	*$508–761*	*$762–1,015*	*$1,016–1,263*
3	*$0–318*	*$319–637*	*$638–956*	*$957–1,275*	*$1,276–1,590*
4	*$0–383*	*$384–767*	*$768–1,151*	*$1,152–1,535*	*$1,536–1,917*
5	*$0–449*	*$450–899*	*$900–1,349*	*$1,350–1,799*	*$1,800–2,244*
6	*$0–514*	*$515–1,029*	*$1,030–1,544*	*$1,545–2,059*	*$2,060–2,571*
7	*$0–580*	*$581–1,161*	*$1,162–1,742*	*$1,743–2,323*	*$2,324–2,898*
8	*$0–645*	*$646–1,291*	*$1,292–1,937*	*$1,938–2,583*	*$2,584–3,225*
9	*$0–710*	*$711–1,421*	*$1,422–2,132*	*$2,133–2,843*	*$2,844–3,552*
10	*$0–776*	*$777–1,553*	*$1,554–2,330*	*$2,331–3,107*	*$3,108–3,879*
11	*$0–841*	*$842–1,683*	*$1,684–2,525*	*$2,526–3,367*	*$3,368–4,206*
12	*$0–907*	*$908–1,815*	*$1,816–2,723*	*$2,724–3,631*	*$3,632–4,533*
13	*$0–972*	*$973–1,945*	*$1,946–2,918*	*$2,919–3,891*	*$3,892–4,860*
14	*$0–1,038*	*$1,039–2,077*	*$2,078–3,116*	*$3,117–4,155*	*$4,156–5,188*
15	*$0–1,103*	*$1,104–2,207*	*$2,208–3,311*	*$3,312–4,415*	*$4,416–5,515*
16	*$0–1,168*	*$1,169–2,337*	*$2,338–3,506*	*$3,507–4,675*	*$4,676–5,842*
17	*$0–1,234*	*$1,235–2,469*	*$2,470–3,704*	*$3,705–4,939*	*$4,940–6,169*
18	*$0–1,299*	*$1,300–2,599*	*$2,600–3,899*	*$3,900–5,199*	*$5,200–6,496*
19	*$0–1,365*	*$1,366–2,731*	*$2,732–4,097*	*$4,098–5,463*	*$5,464–6,823*
20	*$0–1,430*	*$1,431–2,861*	*$2,862–4,292*	*$4,293–5,723*	*$5,724–7,150]*

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	**Income Range**	**Income Range**	**Income Range**	**Income Range**	**Income Range**
1	**$0–199**	**$200–399**	**$400–599**	**$600–799**	**$800–997**
2	**$0–267**	**$268–535**	**$536–803**	**$804–1,071**	**$1,072–1,337**
3	**$0–335**	**$336–671**	**$672–1,007**	**$1,008–1,343**	**$1,344–1,676**
4	**$0–403**	**$404–807**	**$808–1,211**	**$1,212–1,615**	**$1,616–2,016**
5	**$0–471**	**$472–943**	**$944–1,415**	**$1,416–1,887**	**$1,888–2,355**
6	**$0–539**	**$540–1,079**	**$1,080–1,619**	**$1,620–2,159**	**$2,160–2,695**
7	**$0–607**	**$608–1,215**	**$1,216–1,823**	**$1,824–2,431**	**$2,432–3,034**
8	**$0–675**	**$676–1,351**	**$1,352–2,027**	**$2,028–2,703**	**$2,704–3,374**
9	**$0–743**	**$744–1,487**	**$1,488–2,231**	**$2,232–2,975**	**$2,976–3,714**
10	**$0–811**	**$812–1,623**	**$1,624–2,435**	**$2,436–3,247**	**$3,248–4,053**
11	**$0–879**	**$880–1,759**	**$1,760–2,639**	**$2,640–3,519**	**$3,520–4,393**
12	**$0–946**	**$947–1,893**	**$1,894–2,840**	**$2,841–3,787**	**$3,788–4,732**
13	**$0–1,014**	**$1,015–2,029**	**$2,030–3,044**	**$3,045–4,059**	**$4,060–5,072**
14	**$0–1,082**	**$1,083–2,165**	**$2,166–3,248**	**$3,249–4,331**	**$4,332–5,412**
15	**$0–1,150**	**$1,151–2,301**	**$2,302–3,452**	**$3,453–4,603**	**$4,604–5,751**
16	**$0–1,218**	**$1,219–2,437**	**$2,438–3,656**	**$3,657–4,875**	**$4,876–6,091**
17	**$0–1,286**	**$1,287–2,573**	**$2,574–3,860**	**$3,861–5,147**	**$5,148–6,430**
18	**$0–1,354**	**$1,355–2,709**	**$2,710–4,064**	**$4,065–5,419**	**$5,420–6,770**
19	**$0–1,422**	**$1,423–2,845**	**$2,846–4,268**	**$4,269–5,691**	**$5,692–7,109**
20	**$0–1,490**	**$1,491–2,981**	**$2,982–4,472**	**$4,473–5,963**	**$5,964–7,449**

(4) Household members meeting any of the following conditions will not be eligible to receive LIHEAP benefits:

(C) Individuals not considered as household members. This will include roomers, boarders, live-in attendants and students *[or military personnel]* that are not actually residing in the home;

(F) Individuals that *[use kerosene or]* cut their own wood for the purpose of heating their home;

(5) LIHEAP payments will be made in either one (1)-time line-of-credit payments to a participating home energy supplier or a one (1)-time direct cash payment to the eligible household based on their household size, income*[,]* **and** heat source *[and geographic location]* as set forth in the Payment Level*[s]* chart for *[Northern and Southern]* Missouri. If the household meets the definition of a renter household, they will receive a one (1)-time direct cash payment equal to eight percent (8%) of their annual rent not to exceed the maximum payment level for their particular heat source, household size and income.

[Payment Levels For Northern Missouri

Primary Fuel

Types	*A*	*B*	*C*	*D*	*E*
Fuel Oil	*$292*	*$256*	*$225*	*$193*	*$162*
Tank Propane	*$274*	*$244*	*$214*	*$184*	*$154*
Natural Gas	*$257*	*$226*	*$206*	*$178*	*$158*
Electric	*$252*	*$224*	*$199*	*$167*	*$139*
Wood	*$184*	*$164*	*$143*	*$123*	*$103*
Cylinder Propane	*$138*	*$123*	*$107*	*$ 91*	*$ 76*
Coal	*$116*	*$104*	*$ 91*	*$ 78*	*$ 65*

Payment Levels For Southern Missouri

Primary Fuel

Types	*F*	*G*	*H*	*I*	*J*
Fuel Oil	*$265*	*$211*	*$184*	*$162*	*$135*
Tank Propane	*$253*	*$201*	*$175*	*$154*	*$129*
Natural Gas	*$237*	*$198*	*$178*	*$158*	*$139*
Electric	*$232*	*$199*	*$179*	*$150*	*$122*
Wood	*$169*	*$136*	*$119*	*$102*	*$ 92*
Cylinder Propane	*$127*	*$102*	*$ 89*	*$ 76*	*$ 64*
Coal	*$ 93*	*$ 74*	*$ 65*	*$ 54*	*$ 46]*

Payment Level For Missouri

Primary Fuel

FUEL TYPE	**A**	**B**	**C**	**D**	**E**
1. Natural Gas	**$257**	**$226**	**$206**	**$178**	**$158**
2. Tank Propane	**$274**	**$244**	**$214**	**$184**	**$154**
3. Electric	**$252**	**$224**	**$199**	**$167**	**$139**
4. Fuel Oil	**$292**	**$256**	**$225**	**$193**	**$162**
5. Wood	**$184**	**$164**	**$143**	**$123**	**$103**
6. Kerosene	**$116**	**$104**	**$ 91**	**$ 78**	**$ 65**
7. Cylinder Propane	**$138**	**$123**	**$107**	**$ 91**	**$ 76**

(6) The *[Division of Family Services]* **Family Support Division** will recover outstanding energy assistance overpayments made in prior years' programs by deducting the overpayment from the current year's energy assistance benefit payment.

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Aug. 31, 2005 effective Oct. 3, 2005, expires March 31, 2006. A proposed amendment covering this same material is published in this issue of the* ***Missouri Register****.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 35—Dental Program

EMERGENCY AMENDMENT

13 CSR 70-35.010 Dental Benefits and Limitations, Medicaid Program. The Division of Medical Services is amending the Purpose statement and sections (1), (2), (3), (4), (9), and (10); deleting sections (5), (6), (7), and (8); adding a new section; and deleting all forms following this regulation in the *Code of State Regulations*.

PURPOSE: This amendment informs Medicaid providers where they can find information about the Medicaid dental benefit and eliminates dental coverage for all recipients who are not eligible needy children, pregnant women or blind persons as approved through Senate Substitute for Senate Bill 539 enacted by the 93rd General Assembly.

*PURPOSE: This rule describes the dental services for which the Division of [Family]**Medical** Services shall pay when the service is provided to an eligible assistance recipient, the service is provided by a licensed dentist**, licensed dental hygienist,** or licensed and certified dental specialist who has entered into an agreement for that purpose with the division and the service is listed as a covered item [either] in [the new rule or] the **Medicaid Dental Manual** sponsored by the division. [This rule or t]**The Medicaid Dental Manual** [also] describes the dental services which shall be paid under limitations and those which shall not be paid under present conditions.*

EMERGENCY STATEMENT: The 93rd Missouri General Assembly truly agreed and finally passed Senate Substitute for Senate Bill 539. The governor signed Senate Bill 539. Senate Bill 539 is effective August 28, 2005. A proposed amendment, which covers the same material to limit coverage of dental services for all recipients who are not eligible needy children, pregnant women or blind persons to those services that are prior authorized, physician-ordered and related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or treatment of a medical condition without which the health of the individual would be adversely affected, was published in the July 15, 2005 issue of the ***Missouri Register*** *(30 MoReg 1562–1565). The proposed amendment will not be effective September 1, 2005 when the Department of Social Services, Division of Medical Services is required by Senate Bill 539 and House Bill 11 to implement the program changes to limit coverage of dental services for all recipients who are not eligible needy children, pregnant women or blind persons to those services that are prior authorized, physician-ordered and related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or treatment of a medical condition without which the health of the individual would be adversely affected. The changes to the Medicaid dental program are estimated to save the Missouri Medicaid program approximately 28.4 million dollars annually. This emergency amendment is necessary to implement Senate Bill 539 and House Bill 11 as passed by the Missouri General Assembly and signed by the governor. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the* ***Missouri*** *and* ***United States Constitutions****. The Division of Medical Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 19, 2005, effective September 1, 2005, expires February 27, 2006.*

(1) Administration. The Missouri Medicaid dental program shall be administered by the Division of Medical Services, Department of Social Services. The dental services covered and not covered, the limitations under which services are covered and the maximum allowable fees for all covered services shall be determined by the Division of Medical Services*[.]* **and shall be included in the *Medicaid Dental Provider Manual*, which is incorporated by reference and made part of this rule as published by the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65102, at its website at www.dss.mo.gov/dms, July 15, 2005. This rule does not incorporate any subsequent amendments or additions.** Dental services covered by the Missouri Medicaid program shall include only those which are clearly shown to be medically necessary. The division reserves the right to effect changes in services, limitations and fees with proper notification to Medicaid dental providers.

(2) Provider Participation. A dentist shall be licensed by the dental board of the state in which s/he is practicing and shall have signed a participation agreement to provide dental services under the Missouri Medicaid program. An oral surgeon or other dentist specialist shall be licensed in his/her specialty area by the dental board of the state in which s/he is practicing. In those states not having a specialty licensure requirement, the dentist specialist shall be a graduate of and hold a certificate from a graduate training program in that specialty in an accredited dental school. In either case, the dental specialist shall have signed a participation agreement to provide dental services under the Missouri Medicaid program. **A dental hygienist shall be licensed by the dental board of the state for at least three (3) consecutive years and practicing in a public health setting to provide fluoride treatments, teeth cleaning and sealants to Medicaid/MC+ eligible children ages zero (0) to twenty (20).**

(3) Recipient Eligibility. The Medicaid dental provider shall ascertain the patient's Medicaid status before any service is performed. The recipient's Medicaid/**MC+** eligibility is determined by the **Family Support** Division *[of Family Services]*. The recipient's eligibility shall be verified from a current Medicaid/**MC+** identification card or a letter of new approval in the recipient's possession. The patient must be a Medicaid-eligible recipient under the Missouri **Medicaid/MC+** program on the date the service is performed. The Division of Medical Services is not allowed to pay for any service to a patient who is not eligible under the Missouri Medicaid/**MC+** program.

(A) Medicaid reimbursement of dental services shall be limited to Medicaid eligible needy children or persons receiving Medicaid under a category of assistance for pregnant women or the blind.

(B) Medicaid recipients living in a nursing facility will not experience dental service reductions. Nursing facility level of care must be indicated on the Medicaid eligibility file. When providing dental services to a recipient who is living in a nursing facility, providers should continue to submit claims to Missouri Medicaid. Medicaid eligible nursing facility residents will have payments for dental care adjudicated through the Medicaid claims payment system.

(C) For all other eligibility categories of Medicaid assistance dental services will only be reimbursed if the dental care is related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or for treatment of a disease/medical condition without which the health of the individual would be adversely affected.

1. Reimbursement for dental care shall be limited to those procedure codes listed at section 19 subsection 3 of the Medicaid Dental Provider Manual which may be referenced at www.dss.mo.gov/dms; or

2. Prior authorization by the Division of Medical Services is required for dental care related to trauma of the mouth, jaw, teeth, or other contiguous sites as a result of injury or for treatment of a disease/medical condition without which the health of the individual would be adversely affected if that care is not listed at section 19 subsection 3 of the *Medicaid Dental Provider Manual*.

(4) Prior Authorization. *[Prior authorization shall be required in the following two (2) cases: a) initial placement or replacement of all full dentures (upper, lower or both) and b) placement or replacement of all partial dentures.]* When prior authorization is required, the form provided by the Division of Medical Services or its contracted agent shall be used. The dental service shall not be started until written approval has been received. Telephone approval shall not be given. Prior authorization shall be effective for a period of one hundred twenty (120) days from the date of written approval. Prior authorization approves the medical necessity of the requested dental service. It shall not guarantee payment for that service as the patient must be a Medicaid-eligible recipient on the date the service is performed. The division reserves the right to request documentation regarding any specific request for prior authorization.

[(5) Claims. The Medicaid dental provider shall submit his/her usual charge to the general public on the claim form provided by the Division of Medical Services or its contracted agent. Medicaid reimbursement for dental services is based on an established fee schedule as published in Section 19 of the Dental Manual. When a claim is reimbursed by Medicaid (or Medicare-Medicaid), no amount in addition to copayment or coinsurance amounts as specified in Section 19 of the Dental Manual shall be collected from the recipient, his/her immediate family or anyone else. The reimbursement provided by Medicaid (or Medicare-Medicaid) shall be accepted in full settlement of the dental claim. The recipient shall be responsible for any noncovered service (no reimbursement). The division reserves the right to request documentation regarding any specific dental claim.]

[(6) Other Source Payment. The Medicaid payment for dental services cannot duplicate or replace benefits available to the recipient from any other source, public or private. A settlement received from private insurance or litigation as the result of an accident must be used toward payment of the dental care. Medicaid shall be the last source of payment on any claim. Any payment received from a private insurance carrier or other acceptable source shall be listed on the claim form. If the settlement received is equal to or exceeds the fee which could be allowed by Medicaid, no payment shall be made by Medicaid.]

[(7) Dental Certification. A dental certification form as provided by the Division of Medical Services or its contracted agent shall be completed in the case of any denture, partial or full, except for those flipper-type partials identified in the Dental Services Provider Manual. This completed form shall be attached to the claim and the request for prior authorization.]

[(8) Dental Manual. A Medicaid Dental Manual shall be produced by the Division of Medical Services and shall be distributed to all dental providers participating in the Missouri Medicaid program. It shall contain a list of covered and noncovered services, the limitations under which services are covered and other pertinent data to supplement this rule. The Health Care Financing Administration's Common Procedure Coding System (HCPCS) Level 1, 2 or 3 procedure codes, which includes a modification of the American Dental Association's (ADA) Code on Dental Procedures and

Nomenclature shall be used in the manual. Maximum allowable fees by the Missouri Medicaid Dental Program shall be published in provider manuals and bulletins.]

[(9)] **(5)** Services, Covered and Noncovered. *[The list shown in this section represents the groupings of medically necessary services covered by the Missouri Medicaid program.]* The *Medicaid Dental Manual* shall provide the detailed listing of procedure codes and pricing information **for services covered by the Missouri Medicaid Dental Program**.

[(A) Anesthesia. General anesthesia administered in the office is a covered service. General anesthesia administered in the hospital for dental care is payable to the hospital. Local anesthesia is not paid under a separate procedure code and is included in the treatment fee. Nitrous oxide is not covered;

(B) Crowns, Bridges, Inlays. A crown of chrome or stainless steel is a covered item. A crown of polycarbonate material is a covered item for an anterior tooth. Crowns of other materials are not covered. Cast restorations indicated by an early periodic screening diagnosis and treatment (EPSDT) screen are covered;

(C) Full Dentures. One (1) upper full denture, one (1) lower full denture, or one (1) complete set (upper and lower) of full dentures is covered. A full denture must be constructed of acrylic material and must meet the following criteria: full arch impression, bite registration, each tooth set individually in wax, try-in of teeth set individually in wax before denture processing, insertion of the processed denture and six (6)-month follow-up adjustments, to be a covered item. Service in the case of any full denture is not completed and shall not be claimed until the denture is placed. Noncovered items include temporary full dentures, full overdentures and immediate placement full dentures;

(D) Partial Dentures. A partial denture shall replace permanent teeth and must be constructed of acrylic material to be a covered item. Service in the case of any partial denture is not completed and shall not be claimed until the denture is placed. Noncovered items include temporary partial dentures and partial overdentures. Immediate placement partial dentures are noncovered except for those flipper-type partials identified in the Dental Services Provider Manual under procedure codes D5820, D5820W5, D5820W6, D5820W9, D5821, D5821W5, D5821W6, D5821W9;

(E) Denture Adjustment and Repair. Denture adjustment is a covered service but not to the originating dentist of a new denture until six (6) months after the denture is placed. Repair of a broken denture may be accomplished on the same date of service as denture duplication or reline;

(F) Denture Duplication and Reline. Duplication of a partial or full denture is a covered service. Reline of a partial or full denture, either chairside or laboratory, is covered. Duplications and relines are not covered within twelve (12) months of initial placement of an original denture. Additional denture relines or duplications are limited to once within three (3) years from the date of the last preceding reline or duplication. Denture duplication or reline may be accomplished on the same date of service as repair of a broken denture;

(G) Emergency Treatment. Emergency dental care does not require prior authorization and is covered whether performed by a licensed dentist or a licensed dentist specialist. Emergency care is provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention reasonably could be expected to result in—placing the patient's health in serious jeopardy or serious impairment of bodily functions or serious dysfunction of any bodily organ or part. Emergency care not listed in the Medicaid Dental Manual shall be explained on the claim. An emergency oral examination is not paid under a separate procedure code and is included in the treatment fee. Palliative treatment on the same date of service as other dental care on the same tooth is not covered. Denture dental services are not subject to emergency treatment consideration;

(H) Examinations, Visits, Consultations. An initial oral examination in the office is covered. Subsequent office medical services are covered. A professional visit to a nursing home is covered and shall include the fee for an oral examination. A professional visit to a hospital is covered and shall include the fee for an oral examination. A consultation by a dentist is a covered service and shall include the fee for an oral examination;

(I) Extractions. Extraction fees for permanent and deciduous teeth, as listed in the Medicaid Dental Manual, apply whether the service is performed in the office, hospital or ambulatory surgical center. Preoperative X rays involving extractions may be covered but postoperative X rays are not covered;

(J) Preventive Treatment. Fluoride treatment may be covered but is limited to the application of stannous fluoride or acid phosphate fluoride. Sodium fluoride treatments are not covered. Fluoride treatment shall include both the upper and lower arch and shall be a separate service from prophylaxis. Fluoride treatment for recipients under age twenty-one (21) is covered. Fluoride treatment for recipients age twenty-one (21) and over is limited to individuals with rampant caries, or those who are undergoing radiation therapy to head and neck, or those with diminished salivary flow, or individuals who are mentally retarded or have cemental or roof surface caries secondary to gingival recession. For recipients ages five through twenty (5–20), topical application of sealants as outlined in Section 19 of the Medicaid Dental Manual is covered. Dietary planning, oral hygiene instruction and training in preventive dental care are not covered;

(K) Hospital Dental Care. Dental services provided in an inpatient hospital or an outpatient hospital place of service are subject to the same general benefits and limitations applicable to all dental services and all are not selectively restricted based on place of service;

(L) Injections. Procedure codes for the injections which are covered shall be shown in Section 19 of the Dental Manual;

(M) Oral Surgery (or Other Qualified Dentist Specialist). Oral surgery is limited to medically necessary care. Cosmetic oral surgeries shall not be paid. Procedures as covered for a certified oral surgeon (or other qualified dentist specialist) shall be indicated in the Medicaid Dental Manual. A medically necessary oral surgery procedure not specifically listed in the Medicaid Dental Manual may be billed using the procedure code identified in the dental manual as Unspecified. The Unspecified procedure must be explained on the claim form.

(N) Orthodontic Treatment/Space Management Therapy. Medically necessary minor orthodontic appliances for interceptive and oral development as listed in the Medicaid Dental Manual are covered. Fixed space maintainers are covered for the premature loss of deciduous teeth. Medically necessary orthodontic treatment and space maintainers for recipients under age twenty-one (21) is covered when indicated by an EPSDT screen and prior authorized;

(O) Periodontic Treatment. A gingivectomy or gingivolplasty is allowed for epileptic patients on Dilantin therapy, or medically necessary drug-induced hyperplasia. Limited occlusal adjustment is covered when it is necessary as emergency treatment. Other periodontic procedures are not covered;

(P) Prophylaxis (Preventive). Prophylaxis may be a covered service for the upper arch, the lower arch or both arches. Prophylaxis shall be a separate service from fluoride treatment and shall include scaling and polishing of the teeth;

(Q) Pulp Treatment (Endodontic). A pulpotomy on deciduous teeth is covered and shall include complete amputation of the vital coronal nerve, with placement of a suitable drug over the remaining exposed tissue. The fee excludes final restoration. Pulp vitality tests and pulp caps are not covered;

(R) Restorations (Fillings). Fees for any restorative care listed in the Medicaid Dental Manual apply whether the service is performed in the office, hospital, ambulatory surgical center or nursing facility. Amalgam fillings are covered for Class I, Class II and Class V restorations on posterior teeth. A maximum fee shall apply for any one (1) posterior tooth and shall include polishing, local anesthesia and treatment base. Silicate cement, acrylic or composite fillings are not covered for Class I and Class II restorations but are covered for Class III, Class IV and Class V restorations on anterior teeth. A maximum fee shall apply for any one (1) anterior tooth and shall include polishing, local anesthesia and treatment base. Fillings of other materials are not covered, except when a sedative filling is necessary as emergency treatment. X rays may be covered;

(S) Root Canal Therapy (Endodontic). Root canal therapy is a covered service for permanent teeth. The fee excludes final restoration but includes all in treatment X rays. Preoperative and postoperative X rays may be reimbursed. An apicoectomy is a covered service for permanent teeth but not on the same day as a root canal. Excluding a pulpotomy, other endodontic procedures are not covered; and

(T) X rays. X rays shall not be submitted routinely with a request for prior authorization or with a claim, unless the practitioner shall have been specifically requested to submit X rays. X rays shall be taken at the discretion of the dental practitioner. Films which are not of diagnostic value shall not be claimed. X rays to be covered shall be of the intraoral type, except when a panoramic-type film is required. A preoperative full-mouth X-ray survey of permanent or deciduous teeth, or mixed dentition, is covered as described in the Medicaid Dental Manual. Medically necessary X rays of an edentulous mouth are covered.]

[(10)] **(6)** General Regulations. General regulations of the Missouri Medicaid program apply to the dental program.

(7) Records Retention. The enrolled Medicaid dental provider shall agree to keep any records necessary to disclose the extent of services the provider furnishes to recipients. These records must be retained for five (5) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the Medicaid agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal or retain adequate documentation for services billed to the Medicaid program, as specified above, is a violation of this regulation.

*AUTHORITY: sections 208.152, RSMo Supp. [1990] **2004,** 208.153, [RSMo Supp. 1991] and 208.201, RSMo [Supp. 1987] **2000, and Senate Substitute for Senate Bill 539 enacted by the 93rd General Assembly, 2005.** This rule was previously filed as 13 CSR 40-81.040. Original rule filed Jan. 21, 1964, effective Jan. 31, 1964. For intervening history, please consult the **Code of State Regulations**. Amended: Filed June 15, 2005. Emergency amendment filed Aug. 19, 2005, effective Sept. 1, 2005, expires Feb. 27, 2006.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 97—Health Insurance Premium Payment (HIPP) Program

EMERGENCY AMENDMENT

13 CSR 70-97.010 Health Insurance Premium Payment (HIPP) Program. The division is amending sections (2) and (5).

PURPOSE: This amendment is to clarify that as long as a health insurance premium is not used as a deduction to income when determining client participation in the Medicaid program, then spenddown coverage shall not exclude a Medicaid eligible individual from participating in the Health Insurance Premium Payment (HIPP) Program.

*EMERGENCY STATEMENT: The Department of Social Services, Division of Medical Services by rule and regulation must define the reasonable costs, manner, extent, quantity, quality, charges and fees of medical assistance. Missouri's economic status requires emergency measures to contain cost wherever feasible. Through the Health Insurance Premium Payment (HIPP) Program the Department of Social Services, Division of Medical Services pays for the cost of enrolling an eligible Medicaid recipient in a group health insurance plan when the Division of Medical Services determines it is cost-effective to do so—the cost of enrolling an eligible Medicaid recipient in a group health insurance plan is less than the cost of Medicaid's reimbursement for services for the Medicaid eligible individual. This emergency amendment clarifies that as long as a group health insurance premium is not used as a deduction to income when determining an individual's participation in the Medicaid program, then spenddown coverage shall not exclude a Medicaid eligible individual from participating in the Health Insurance Premium Payment (HIPP) Program. A proposed amendment which covers the same material as this emergency amendment, to clarify that as long as a health insurance premium is not used as a deduction to income when determining client participation in the Medicaid program, then spenddown coverage shall not exclude a Medicaid eligible individual from participating in the Health Insurance Premium Payment (HIPP), was published in the July 1, 2005 issue of the **Missouri Register** (30 MoReg 1450–1451). No comments were received on the rule. The order of rulemaking for the proposed rule was filed with the Joint Committee on Administrative Rules on August 3, 2005. The proposed rule will not be effective September 1, 2005. This emergency amendment will ensure that as long as the health insurance premium is not used as a deduction to income when determining client participation in the Medicaid program, then spenddown coverage shall not exclude a Medicaid eligible individual from participating in the HIPP Program. The scope of this emergency amendment is limited to the circumstance creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Division of Medical Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 19, 2005, effective September 1, 2005, expires February 27, 2006.*

(2) Condition of Eligibility. An individual eligible for Medicaid, or a person acting on the recipient's behalf, shall cooperate in providing information necessary for the Division of Medical Services to establish *[to establish]* availability and cost-effectiveness of group health insurance by completing the Application for Health Insurance Premium Payment (HIPP) Program, Form MO886-3179(6-94)**, included herein**. As a condition of Medicaid eligibility, persons who are not enrolled in an available group insurance plan which the division has determined is cost-effective, and who are otherwise eligible for Medicaid, shall apply for enrollment in the plan.

(5) Exceptions to Payment. Premiums shall not be paid for health insurance plans under any of the following circumstances:

(C) The premium is used to meet a spenddown obligation when all persons in the household are eligible or potentially eligible only under the spenddown program. When some of the household members are eligible for full Medicaid benefits, the premium shall be paid if it is determined to be cost-effective when considering only the persons receiving full Medicaid coverage. In those cases, the premium shall not be allowed as a deduction to meet the spenddown obligation for those persons in the household participating in the spenddown program**. As long as the health insurance premium is not used as a deduction to income when determining client participation in the Medicaid program, then spenddown coverage shall not exclude a Medicaid eligible individual from participating in the HIPP program**;

*AUTHORITY: sections 208.153, [RSMo Supp. 1991] and 208.201, RSMo [Supp. 1987] **2000**. Original rule filed June 30, 1994, effective Jan. 29, 1995. Amended: Filed June 1, 2005. Emergency amendment filed Aug. 19, 2005, effective Sept. 1, 2005, expires Feb. 27, 2006.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Senior Services and Regulation
Chapter 1—Controlled Substances

EMERGENCY AMENDMENT

19 CSR 30-1.032 Security for Nonpractitioners. The department is amending this rule by adding a new section (5).

PURPOSE: This amendment establishes security requirements for distributors of Schedule V pseudoephedrine and ephedrine products.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

*EMERGENCY STATEMENT: During the Regular Session of the 93rd General Assembly, House Bill 441 and Senate Bills 10 and 27 were passed, each with an emergency clause making them effective upon signature by the governor. Governor Blunt signed these bills on June 15, 2005. This legislation establishes that products containing pseudoephedrine and combination products containing ephedrine are Schedule V controlled substances and establishes that certain security, record keeping and sales restrictions apply to these products. Time frames, based upon the effective date, are established within which record keeping and security restrictions must be maintained, but the Department of Health and Senior Services is given the authority to promulgate regulations specifying security requirements for distributors registered with the department. These security restrictions protect the public from these products being accessed for the illicit production of methamphetamine. As most distributors are already in compliance with the security requirements for storage of ephedrine and pseudoephedrine and other regulated chemicals under 21 CFR 1309.71, and these requirements have been determined to be sufficient by the Department of Health and Senior Services, unnecessarily expensive modifications to the physical plant of each distributor may be undertaken to provide additional security for these substances without this emergency amendment. As a result, the department finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest which requires this emergency action. A proposed amendment covering this same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 18, 2005, effective August 28, 2005, expires February 23, 2006.*

(5) Entities registered with the Department of Health and Senior Services as distributors shall be deemed to have met security requirements for storage of Schedule V controlled substance drug products containing ephedrine or pseudoephedrine if those products are stored in compliance and consistent with the regulated chemicals requirements set forth by the United States Drug Enforcement Administration and 21 CFR 1309.71 which is hereby incorporated by reference in this rule, as published on April 1, 2005 by the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-0001; www.gpoaccess.gov/cfr/retrieve.html. This rule does not incorporate any subsequent amendments or additions. Distributors will be required to conduct background checks on employees with access to these substances and to report losses of controlled substances as required in 19 CSR 30-1.034.

*AUTHORITY: sections **195.017, as amended by House Bill 441 and Senate Bills 10 and 27, 93rd Leg. Session (2005) and** 195.195, RSMo [1994] **2000**. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expires Feb. 23, 2006. A proposed amendment covering this same material, is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Senior Services and Regulation
Chapter 1—Controlled Substances

EMERGENCY AMENDMENT

19 CSR 30-1.074 Dispensing Without a Prescription. The department is amending section (1).

PURPOSE: This amendment establishes requirements documenting the sale and distribution of products containing ephedrine and pseudoephedrine.

*EMERGENCY STATEMENT: During the 93rd General Assembly, First Regular Session (2005), House Bill 441 and Senate Bills 10 and 27 were passed, each with an emergency clause making them effective upon signature by the governor. Governor Blunt signed these bills on June 15, 2005. These bills establish that products containing pseudoephedrine and combination products containing ephedrine are Schedule V controlled substances and establish that certain security, record keeping and sales restrictions apply to these products. The bills require certain record keeping and security measures to be in place within ninety (90) days of the effective date to protect the public from these products being accessed for the illicit production of methamphetamine. As a result, the department finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest which requires this emergency action. A proposed amendment covering this same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States***

Constitutions. *The Department of Health and Senior Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 18, 2005, effective August 28, 2005, expires Febrary 23, 2006.*

(1) A controlled substance listed in Schedule V which is not a prescription drug and determined under the federal Food, Drug and Cosmetic Act may be dispensed by a pharmacist without a prescription to a purchaser at retail; provided, that—

(A) Products that are designated Schedule V controlled substances which contain any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers may be sold, distributed or otherwise provided only by a pharmacist or pharmacy ancillary personnel as authorized by the Missouri State Board of Pharmacy;

*[(A)]***(B)** Dispensing **of any other substance listed in Schedule V** is made only by a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his/her professional and legal responsibilities, the actual cash transaction, credit transaction or delivery may be completed by a nonpharmacist);

*[(B)]***(C) Dispensing, sale, distribution or otherwise providing is limited to:**

1. Not more than two hundred forty cubic centimeters (240 cc) eight ounces (8 oz.) of any controlled substance containing opium, nor more than one hundred twenty cubic centimeters (120 cc) four ounces (4 oz.) of any other controlled substance nor more than **forty-eight (**48**)** dosage units of any controlled substance containing opium, nor more than **twenty-four (**24**)** dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given **forty-eight (**48**)**-hour period;

2. Within any thirty (30)-day period, not more than any number of packages of any drug product containing any detectable amount of ephedrine or pseudoephedrine in any total amount greater than nine (9) grams, or any of their salts or optical isomers, or salts of optical isomers, either as:

A. The sole active ingredient; or

B. One of the active ingredients of a combination drug; or

C. A combination of any of the products specified in subsections (A) and (B) of this section;

*[(C)]***(D)** The purchaser is at least **eighteen (**18**)** years of age;

[(D)] **(E)** The pharmacist requires every purchaser of a Schedule V controlled substance not known to him/her to furnish suitable **photo** identification (including proof of age where appropriate);

[(E) A bound record book for dispensing of Schedule V controlled substances is maintained by the pharmacist. The book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with record keeping requirements);]

(F) Pharmacists and registered pharmacy technicians shall implement and maintain a written or electronic log of each transaction.

1. The log shall include the following information:

A. The name and address of the purchaser;

B. The amount of the compound, mixture, or preparation purchased;

C. The date of each purchase; and

D. The name or initials of the pharmacist or registered pharmacy technician who dispensed, sold, distributed, or otherwise provided the compound, mixture, or preparation to the purchaser.

2. An auxiliary written log shall be established for the documentation of Schedule V substances dispensed, sold, distributed or otherwise provided if the electronic log is inoperative for any reason.

3. Any electronic log described in subsection (F) must be capable of providing a listing of utilization of any Schedule V substance for a minimum of the preceding twelve (12)-month period. Utilization information shall be available by both specific Schedule V product and purchaser name;

[(F)] **(G)** A prescription is not required for distribution or dispensing of the substance pursuant to any other federal, state or local law.

AUTHORITY: sections ***195.017, as amended by House Bill 441 and Senate Bills 10 and 27, 93rd Leg. Sess. (2005), and*** *195.050 and 195.195, RSMo [1994]* ***2000****. Original rule filed April 14, 2000, effective Nov. 30, 2000. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expires Feb. 23, 2006. A proposed amendment covering this same material, is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of *[Health Standards]* *Regulation* and Licensure
Chapter 20—Hospitals

EMERGENCY AMENDMENT

19 CSR 30-20.021 Organization and Management for Hospitals. The department proposes to amend (3)(G)20. and (3)(G)34.

PURPOSE: This amendment sets forth the amended hospital documentation requirements regarding administration of influenza and pneumococcal vaccinations to patients.

EMERGENCY STATEMENT: During the last flu season (2004–05), there were three thousand fifty (3,050) deaths in Missouri due to influenza and pneumonia. Of these, two thousand six hundred eighty-nine (2,689) were deaths of Missouri citizens over the age of sixty-five (65). Among certain persons, especially the elderly and high-risk individuals, contracting influenza can lead to secondary pneumonia. In February 2005, the Food and Drug Administration's (FDA) Vaccines and Related Biological Products Advisory Committee recommended that the 2005–06 influenza vaccine for the United States contain New Caledonia, California, and Shanghai strains. The FDA's recommendation was based on analyses of recently isolated influenza viruses, epidemiologic data, and post-vaccination serologic studies in humans. It is very difficult to predict whether a flu season will be mild or harsh. However, since the last flu season was mild and fewer people were vaccinated last year due to the shortage of vaccine, the upcoming flu season has the potential to be a harsh year. In June 2005, Chiron Corporation announced that they will be unable to produce the amount of influenza vaccine needed for 2005. The World Health Organization (WHO) has developed a global influenza preparedness plan, which defines the stages of a pandemic, outlines WHO's role and makes recommendations for national measures before and during a pandemic. WHO is now at Level 4 for pandemic flu, due to concerns related to the avian flu in Asia. WHO defines Level 4 as part of the pandemic alert period and involves small cluster(s) of a virus with limited human-to-human transmission; the spread is highly localized, suggesting that the virus is not well adapted to humans. There are only two (2) higher pandemic stages remaining—Phase 5 and Phase 6. Phase 5 is still considered to be part of the pandemic alert period and involves larger cluster(s) of a virus; human-to-human spread is still localized, suggesting that the virus is becoming increasingly better adapted to

humans, but may not yet be fully transmissible. Phase 6 is considered to be an actual influenza pandemic with increased and sustained transmission in the general population.

The flu season runs from October 1 through the end of April. Epidemics of influenza occur during these months. Pneumococcal disease occurs year round. Although both influenza and pneumococcal vaccines have been proven effective in preventing hospitalizations and death, their use remains low among individuals older than sixty-five (65). One of the ways to ensure that the maximum number of at risk persons are immunized is to incorporate the vaccine regimen into the normal admission/discharge process in hospitals. This is done by allowing hospitals to have physician approved protocols, or standing orders, for these vaccines, instead of relying on health care providers to remember to ask the treating physician to write and sign an order for each patient they see, which is the current regulatory requirement for all medication orders. Rather than allowing for missed opportunities by expecting health care providers to remember to get an individual written order in the medical record signed by a physician, the standing order via approved protocol will ensure that everyone, after contraindication assessment, will be vaccinated. Public health literature confirms that standing orders promote increased vaccinations.

At the federal level, the Centers for Medicare and Medicaid removed the physician signature requirement for influenza and pneumococcal vaccinations from their Conditions for Participation for Medicare and Medicaid participating hospitals, long-term care facilities (LTCF) and home health agencies, in order to improve access to these lifesaving vaccines.

There is less than one (1) month until flu season officially begins. Standing orders will allow for the greatest number of at risk hospitalized people to be vaccinated with a minimum burden to health care providers. Hospitalization represents an important opportunity to deliver pneumococcal and influenza vaccines to persons particularly likely to benefit from them—reducing morbidity, saving lives and saving costs. This opportunity to vaccinate persons effectively and efficiently must be available to hospitals before the flu season begins, thus the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires this emergency action.

The Department of Health and Senior Servcies consulted with appropriate health related agencies and entities, such as Missouri Hospital Association, Primaris, and the department's own section for long-term care experts and division of community and public health experts. These entities are in full support of this emergency amendment.

*A proposed amendment covering the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 1, 2005, effective September 11, 2005, expires March 9, 2006.*

(3) Required Patient Care Services. Each hospital shall provide the following: central services, dietary services, emergency services, medical records, nursing services, pathology and medical laboratory services, pharmaceutical services, radiology services, social work services and an inpatient care unit.

(G) Pharmacy Services and Medication Management.

1. Pharmacy services shall be identified and integrated within the total hospital organizational plan. Pharmacy services shall be directed by a pharmacist who is currently licensed in Missouri and qualified by education and experience. The director of pharmacy services shall be responsible for the provision of all services required in subsection (4)(G) of this rule and shall be a participant in all decisions made by pharmacy services or committees regarding the use of medications. With the assistance of medical, nursing and administrative staff, the director of pharmacy services shall develop standards for the selection, distribution and safe and effective use of medications throughout the hospital.

2. Additional professional and supportive personnel shall be available for services provided. Pharmacists shall be currently licensed in Missouri and all personnel shall possess the education and training necessary for their responsibilities.

3. Support pharmacy personnel shall work under the supervision of a pharmacist and shall not be assigned duties that by law must be performed by a pharmacist. Interpreting medication orders, selecting, compounding, packaging, labeling and the dispensing of medications by pharmacy staff shall be performed by or under the supervision of a pharmacist. Interpretation of medication orders by support personnel shall be limited to order processing and shall not be of a clinical nature.

4. Hours shall be established for the provision of pharmacy services. A pharmacist shall be available to provide required pharmacy services during hours appropriate for necessary contact with medical and nursing staff. A pharmacist shall be on call at all other times.

5. Space, equipment and supplies shall be available according to the scope of pharmacy services provided. Office or other work space shall be available for administrative, clerical, clinical and other professional services provided. All areas shall meet standards to maintain the safety of personnel and the security and stability of medications stored, handled and dispensed.

6. The pharmacy and its medication storage areas shall have proper conditions of sanitation, temperature, light, moisture, ventilation and segregation. Refrigerated medication shall be stored separate from food and other substances. The pharmacy and its medication storage area shall be locked and accessible only to authorized pharmacy and supervisory nursing personnel. The director of pharmacy services, in conjunction with nursing and administration, shall be responsible for the authorization of access to the pharmacy by supervisory nursing personnel to obtain doses for administering when pharmacy services are unavailable.

7. Medication storage areas outside of the pharmacy shall have proper conditions of sanitation, temperature, light, moisture, ventilation and segregation. Refrigerated medications shall be stored in a sealed compartment separate from food and laboratory materials. Medication storage areas shall be locked and accessible only to authorized personnel.

8. The evaluation, selection, source of supply and acquisition of medications shall occur according to the hospital's policies and procedures. Medications and supplies needed on an emergency basis and necessary medications not included in the hospital formulary shall be acquired according to the hospital's policies and procedures.

9. Records shall be maintained of medication transactions, including: acquisition, compounding, repackaging, dispensing or other distribution, administration and controlled substance disposal. Persons involved in compounding, repackaging, dispensing, administration and controlled substance disposal shall be identified and the records shall be retrievable. Retention time for records of bulk compounding, repackaging, administration, and all controlled substance transactions shall be a minimum of two (2) years. Retention time for records of dispensing and extemporaneous compounding, including sterile medications, shall be a minimum of six (6) months.

10. Security and record keeping procedures in all areas shall ensure the accountability of all controlled substances, shall address accountability for other medications subject to theft and abuse and shall be in compliance with 19 CSR 30-1.030(3). Inventories of Schedule II controlled substances shall be routinely reconciled. Inventories of Schedule III–V controlled substances outside of the pharmacy shall be routinely reconciled. Records shall be maintained so that inventories of Schedule III–V controlled substances in the pharmacy shall be reconcilable.

11. Controlled substance storage areas in the pharmacy shall be separately locked and accessible only to authorized pharmacy staff. Reserve supplies of all controlled substances in the pharmacy shall be

locked. Controlled substance storage areas outside the pharmacy shall be separately locked and accessible only to persons authorized to administer them and to authorized pharmacy staff.

12. Authorization of access to controlled substance storage areas outside of the pharmacy shall be established by the director of pharmacy services in conjunction with nursing and administration. The distribution and accountability of keys, magnetic cards, electronic codes or other mechanical and electronic devices shall occur according to the hospital's policies and procedures.

13. All variances involving controlled substances—including inventory, security, record keeping, administration and disposal—shall be reported to the director of pharmacy services for review and investigation. Loss, diversion, abuse or misuse of medications shall be reported to the director of pharmacy services, administration, and local, state and federal authorities as appropriate.

14. The provision of pharmacy services in the event of a disaster, removal from use of medications subject to product recall and reporting of manufacturer drug problems shall occur according to the hospital's policies and procedures.

15. Compounding and repackaging of medications in the pharmacy shall be done by pharmacy personnel under the supervision of a pharmacist. Those medications shall be labeled with the medication name, strength, lot number, expiration date and other pertinent information. Record keeping and quality control, including end-product testing when appropriate, shall occur according to the hospital's policies and procedures.

16. Compounding, repackaging or relabeling of medications by nonpharmacy personnel shall occur according to the hospital's policies and procedures. Medications shall be administered routinely by the person who prepared them, and preparation shall occur just prior to administration except in circumstances approved by the director of pharmacy, nursing and administration. Compounded sterile medications for parenteral administration prepared by nonpharmacy personnel shall not be administered beyond twenty-four (24) hours of preparation. Labeling shall include the patient's name, where appropriate, medication name, strength, beyond use date, identity of the person preparing and other pertinent information.

17. Compounded sterile medications shall be routinely prepared in a suitably segregated area in a Class 100 environment by pharmacy personnel. Preparation by nonpharmacy personnel shall occur only in specific areas or in situations when immediate preparation is necessary and pharmacy personnel are unavailable and shall occur according to policies and procedures. All compounded cytotoxic/hazardous medications shall be prepared in a suitably segregated area in a Class II biological safety cabinet or vertical airflow hood. The preparation, handling, administration and disposal of sterile or cytotoxic/hazardous medications shall occur according to policies and procedures including: orientation and training of personnel, aseptic technique, equipment, operating requirements, environmental considerations, attire, preparation of parenteral medications, preparation of cytotoxic/hazardous medications, access to emergency spill supplies, special procedures/products, sterilization, extemporaneous preparations and quality control.

18. Radiopharmaceuticals shall be acquired, stored, handled, prepared, packaged, labeled, administered and disposed of according to the hospital's policies and procedures and only by or under the supervision of personnel who are certified by the Nuclear Regulatory Commission.

19. A medication profile for each patient shall be maintained and reviewed by the pharmacist and shall be reviewed by the pharmacist upon receiving a new medication order prior to dispensing the medication. The pharmacist shall review the prescriber's order or a direct copy prior to the administration of the initial dose, except in an emergency or when the pharmacist is unavailable, in which case the order shall be reviewed within seventy-two (72) hours.

20. Medications shall be dispensed only upon the order of an authorized prescriber **with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy/protocol after an assessment for contraindications** and only by or under the supervision of the pharmacist.

21. All medications dispensed for administration to a specific patient shall be labeled with the patient name, drug name, strength, expiration date and, when applicable, the lot number and other pertinent information.

22. The medication distribution system shall provide safety and accountability for all medications, include unit of use and ready to administer packaging, and meet current standards of practice.

23. To prevent unnecessary entry to the pharmacy, a locked supply of routinely used medications shall be available for access by authorized personnel when the pharmacist is unavailable. Removal of medications from the pharmacy by authorized supervisory nursing personnel, documentation of medications removed, restricted and unrestricted medication removal, later review of medication orders by the pharmacist, and documented audits of medications removal shall occur according to the hospital's policies and procedures. The nurse shall remove only amounts necessary for administering until the pharmacist is available.

24. Floorstock medications shall be limited to emergency and nonemergency medications which are authorized by the director of pharmacy services in conjunction with nursing and administration. The criteria, utilization and monitoring of emergency and nonemergency floorstock medications shall occur according to the hospital's policies and procedures. Supplies of emergency medications shall be available in designated areas.

25. All medication storage areas in the hospital shall be inspected at least monthly by a pharmacist or designee according to the hospital's policies and procedures.

26. The pharmacist shall be responsible for the acquisition, inventory control, dispensing, distribution and related documentation requirements of investigational medications according to the hospital's policies and procedures. A copy of the investigational protocol shall be available in the pharmacy to all health care providers who prescribe or administer investigational medications. The identity of all recipients of investigational medications shall be readily retrievable.

27. Sample medications shall be received and distributed by the pharmacy according to the hospital's policies and procedures.

28. Dispensing of medications by the pharmacist to patients who are discharged from the hospital or who are outpatients shall be in compliance with 4 CSR 220.

29. Persons other than the pharmacist may provide medications to patients leaving the hospital only when prescription services from a pharmacy are not reasonably available. Medications shall be provided according to the hospital's policies and procedures, including: circumstances when medications may be provided, practitioners authorized to order, specific medications and limited quantities, prepackaging and labeling by the pharmacist, final labeling to facilitate correct administration, delivery, counseling and a transaction record. Final labeling, delivery and counseling shall be performed by the prescriber or a registered nurse.

30. Current medication information resources shall be maintained in the pharmacy and patient care areas. The pharmacist shall provide medication information to the hospital staff as requested.

31. The director of pharmacy services shall be an active member of the pharmacy and therapeutics committee or its equivalent, which shall advise the medical staff on all medication matters. A formulary shall be established which includes medications based on an objective evaluation of their relative therapeutic merits, safety and cost and shall be reviewed and revised on a continual basis. A medication use evaluation program shall be established which evaluates the use of selected medications to ensure that they are used appropriately, safely and effectively. Follow-up educational information shall be provided in response to evaluation findings.

32. The pharmacist shall be available to participate with medical and nursing staff regarding decisions about medication use for

individual patients, including: not to use medication therapy; medication selection, dosages, routes and methods of administration; medication therapy monitoring; provision of medication-related information; and counseling to individual patients. The pharmacist or designee shall personally offer to provide medication counseling when discharge or outpatient prescriptions are filled. The pharmacist shall provide requested counseling.

33. Medication orders shall be initiated or modified only by practitioners who have independent statutory authority to prescribe or who are legally given authority to order medications. That authority may be given through an arrangement with a practitioner who has independent statutory authority to prescribe and who is a medical staff member. The authority may include collaborative practice agreements, protocols or standing orders and shall not exceed the practitioner's scope of practice. Practitioners given this authority who are not hospital employees shall be approved through the hospital credentialing process. When hospital-based agreements, protocols or standing orders are used, they shall be approved by the pharmacy and therapeutics or equivalent committee.

34. All medication orders shall be written in the medical record and signed by the ordering practitioner*[.]* **with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy/protocol after an assessment for contraindications.** When medication therapy is based on a protocol or standing order and a specific medication order is not written, a signed copy of the protocol or of an abbreviated protocol containing the medication order parameters or of the standing order shall be placed in the medical record*[.]* **with the exception of physician-approved policies/protocols for the administration of influenza and pneumococcal polysaccharide vaccines after an assessment for contraindications. The assessment for contraindications shall be dated and signed by the registered nurse performing the assessment and placed in the medical record.** Telephone or verbal orders shall be accepted only by authorized staff, immediately written and identified as such in the medical record and signed by the ordering practitioner within a time frame defined by the medical staff.

35. Medication orders shall be written according to policies and procedures and those written by persons who do not have independent statutory authority to prescribe shall be included in the quality improvement program.

36. Automatic stop orders for all medications shall be established and shall include a procedure to notify the prescriber of an impending stop order. A maximum stop order shall be effective for all medications which do not have a shorter stop order. Automatic stop orders are not required when the pharmacist continuously monitors medications to ensure that they are not inappropriately continued.

37. Medications shall be administered only by persons who have statutory authority to administer or who have been trained in each pharmacological category of medication they administer, and administration shall be limited to the scope of their practice. Persons who do not have statutory authority to administer shall not administer parenteral medications, controlled substances or medications that require professional assessment at the time of administration. A person who has statutory authority to administer shall be readily available at the time of administration. Training for persons who do not have statutory authority to administer shall be documented and administration by those persons shall be included in the quality improvement program. Medications shall be administrated only upon the order of a person authorized to prescribe or order medications. Administration by all persons shall occur according to the hospital's policies and procedures.

38. Medications brought to the hospital by patients shall be handled according to policies and procedures. They shall not be administered unless so ordered by the prescriber and identified by the pharmacist or the prescriber.

39. Medications shall be self-administered or administered by a responsible party only upon the order of the prescriber and according to policies and procedures.

40. Medication incidents, including medication errors shall be reported to the prescriber and the appropriate manager. Medication incidents shall be reported to the appropriate committee. Adverse medication reactions shall be reported to the prescriber and the director of the pharmacy services. The medication administered and medication reaction shall be recorded in the patient's medical record. Adverse medication reactions shall be reviewed by the pharmacy and therapeutics committee and other medical or administrative committees when appropriate.

AUTHORITY: sections 192.006 and 197.080, RSMo 2000. This rule was previously filed as 13 CSR 50-20.021 and 19 CSR 10-20.021. Original rule filed June 2, 1982, effective Nov. 11, 1982. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Sept. 1, 2005, effective Sept. 11, 2005, and expires March 9, 2006. A proposed amendment covering this same material, is published in this issue of the* ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE
Division 10—General Administration
Chapter 2—Sunshine Rules (Meetings and Records)

EMERGENCY AMENDMENT

20 CSR 10-2.400 Records. The department is amending subsection (3)(K) and section (8).

PURPOSE: This rule revises the department's policies and procedures regarding the release of information under Chapter 610, RSMo and is intended to ensure compliance with Executive Order 05-18, section 374.070, RSMo 2000 and House Bill 388 as passed by the 93rd Missouri General Assembly.

EMERGENCY STATEMENT: This emergency amendment contains guidelines for the release of records in the custody of the Missouri Department of Insurance, pursuant to Chapter 610, RSMo. During the 2005 legislative session, the General Assembly enacted House Bill 388, effective August 28, 2005. HB 388 substantially revised Missouri law by designating records of consumer complaint files in the custody of the department as non-public records. On July 12, 2005, the Honorable Governor Matt Blunt issued Executive Order 05-18, requiring the department to take additional steps to ensure consumer privacy while at the same time providing relevant information about insurance companies to the public. This emergency amendment is necessary to protect the public health, safety and welfare of Missouri citizens by establishing provisions for protecting private consumer information, such as confidential medical, financial and other personal information, from public disclosure. Additionally, as an executive agency, a compelling governmental interest exists to ensure compliance by the Missouri Department of Insurance with the mandates of the General Assembly and the governor of this state, as expressed by Executive Order 05-18 and HB 388, effective August 28, 2005. As a result, the Missouri Department of Insurance finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest, which requires emergency action. A proposed amendment covering the same material, is published in this issue of the ***Missouri Register****. The scope of this emergency amendment is limited to the conditions creating the emergency and complies with the protections extended in the* ***Missouri*** *and* ***United States Constitutions****. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 18, 2005, effective August 28, 2005, expires February 23, 2006.*

(3) Closed Records. Any closed record is not subject to disclosure. The following list is the exclusive list of closed records of the MDI:

(K) Records which are protected from disclosure by law (see section 610.021(14), RSMo). These records include, but are not limited to, the following:

1. Work product**, work papers and confidential communications** of the director, his/her employees and agents under section 374.070.1, RSMo. *[There are two (2) types of work product—]*

A. **Work product and work papers.** Work *[papers]* **product** of examinations of companies and investigations of companies *[agents, brokers and insurance agencies.]* **and insurance producers**. Work papers means records produced **by the director, his/her employees or agents in the course of the author's duties,** during and pursuant to the examination or investigation, including any examination or investigation report**.** *[and any records provided to the examiner or investigator during the course of the examination or investigation.]* Work papers do not, however, include communications between an examiner or investigator and other employees or agents of the MDI. These communications may be confidential communications, but are not work papers. **Except as otherwise provided in this rule or by applicable law,** *[W]***w**ork papers shall not become open to public inspection *[, except as otherwise provided by law]*.

B. Confidential communications to the Department of Insurance. Confidential communications means any communication produced by the director, his/her employees or agents in the course of the author's duties, which communication is intended by the author to be accessible only by employees or agents of the MDI. The author is presumed to have intended to limit access to employees or agents of the MDI if the communication was directed to him/herself, an MDI file, or another employee or agent of the MDI, with no indication that it was directed or that a copy was provided to anyone who was not then an employee or agent of the MDI. A confidential communication becomes an open record if and only if the director so decides in writing with reference to the specific communication under consideration; and

2. Trade secret under sections 417.450–417.467, RSMo. The MDI will not disclose information that is trade secret under section 417.453(4), RSMo, where such disclosure would constitute a misappropriation under section 417.453(2), RSMo.

3. Any information filed by an insurance company or obtained by the MDI pursuant to section 375.022, RSMo and any document, record or statement required by the MDI under the provisions of section 375.022, RSMo;

4. Court papers, reports and other records relating to any conservatorship action under section 375.565, RSMo, except as the court may otherwise order;

5. Report and recommendations made by the board of directors of the Missouri Property and Casualty Guaranty Association to the MDI upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer (see section 375.776.5(3), RSMo);

6. All information, documents and copies obtained by or disclosed to the MDI or any other person in the course of an examination or investigation made pursuant to section 382.220, RSMo and all information reported pursuant to section 382.100, RSMo. The director in his/her sole discretion may make any record under this paragraph an open record by following the provisions of section 382.230, RSMo;

7. Information reported, compiled or summarized pursuant to section 383.060–383.069, RSMo relating to real estate malpractice (see section 383.069, RSMo);

8. Information reported, compiled or summarized pursuant to sections 383.075–383.083, RSMo relating to legal malpractice (see section 383.083, RSMo);

9. Information submitted pursuant to section 383.105.2(1), (3) and (6), RSMo, relating to medical malpractice, except as provided in section 383.125, RSMo. Statistics in summary form of the information submitted pursuant to sections 383.100–383.125, RSMo, except as otherwise provided in this paragraph shall be a matter of public record (see section 383.115, RSMo);

10. Reports and recommendations of the board of directors of the Missouri Life and Health Insurance Guaranty Association to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservatorship of any member insurer or germane to the solvency of any company seeking to do insurance business in this state (see section 376.743, RSMo); *[and]*

11. Records protected from disclosure by section 374.071, RSMo, provided that, the MDI shall:

A. Release incident reports upon request, which summarize the facts and circumstances surrounding an initial consumer report or complaint;

B. Publish complaint data without identifying consumer information, so other consumers are able to make informed decisions in selecting an insurer; and

C. Provide complaining consumers with the option to preauthorize the MDI to publicly release a copy of the consumer's complaint upon request to any interested person; and

[11.] **12.** Any other record expressly protected from disclosure by applicable law of this state or of the federal government*[; and]***.**

(8) Information Received from Persons and Entities Other Than the MDI.

(A) Records of others, including duplicates of records of insurance companies *[, agents, agencies and brokers,]* **and insurance producers** in the possession of the MDI will be open records, except as otherwise provided **by law or** in this *[section (8)]* **rule**.

(B) If a person transmits their record to the MDI and wishes to claim that the record is **closed or** confidential, the MDI will maintain the record as closed, except as otherwise provided in subsection (C) of this section (8). In order to be effective, a claim of **a closed record or** confidentiality of a record must state in bold or other clearly distinguishable type on the face of the record or on the face of the cover letter accompanying the record, that the record is **closed or** confidential and the reason the record is asserted to be **closed or** confidential, e.g., "Confidential—Trade Secret."

(C) **Except as otherwise provided by law, t***[T]***h**e MDI may grant public access to a record claimed to be **closed or** confidential under subsection (B) of this section (8), but only if on a case-by-case basis the director applies the following procedures and standards:

1. The MDI shall notify in writing the insurer, or other person which provided the record, of the possible public release of such record. The written notice from the MDI shall state—

A. That the insurer or other affected person shall have an opportunity to submit information to demonstrate that such record should still be considered a closed record; and

B. A specific date, not less than ten (10) days from the date of the notice, until which the insurer or other affected person shall have an opportunity to file such information;

2. Upon the filing of information in the form described in paragraph (8)(C)1., the MDI will maintain the insurer's or other affected person's record as a closed record, unless and until such time as the MDI provides the insurer or other affected person with written prior notice to the contrary. Any such prior notice will be provided at least ten (10) days prior to public access being granted to the data and will include a statement substantially as follows: Unless otherwise ordered by a court of competent jurisdiction, the MDI will make your record available to the public on and after the following date: (month, date, and year);

3. The filing of information in the form described in paragraph (8)(C)1.—

A. Shall not create any substantive rights; and

B. May be considered by the MDI as evidence of, but shall create no presumption regarding, confidentiality of the record at issue; and

4. If an insurer or other affected person filing information described in paragraph (8)(C)1. believes such information would itself contain confidential material, the MDI will maintain such information as a closed record if the insurer identifies such information as containing confidential material and simultaneously files a redacted version of such information for public access.

*AUTHORITY: sections 374.045, RSMo [Supp. 1997] **2000** and 610.028, RSMo [1994] **Supp. 2004**. This rule was previously filed as 4 CSR 190-1.020(2)(B). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed June 15, 1995, effective Jan. 30, 1996. Amended: Filed Dec. 1, 1997, effective June 30, 1998. Amended: Filed Oct. 1, 1998, effective April 30, 1999. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expires Feb. 23, 2006. A proposed amendment covering this same material, is published in this issue of the **Missouri Register**.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2002.

EXECUTIVE ORDER
05-21

WHEREAS, pursuant to Section 251.160, RSMo, the Governor has determined there is a need for a regional planning commission in the area which includes the Meramec Region; and

WHEREAS, the Governor has received and reviewed a petition requesting that Pulaski County be included in the Meramec Regional Planning Commission (MRPC); and

WHEREAS, all the governing bodies of the commission within the MRPC have consented to the inclusion of Pulaski county as a member; and

WHEREAS, Pulaski county has withdrawn from its membership in a Regional Planning Commission of which it was previously a member; and

WHEREAS, appropriate notice was provided to the public and local community governing bodies in accordance with section 251.370, RSMo; and

WHEREAS, the Office of Administration is charged with providing the Governor with its recommendation in many of his duties and has recommended that Pulaski County be included in MRPC; and

WHEREAS, this order is in the public interest.

NOW THEREFORE, I, Matt Blunt, Governor of Missouri, by virtue and authority vested in me by the Constitution and laws of the State of Missouri do hereby create and amend the MRPC to include Pulaski County.

As a member of the MRPC, Pulaski County shall have all the privileges, authority and power that any member of a regional planning committee maintains under section 251.160 to 251.440, RSMo.

There shall be a regional planning commission to be known as the Meramec Regional Planning Commission and the boundaries of the Commission shall coincide with the counties of Crawford, Dent, Gasconade, Maries, Osage, Phelps, Washington and Pulaski.

ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 22nd day of August, 2005.

Matt Blunt
Governor

Robin Carnahan
Secretary of State

EXECUTIVE ORDER
05-22

WHEREAS, the State of Missouri, as an employer, established goals to recruit and retain employees with the objective of providing the highest quality of services to its citizen taxpayers of this state; and

WHEREAS, the State of Missouri has adopted a comprehensive benefit package for retention of its state employees which includes a defined benefit structure; and

WHEREAS, the State of Missouri has two separate retirement systems for state employees with similar benefit provisions; and

WHEREAS, the Joint Committee on Public Employee Retirement presented a report to the Missouri General Assembly addressing the issues related to the possible merger of state employee retirement systems identifying the effect of consolidation on the two systems, including:

(1) Effect on the boards responsible for administering benefits and the impact on fiduciary duties, and governance;

(2) Effect on funding and contribution rates and the impact on differing actuarial assumptions and methods;

(3) Effect on investments, including returns, asset allocations, investment policies, expertise, efficiencies, expenses, economies of scale and the impact on consultants and fund managers;

(4) Similarities and differences in retirement plan provisions, including the disability retirement, long-term disability and life insurance plans;

(5) Impact on benefit services, information technology, records management, accounting and auditing information and other issues encompassing administrative functions;

(6) Impact on membership which including active employees, retirees, survivors and disabled members; and

WHEREAS, ensuring the current benefit structure providing financial security in an equitable and cost-effective manner is in the best interest of the State of Missouri; and

WHEREAS, it is in the best interest of the State of Missouri to seek a fiscally responsible solution providing future cost containment and eliminating ineffective duplication of benefit plan administration.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby establish the "State Retirement Consolidation Commission" whose task will be to analyze the issues and objectives set forth above. The commission shall be composed of the following members:

(1) Two members of the Missouri Department of Transportation and Highway Patrol Employees' Retirement System Board of Trustees appointed by the Governor;

(2) Two members of the Missouri State Employees' Retirement System Board of Trustees appointed by the Governor;

(3) Chair and Vice Chair of the Joint Committee on Public Employee Retirement;

(4) Commissioner of Administration;

(5) Director of the Missouri Department of Transportation;

(6) Colonel of the Missouri State Highway Patrol;

(7) One member of the House of Representatives appointed by the Speaker of the House;

(8) One member of the Senate appointed by the President Pro Tempore; and

(9) Three at-large members appointed by the Governor.

Members of the Task Force shall receive no compensation for their service to the people of Missouri but may seek reimbursement for their reasonable and necessary expenses incurred as members of the Task Force, in accordance with the rules and regulations of the Office of Administration, to the extent that funds are available for such purpose.

The Task Force is assigned for administrative purposes to the Office of Administration. The Commissioner of the Office of Administration shall be available to assist the commission as necessary, and shall provide the commission with any staff assistance the commission may require from time to time.

The State Retirement Consolidation Commission shall commence immediately and shall terminate operations on December 31, 2005. The State Retirement Consolidation Commission shall prepare a final report and submit it to me by December 31, 2005, furnishing clear and concise policy recommendations and legislative proposals for consideration in the second regular session of Ninety-Third General Assembly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26th day of August, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

EXECUTIVE ORDER
05-23

WHEREAS, the recent advance of Hurricane Katrina across the Gulf of Mexico, its landfall near Gulf Shores, Alabama, and its continuing movement across the southern United States have caused numerous tornadoes, high winds, extreme tidal surges, extremely heavy thunderstorms, torrential rains, and flooding across many areas within the States of Florida, Alabama, Mississippi, and Louisiana; and

WHEREAS, this severe natural disaster has already resulted in extensive economic and human damage across the American states which surround the Gulf of Mexico, including, as of the time of this Executive Order , the loss of 68 lives, the pervasive destruction of private and public property in excess of millions of dollars, the widespread interruption of electrical power to approximately 1.3 million public utility customers across the affected states, and the evacuation and temporary relocation of persons from the coastal regions to inland destinations, which will eventually require the return of these displaced persons to their places of origin; and

WHEREAS, the extreme weather conditions caused by Hurricane Katrina threaten to continue and to extend these destructive impacts across increasing areas of the southeastern United States, as the hurricane moves inland; and

WHEREAS, these extreme weather conditions, and the resulting destruction of property, interruption of essential human services, and potential dangers to and loss of human life, now require and will continue to require a massive public and private response to provide immediate, emergency assistance and continuing emergency relief to individual persons, businesses, and federal, state and local governmental units in need of transportation for food, supplies, tools, equipment, medicine, public and private health care, law enforcement, security services, public utility services, sanitation and waste disposal, cleanup of debris, property restoration and reconstruction, and other necessities, which threatens to overload the available transportation systems to, from, and within these affected states; and

WHEREAS, the President of the United States of America and the Governor of one of these affected states have currently recognized the existence of an emergency within the meaning of Section 390.23 of Title 49, Code of Federal Regulations, as a result of these severe weather conditions, which poses a threat to the public safety and health of persons residing within these affected states, in that:

(1) The President of the United States of America has issued a National Declaration of Emergency for the States of Alabama, Louisiana and Mississippi, thereby authorizing exemptions from Title 49 of the Code of Federal Regulations, Parts 390 –399.

(2) The Governor of the State of Florida has issued multiple, successive Executive Orders declaring the existence of a state of emergency in the State of Florida; and

WHEREAS, the safety and welfare of the inhabitants of the affected states of Alabama, Florida, Louisiana and Mississippi require that operators of commercial motor carriers upon the public highways within Missouri, who are rendering assistance to the emergency efforts within the affected states, should be allowed more rapid and efficient travel to meet this emergency need for transportation of passengers and property; and

WHEREAS, this requirement for more rapid and efficient transportation would be facilitated by the temporary suspension of certain usual and necessary regulatory requirements for the drivers of commercial motor vehicles, while they are transporting property and passengers to assist in the relief efforts.

NOW THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby declare that I acknowledge the existence of a regional state of emergency, within the meaning of Title 49, Code of Federal Regulations, Section 390.23(a)(1), within the States of Alabama, Florida, Louisiana, and Mississippi, as a result of the severe weather conditions described above; and

FURTHER, I direct that the commercial motor vehicle regulatory requirements regarding the purchase of trip permits for registration and fuel for commercial motor carriers engaged in interstate disaster relief efforts in Alabama, Florida, Louisiana or Mississippi, shall be waived; and

FURTHER, I direct that the issuance of overdimension and overweight permits by the Missouri Department of Transportation for commercial motor carriers engaged in interstate disaster relief efforts in Alabama, Florida, Louisiana or Mississippi, shall be subject to the following interim application requirements in obtaining such a permit:

The permittee will be required to supply:

Year, Make and License plate number of the power unit and trailer;
Size, Make and Serial Number (last 4 digits) of commodity being hauled;
Origin, Destination and Consecutive Routing;
Overall Width, Height, Length and length of trailer and load only; and
Date of Movement.

The permit process can be expedited by calling:
800-877-8499
573-526-5314; or
573-526-5312.

However, this Executive Order shall not suspend the applicability of the standard permit fee requirements; and

FURTHER, I direct that the effective date of this Executive Order shall begin on August 30, 2005, and shall continue in effect until the expiration date as set forth in the National Declaration of Emergency issued by the President of the United States of America, and the expiration dates of any emergency declarations issued by the governors of the states of Florida, Mississippi, Alabama and Louisiana, or October 25, 2005 at 12:01AM, whichever earlier occurs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 30th day of August, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

Executive Order
05-24

WHEREAS, I have been advised by the Director of the State Emergency Management Agency that the State of Mississippi is requesting assistance under the Emergency Mutual Assistance Compact (EMAC) in response to Hurricane Katrina which hit landfall August 29, 2005; and

WHEREAS, the State of Mississippi requests that Missouri provide military support, both personnel and equipment, beginning August 30, 2005, and continuing; and

WHEREAS, on August 30, 2005, I directed the Missouri National Guard to initiate efforts to comply with the State of Mississippi's request and any other request for the National Guard resulting in the hurricane response pursuant to the EMAC; and

WHEREAS, the EMAC is designed to protect the safety and welfare of the citizens in the affected participating EMAC states; and

WHEREAS, protection of the safety and welfare of the citizens in the affected communities requires an invocation of the provisions of Section 44.415, RSMo, which provides for emergency mutual aid with other states, and Section 41.480, RSMo, which authorizes the Governor to call out the organized militia as he deems necessary to provide emergency relief to a distressed area in the event of earthquake, flood, tornado or other actual or threatened public catastrophe.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Section 44.415, RSMo and Section 41.480, RSMo do hereby declare that Missouri will implement the EMAC with the State of Mississippi to provide assistance because Mississippi has experienced damage from hurricane Katrina, and I do hereby direct the Missouri State Emergency Management Agency to activate the EMAC plan. I further authorize the use of the Missouri National Guard to provide support to the Mississippi Division of Emergency Management.

This order shall terminate on October 15, 2005, unless extended in whole or in part.

ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 30th day of August, 2005.

Matt Blunt
Governor

Robin Carnahan
Secretary of State

Executive Order
05-25

WHEREAS, I have been advised by the Director of the State Emergency Management Agency that the State of Louisiana is requesting assistance under the Emergency Mutual Assistance Compact (EMAC) in response to Hurricane Katrina which hit landfall August 29, 2005; and

WHEREAS, the State of Louisiana requests that Missouri provide military support, both personnel and equipment, beginning August 30, 2005, and continuing; and

WHEREAS, on August 30, 2005, I directed the Missouri National Guard to initiate efforts to comply with the State of Louisiana's request and any other request for the National Guard resulting in the hurricane response pursuant to the EMAC; and

WHEREAS, the EMAC is designed to protect the safety and welfare of the citizens in the affected participating EMAC states; and

WHEREAS, protection of the safety and welfare of the citizens in the affected communities requires an invocation of the provisions of Section 44.415, RSMo, which provides for emergency mutual aid with other states, and Section 41.480, RSMo, which authorizes the Governor to call out the organized militia as he deems necessary to provide emergency relief to a distressed area in the event of earthquake, flood, tornado or other actual or threatened public catastrophe.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by Section 44.415, RSMo and Section 41.480, RSMo do hereby declare that Missouri will implement the EMAC with the State of Louisiana to provide assistance because Louisiana has experienced damage from hurricane Katrina, and I do hereby direct the Missouri State Emergency Management Agency to activate the EMAC plan. I further authorize the use of the Missouri National Guard to provide support to the Louisiana Division of Emergency Management.

This order shall terminate on October 15, 2005, unless extended in whole or in part.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 30th day of August, 2005.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State