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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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July 2, 2018 July 16, 2018	August 1, 2018 August 15, 2018	August 31, 2018 August 31, 2018	September 30, 2018 September 30, 2018
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September 4, 2018 September 17, 2018	October 1, 2018 October 15, 2018	October 31, 2018 October 31, 2018	November 30, 2018 November 30, 2018
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November 1, 2018 November 15, 2018	December 3, 2018 December 17, 2018	December 31, 2018 December 31, 2018	January 30, 2019 January 30, 2019
December 3, 2018 December 17, 2018	January 2, 2019 January 15, 2019	January 29, 2019 January 29, 2019	February 28, 2019 February 28, 2019
January 2, 2019 January 15, 2019	February 1, 2019 February 15, 2019	February 28, 2019 February 28, 2019	March 30, 2019 March 30, 2019

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 www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

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The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.



Statement of Ownership, Management, and Circulation (Requester Publications Only)

1. Publication Title Missouri Register	2. Publication Number <table border="1" style="width: 100%; text-align: center; border-collapse: collapse;"> <tr> <td style="width: 12.5%;">0</td> <td style="width: 12.5%;">1</td> <td style="width: 12.5%;">4</td> <td style="width: 12.5%;">9</td> <td style="width: 12.5%;">-</td> <td style="width: 12.5%;">2</td> <td style="width: 12.5%;">9</td> <td style="width: 12.5%;">4</td> <td style="width: 12.5%;">2</td> </tr> </table>	0	1	4	9	-	2	9	4	2	3. Filing Date October 16, 2018
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Managing Editor *(Name and complete mailing address)*

Curtis Treat, PO Box 1767, Jefferson City, MO 65102

10. Owner *(Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)*

Full Name	Complete Mailing Address

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box. None

Full Name	Complete Mailing Address

12. Tax Status *(For completion by nonprofit organizations authorized to mail at nonprofit rates)* *(Check one)*
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:
 Has Not Changed During Preceding 12 Months
 Has Changed During Preceding 12 Months *(Publisher must submit explanation of change with this statement.)*

13. Publication Title Missouri Register		14 Issue Date for Circulation Data Below Nov. 1, 2017-Oct. 15, 2018	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (<i>Net press run</i>)		121	88
b. Legitimate Paid and/or Requested Distribution (<i>By mail and outside the mail</i>)	(1) Outside County Paid/Requested Mail Subscriptions stated on PS Form 3541. (<i>Include direct written request from recipient, telemarketing, and internet requests from recipient, paid subscriptions including nominal rate subscriptions, employer requests, advertiser's proof copies, and exchange copies.</i>)	32	23
	(2) In-County Paid/Requested Mail Subscriptions stated on PS Form 3541. (<i>Include direct written request from recipient, telemarketing, and internet requests from recipient, paid subscriptions including nominal rate subscriptions, employer requests, advertiser's proof copies, and exchange copies.</i>)	59	24
	(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid or Requested Distribution Outside USPS®	11	11
	(4) Requested Copies Distributed by Other Mail Classes Through the USPS (e.g., First-Class Mail®)	N/A	N/A
c. Total Paid and/or Requested Circulation (<i>Sum of 15b (1), (2), (3), and (4)</i>) ▶		102	58
d. Non-requested Distribution (<i>By mail and outside the mail</i>)	(1) Outside County Nonrequested Copies Stated on PS Form 3541 (<i>include sample copies, requests over 3 years old, requests induced by a premium, bulk sales and requests including association requests, names obtained from business directories, lists, and other sources</i>)	0	0
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e. Total Nonrequested Distribution [<i>Sum of 15d (1), (2), (3) and (4)</i>]		15	16
f. Total Distribution (<i>Sum of 15c and e</i>) ▶		117	74
g. Copies not Distributed (<i>See Instructions to Publishers #4, (page #3)</i>) ▶		4	14
h. Total (<i>Sum of 15f and g</i>)		121	88
i. Percent Paid and/or Requested Circulation (<i>15c divided by 15f times 100</i>) ▶		87%	78%

* If you are claiming electronic copies, go to line 16 on page 3. If you are not claiming electronic copies, skip to line 17 on page 3



Statement of Ownership, Management, and Circulation (Requester Publications Only)

16. Electronic Copy Circulation	Average No. Copies Each Issue During Previous 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Requested and Paid Electronic Copies ▶	N/A	N/A
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c. Total Requested Copy Distribution (Line 15f) + Requested/Paid Electronic Copies (Line 16a) ▶	117	74
d. Percent Paid and/or Requested Circulation (Both Print & Electronic Copies) (16b divided by 16c × 100) ▶	87%	78%

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17. Publication of Statement of Ownership for a Requester Publication is required and will be printed in the November 1, 2018 issue of this publication.

18. Signature and Title of Editor, Publisher, Business Manager, or Owner 	Date <u>10/16/18</u>
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I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2016. 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2085—Board of Cosmetology and Barber
Examiners
Chapter 3—License Fees
EMERGENCY AMENDMENT**

20 CSR 2085-3.010 Fees. The board is amending subsection (3)(C).

PURPOSE: This emergency amendment is establishing fees for new certificate of registration to engage in hair braiding as prescribed in House Bill 1500 and House Bill 1719 signed into law and effective August 28, 2018.

EMERGENCY STATEMENT: This emergency amendment is necessary because on August 28, 2018, when House Bills 1500 and 1719 became effective, they created a certificate of registration to engage in hair braiding in Missouri. Applicants will not be able to register until the office collects a required fee.

House Bills 1500 and 1719 created a certificate of registration to engage in hair braiding. An applicant must submit to the board: 1) A completed application, which will be available on the board's website; and 2) a fee, not to exceed twenty dollars (\$20.00). Additionally, each applicant must watch an instructional video that the board creates in accordance with subsection 329.275.4, RSMo. Without prop-

er authority to collect fees, the board cannot issue a certificate of registration to engage in hair braiding as required by House Bills 1500 and 1719.

The failure of this emergency amendment going into effect, will prevent individuals from obtaining a certificate of registration to engage in hair braiding, until such time that the board can legally collect a certificate of registration to engage in hair braiding fees.

As a result, the Missouri Board of Cosmetology and Barber Examiners finds that there is a compelling governmental interest that requires this emergency action. 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 Missouri Board of Cosmetology and Barber Examiners believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 21, 2018, becomes effective October 1, 2018, and expires March 29, 2019.

(3) The following fees are hereby established by the board for crossover licensees under Chapter 328 or Chapter 329, RSMo.

(C) Miscellaneous Fees	
1. Certification/Affidavit of Licensure	\$ 10
2. Certification of Training Hours, Examination Scores	\$ 10
3. Duplicate License Fee	\$ 10
4. Handling Fee (Any uncollectible check or other financial instrument)	\$ 25
5. Inactive License Fee	\$12.50
6. Late Fee	\$ 30
7. Name Search Fee (As determined by the Missouri State Highway Patrol)	
8. Certificate of Registration (Hair Braiding)	\$ 20

AUTHORITY: section 329.025(4), RSMo [2016] Supp. 2018. Original rule filed June 27, 2007, effective Dec. 30, 2007. For intervening history, please, consult the *Code of State Regulations*. Emergency amendment filed Sept. 21, 2018, effective Oct. 1, 2018, expires March 29, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 4—Fees Charged by the Board of Pharmacy**

**ORDER TERMINATING EMERGENCY
AMENDMENT**

By the authority vested in the State Board of Pharmacy under section 338.140, RSMo 2016, the board terminates an emergency amendment effective September 24, 2018, as follows:

20 CSR 2220-4.010 General Fees is terminated.

A notice of proposed rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on April 2, 2018 (43 MoReg 663).

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Economic Development Programs Chapter 1—Organizational Structure

PROPOSED RESCISSION

4 CSR 80-1.010 General Organization. This rule described the division's functions, objectives and organizational structure.

PURPOSE: This rule is being rescinded because no such division currently exists in the department. The functions were later included with the Division of Business and Community Services.

AUTHORITY: section 536.023, RSMo 1986. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies

or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Economic Development Programs Chapter 2—Municipal Bonds for Industrial Development

PROPOSED RESCISSION

4 CSR 80-2.010 Municipal Bonding for Industrial Development. This rule provided guidelines to assist municipalities in the implementation of industrial bonding programs.

PURPOSE: This rule is being rescinded because it provides an outdated summary of the purposes for which industrial development bonds may be issued.

AUTHORITY: sections 100.010–100.200, RSMo 1986. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Economic Development Programs Chapter 2—Municipal Bonds for Industrial Development

PROPOSED RESCISSION

4 CSR 80-2.020 Approval of Plan to Issue Municipal Bonds for Industrial Development Projects. This rule provided guidelines to assist municipalities in the implementation of industrial bonding programs.

PURPOSE: This rescission will remove an unnecessary applicant restriction that is no longer required by statute.

AUTHORITY: sections 100.040–100.060, RSMo 1986. Original rule

filed Dec. 30, 1975, effective Jan. 9, 1976. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Economic Development Programs

Chapter 2—Municipal Bonds for Industrial Development

PROPOSED RESCISSION

4 CSR 80-2.030 Preparation of the Lease Agreement. This rule provided guidelines to assist municipalities in the construction of the lease agreement.

PURPOSE: The review and approval of lease agreements is no longer required by statute.

AUTHORITY: section 100.050(4), RSMo 1986. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Division of Economic Development Programs

Chapter 5—Business Use Incentives for Large-Scale Development

PROPOSED AMENDMENT

4 CSR 80-5.010 Definitions. The division is amending the purpose and sections (1), (2), (3), (4), (6), (7), and (8).

PURPOSE: This amendment will reduce confusion by correcting a reference from SIC codes to NAICS codes and referencing the actual statute.

PURPOSE: This rule provides definitions for terms contained in the Missouri Business Use Incentives for Large-Scale Development Act [as contained in sections 7 through 22 of Conference Committee Substitute for Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill NO. 1237, as enacted by the Eighty-Eighth General Assembly, Second Regular Session. These definitions relate to the contents of the Missouri Business Use Incentives for Large-Scale Development Act], sections 100.700 to 100.850, RSMo.

(1) “Average wage paid by the applicant” means the average wage paid within the county in which the project is located. The average wage will be determined by the most recent information provided by the Division of Employment Security based upon the wages paid to employees of businesses of substantially the same [standard industrial classification (SIC)/ North American Industry Classification System (NAICS) code as that of the applicant. In the event that the wage information is not available for a particular county or, is more than two (2) years old, or no other employer with a comparable [SIC/ NAICS code is located there, the Department of Economic Development may utilize average wage information from adjacent counties or counties which the department determines are comparably situated.

(2) “Eligible industry” means a business located in Missouri or a business which is not located in the state but which would locate there as a result of the project, which otherwise satisfies the requirements of an “eligible industry” under section [8(9) of the Act] 100.710, RSMo.

(3) “Invest” means the same as the term “new business facility investment” as defined in section 135.100[(7)], RSMo, except that for leased property, the value of real and personal property shall be determined by the present value of the projected annual lease payments throughout the term of the lease utilizing an interest rate established by the department. Investments may occur during a period commencing with a date established by the department and ending **not later than three and one quarter** (3 ¼) years after the issuance of certificates.

(4) “New jobs” means the number of jobs created by the eligible industry during a period commencing with a date established by the department and ending **not later than three and one quarter** (3 ¼) years after the issuance of certificates, and which otherwise satisfy the requirements of a “new job” under section [8(10) of the Act] 100.710, RSMo.

(6) “Project” means an economic development project as defined in section [8(7) of the Act] 100.710, RSMo.

(7) “Related taxpayer” means the same as that term is defined in section 135.100[(9)], RSMo.

(8) “Replacement of facilities” means the same as the term “replacement business facility” as defined in section 135.100[(10)], RSMo.

AUTHORITY: section [620.1066] 100.730, RSMo [(Supp. 1995)] 2016. Original rule filed Aug. 29, 1996, effective March 30, 1997. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 80—Economic Development Programs
Chapter 5—Business Use Incentives for Large-Scale
Development**

PROPOSED RESCISSION

4 CSR 80-5.020 Determination of Eligible Industries and Projects. This rule described considerations for eligibility under the Business Use Incentives for Large-Scale Development program.

PURPOSE: This rule is being rescinded because no such division currently exists in the department. The functions were later included with the Division of Business and Community Services.

AUTHORITY: section 620.1066, RSMo (Supp. 1995). Original rule filed Aug. 29, 1996, effective March 30, 1997. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 80—Economic Development Programs
Chapter 7—Certified Capital Companies**

PROPOSED RESCISSION

4 CSR 80-7.010 Definitions. This rule provided definitions for terms and phrases contained in the Missouri Certified Capital Company Law, sections 135.500 through 135.529, RSMo Supp. 1997.

PURPOSE: This rule is obsolete because the statutory limit for tax credits has been met and there will be no further authorizations or issuances.

AUTHORITY: section 135.529, RSMo Supp. 1997. Emergency rule filed Jan. 2, 1997, effective Feb. 3, 1997, expired July 1, 1997. Original rule filed Dec. 15, 1997, effective June 30, 1998. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivision more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 80—Economic Development Programs
Chapter 7—Certified Capital Companies**

PROPOSED RESCISSION

4 CSR 80-7.020 Procedures. This rule described certain procedures to be followed in the operation of the Missouri Certified Capital Company Law as contained in sections 135.500 through 135.529, RSMo Supp. 1997.

PURPOSE: This rule is obsolete because the statutory limit for tax credits has been met and there will be no further authorizations or issuances.

AUTHORITY: section 135.529, RSMo Supp. 1997. Emergency rule filed Jan. 2, 1997, effective Feb. 3, 1997, expired July 1, 1997. Original rule filed Dec. 15, 1997, effective June 30, 1998. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 80—Economic Development Programs
Chapter 7—Certified Capital Companies**

PROPOSED RESCISSION

4 CSR 80-7.030 Applications. This rule described the procedure by which an entity makes application to the Department of Economic Development to be certified as a certified capital company.

PURPOSE: This rule is obsolete because the statutory limit for tax credits has been met and there will be no further authorizations or issuances.

AUTHORITY: Section 135.529, RSMo Supp. 1997. Emergency rule filed Jan. 2, 1997, effective Feb. 3, 1997, expired July 1, 1997. Original rule filed Dec. 15, 1997, effective June 30, 1998. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 80—Economic Development Programs
Chapter 7—Certified Capital Companies**

PROPOSED RESCISSION

4 CSR 80-7.040 Tax Credits; Continuance of Certification; Qualifying a Missouri Small Business; and IRR Determination.

This rule described the methods for claiming tax credits, for continuing certification as a CAPCO, for qualifying as a qualified Missouri small business, for the making of payments to the MDFB, for decertification of CAPCOs by the DED, for conducting audits, for determining conflicts of interest, for determining whether records are open or closed, and for maintaining communications between the DED and CAPCOs.

PURPOSE: This rule is obsolete because the statutory limit for tax credits has been met and there will be no further authorizations or issuances.

AUTHORITY: section 135.529, RSMo Supp. 1997. Emergency rule filed Jan. 2, 1997, effective Feb. 3, 1997, expired July 1, 1997. Original rule filed Dec. 15, 1997, effective June 30, 1998. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 85—Division of Business and Community
Services
Chapter 2—Neighborhood Assistance Tax Credit
Program**

PROPOSED AMENDMENT

4 CSR 85-2.010 [Neighborhood Assistance Program] General.

The division is amending the title and subsection (3)(G).

PURPOSE: This amendment deletes entities which were eligible for the Development Tax Credit portion of the program, which has expired.

(3) As used in the implementation of the Neighborhood Assistance Act, the following terms mean:

(G) Neighborhood organization, any organization incorporated as a not-for-profit corporation under the provisions of Chapter 355, RSMo; designated as a community development corporation under the provisions of Title VII of the Economic Opportunity Act of 1964; or holding a ruling from the Internal Revenue Service of the United States Department of Treasury that the organization is exempt from federal income tax. **The sole [R]ruling[s] which shall be considered as appropriate [are] is section[s] 501(c)(3)[, 4 and 6] of the Internal Revenue Code of [1954, except that for all projects other than the Economic Development category, only the 501(c)3 ruling will qualify beginning with FY 96 proposals.] 1986;**

AUTHORITY: section 32.110, RSMo [Supp. 1990] 2016. Original rule filed Jan. 10, 1978, effective April 13, 1978. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 85—Division of Business and Community
Services
Chapter 2—Neighborhood Assistance Program**

PROPOSED RESCISSION

4 CSR 85-2.015 Economic Development. This rule defined terms and established guidelines for the implementation of an economic development project category, as created under section 32.105, RSMo.

PURPOSE: This rule is obsolete because the Department of Economic Development no longer authorizes or issues these tax credits.

AUTHORITY: section 32.110, RSMo Supp. 1990. Original rule filed Nov. 15, 1989, effective March 11, 1990. Amended: Filed Jan. 3, 1992, effective Aug. 6, 1992. Amended: Filed Dec. 10, 1993, effective July 10, 1994. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**
**Division 85—Division of Business and Community
Services**
**Chapter 2—Neighborhood Assistance Tax Credit
Program**

PROPOSED AMENDMENT

4 CSR 85-2.020 Preparation of Application for the Neighborhood Assistance Program. The division is amending the chapter title, deleting sections (3) and (4), amending section (7), subsection (9)(A), and section (11), and deleting the forms following the rule.

PURPOSE: This amendment improves program flexibility in order to better support high-quality projects and deletes the application form attachment, which changes every year and does not serve applicants in its current state.

[(3)] Neighborhood assistance projects may be approved for a period of up to three (3) years at the discretion of the director of the Department of Economic Development.

[(4)] An annual application deadline will be determined by the Department of Economic Development and application materials will be distributed upon request no less than sixty (60) days prior to the actual application deadline. Proposals submitted under the economic development project category can be submitted at any time.]

[(5)](3) Facsimile copies of applications will not be accepted.

[(6)](4) All proposals are to be submitted to the [central] Neighborhood Assistance Program office located in Jefferson City.

[(7)](5) The [director of the] department shall reply promptly with acknowledgement of receipt of the proposal submitted.

[(8)](6) All proposals must address at least one (1) of the following priorities in order to qualify for approval:

(A) The project substantially contributes to self-help efforts by residents of the neighborhood to be served in addressing locally defined objectives;

(B) The project will result in the provision of essential services to low and moderate income persons which would not otherwise be provided in the affected neighborhood and for which there are no other resources available; or

(C) The project tangibly contributes to the development of lasting cooperation and partnership efforts of neighborhood organizations and businesses.

[(9)](7) Approval or disapproval of proposals shall be based on the following criteria:

(A) The [director of the Division of Community and Economic Development must certify] degree to which an area [as] is experiencing problems endangering its existence as a viable

and stable neighborhood to be eligible for assistance.

(B) The business or neighborhood organization submitting the proposal must demonstrate its capacity to adequately administer the project;

(C) There must be a demonstrated need for the program in the neighborhood area within which the project is to be carried out;

(D) The proposal must demonstrate that residents of the affected neighborhood area have been involved in the planning of the proposed project and describe the extent to which they will be involved in its implementation;

(E) The proposal must be consistent with all locally-approved community or neighborhood development plans for the area; and

(F) Proposals submitted subsequent to the first year will be evaluated on performance of the first year project, other resources developed, continued need and potential for eventual self-sufficiency.

[(10)](8) In no case shall a project be approved that does not have a written endorsement of the local public authority.

[(11)](9) [The maximum amount of credits allowed per project is five hundred thousand dollars (\$500,000).] The department may determine a maximum amount of credits per project and may reserve the right to go over that amount should a proposal impact a priority or targeted area of the state.

[(12)](10) Applicants who have a complaint concerning the disposition of their proposal shall make their complaint to the director according to the following procedure:

(A) The complaint must be filed within ten (10) days after receipt of notice by mail to the applicant of the disposition of the director;

(B) The complaint shall state the name of the applicant, the disposition of the director of which the applicant complains, and a brief statement of the facts and reasons upon which the complaint is based;

(C) The complaint shall be signed by the chief administrative officer of the complaining applicant;

(D) If a complaint is filed requesting a hearing, the department will set a date for an informal hearing and notify the applicant of the date at least ten (10) days before the hearing. The department shall begin the hearing not more than thirty (30) days after the last day for requesting a hearing;

(E) The hearing will be informal but conducted with dignity and decorum. The hearing shall begin with a statement by the department of the basis of the director's determination of which complaint has been made. After that, the applicant shall state the complaint and present to the department facts and arguments as are relevant to the complaint; and

(F) Within ten (10) days after the completion of the hearing, the director shall notify the applicant of the determination, setting forth in writing the particular facts and conclusions upon which the determination is premised. If, as a result of any hearing, the director finds the original determination incorrect, the director shall correct the determination and notify the applicant immediately following determination of the complaint.

AUTHORITY: section 32.110, RSMo [Supp. 1990] 2016. Original rule filed Jan. 10, 1978, effective April 13, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 85—Division of Business and Community Services

Chapter 2—Neighborhood Assistance Tax Credit Program

PROPOSED AMENDMENT

4 CSR 85-2.030 Approval and Notification for Tax Credits to Business Firms. The division is amending the chapter title, deleting sections (1) and (6) and subparagraphs (8)(D)3.C. and D., amending section (3) and paragraph (8)(B)2., and deleting the forms following the rule.

PURPOSE: This amendment removes restrictions that are not required by statute and updates outdated terms and processes.

[(1)] Business firms wanting to donate to a particular neighborhood assistance project, but first wishing to verify the eligibility of their donation for a tax credit, may submit a Tax Credit Eligibility Confirmation form to the department. The department will confirm in writing whether or not the donation qualifies for credit and how the value of the credit will be determined. This confirmation will not constitute credit approval, however, the projects themselves may reserve credits for specific donors if they wish.]

[(2)](1) In order to qualify for credit, donations must occur during the approved project period (with the exception of donated audit services, which may occur anytime during the six- (6)-[-] month period following the project period) and must be directly related to the approved project.

[(3)](2) Business firms wishing to apply for credit must complete [a Neighborhood Assistance Tax Credit Application] an Application for Claiming Tax Credits.

[(4)](3) Tax credit applications are to be signed by the neighborhood organization and submitted directly to the respective Neighborhood Assistance Program (NAP) field office of the department no later than one (1) year following the date of donation.

[(5)](4) The order in which completed credit applications are received by the department will determine the order in which credits are approved. Facsimile copies will not be considered complete applications.

[(6)] Every transmittal of tax credit applications to the department must be accompanied by a project report, prepared by the neighborhood organization.]

[(7)](5) The department shall examine all submitted applications and determine whether the donation meets the eligibility criteria.

[(8)](6) A tax credit not to exceed fifty percent (50%) of the total amount contributed during the business firm's taxable year may be allowed by the department, with the exception of up to a seventy percent (70%) tax credit for special programs as referred to in subsection [(3)](6)(A), or a seventy percent (70%) credit for projects located in any rural community as referred to in subsection

[(8)](6)(B).

(A) A special credit of up to seventy percent (70%) may be allowed for donations to programs where activities fall within the scope of special programs or priorities as defined by regulations promulgated by the director of the department and approved by the governor.

(B) A special credit of up to seventy percent (70%) may be allowed for projects located in rural communities defined as follows:

1. Any city, town, or village having a population of fewer than fifteen thousand (15,000) inhabitants located in a county—

A. That is not part of a standard metropolitan statistical area (SMSA) as defined by the United States Department of Commerce or its successor agency;

B. Designated as part of an SMSA, but having a substantial number of persons in that county who derive their income from agriculture; or

C. Designated as part of an SMSA with only one (1) city in that county having a population of more than fifteen thousand (15,000) inhabitants; and

2. These tax credits equal to seventy percent (70%) of donations to projects in rural communities shall not exceed [two (2)] six (6) million dollars in any fiscal year.

(C) The following method will be used to determine the value [on] of donations of real or personal property:

1. Outright gifts of real or personal property shall be equal to the lowest of at least two (2) qualified independent appraisals, with the following exceptions: commercial property whose value is less than fifty thousand dollars (\$50,000) and vacant or residential property which value is less than twenty-five thousand dollars (\$25,000) will only require one (1) appraisal. When the tax credit application is submitted, the actual cost of the appraisals may be included as part of the donation on which a tax credit is requested, provided that documentation of the costs is included in the application; and

2. When businesses do not transfer full title to real or personal property, but merely offer the use of real or personal property, the amount of the donation shall equal either the comparable market value of the rental, or the actual rental value, whichever is less.

(D) The following method will be used to determine the value of other forms of in-kind contributions:

1. Outright gifts of equipment, materials, supplies, or other goods shall equal either the cost to the donor or the fair market value, whichever is less. Fair market value and cost to the donor shall be determined by the department and may be based on the applicant's support of the amounts by documentation either from the applicant itself or from an independent appraiser. If an appraisal by an independent appraiser is submitted by the applicant and adopted by the department, the actual costs of the appraisal may be included as part of the contribution. Cost to the donor may include reasonable overhead expenses incurred in making the contribution;

2. When businesses contribute the use of items, the amount of the donation shall equal the actual cost of the item's use to the contributor, but not more than the fair market value of that use. Cost and fair market value shall be determined in the same fashion as in the case of outright gifts;

3. Contributions of food items will be eligible to receive credit, but will be limited to organizations involved primarily in food redistribution.

A. The value of the contribution shall equal the cost to the donor or the fair market value of the items, whichever is less. Fair market value and cost to the donor shall be determined by the department and may be based on the applicant's support of those amounts. In certain cases, a simple factor for spoilage may be applied against the donor's cost to arrive at fair market value. Cost to the donor may include reasonable overhead expenses incurred in making the contribution.

B. Required documentation shall be determined by the department and shall include, in every case, a copy of the receipt

signed by the project director of the recipient organization or his/her designee.; and

C. The total amount of credits to be allowed under this provision shall be limited to two (2) million dollars in any one (1) state fiscal year.

D. This provision of the Neighborhood Assistance Act will be reviewed and evaluated one (1) year from the date of the adoption; and

4. Effective for all projects approved in Fiscal Year 1993 or later, credit will be allowed on the donation of stock, bonds, or both, as follows:

A. Market value on the actual date of donation will determine the value that the credit will be based on; and

B. Credit will only be approved once the stock, bonds, or both, have been sold, however, the amount of sale proceeds received by the organization will have no effect on the value of the donation for NAP purposes.

(E) Business firms lending personnel to render expertise and assistance to a neighborhood organization are eligible for tax credit. Personnel time must be prorated based on the employee's hourly wage from the firm. The exact amount of time spent on the project must be verified, in writing, by the project director.

(F) Contributions of professional services are also eligible for tax credits. At the discretion of the department, individuals may be required to document similar payment for similar work during the six- (6-)/- month period prior to the date of contribution, whether to the same organization or not.

AUTHORITY: section [32.115] 32.110, RSMo [Supp. 1990] 2016. Original rule filed Jan. 10, 1978, effective April 13, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 85—Division of Business and Community
Services
Chapter 2—Neighborhood Assistance Program**

PROPOSED RESCISSION

4 CSR 85-2.040 Issuing of the Tax Credit. This rule established the total amounts of tax credits, computation of tax credits and proof of contribution per sections 32.110, 32.115, 32.117 and 32.120, RSMo.

PURPOSE: This rule does not reflect the program's current requirements or needs.

AUTHORITY: section 32.115, RSMo Supp. 1990. Original rule filed Jan. 10, 1978, effective April 13, 1978. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Sept.

28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 85—Division of Business and Community
Services
Chapter 6—Recovery Zone Bond Allocation, Waiver,
and Reallocation**

PROPOSED RESCISSION

4 CSR 85-6.010 Recovery Zone Bond Allocation, Waiver, and Reallocation. This rule gave a brief overview of allocation and waiver process for recovery zone bonds and prescribed the department's process for reallocating recovery zone bond authority.

PURPOSE: This rule is obsolete because the underlying program is no longer active and recovery bonds are no longer available.

AUTHORITY: section 108.1010, RSMo Supp. 2009. Emergency rule filed Sept. 18, 2009, effective Sept. 28, 2009, expired March 26, 2010. Original rule filed Sept. 18, 2009, effective April 30, 2010. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 85—Division of Business and Community
Services
Chapter 7—Entrepreneurial Development Council**

PROPOSED RESCISSION

4 CSR 85-7.010 Entrepreneurial Development Council. This rule established the terms for members of the Entrepreneurial Development Council, set the initial registration fee for the council, and described the council's powers and duties.

PURPOSE: This rule is unnecessary because the council has never been appointed, the program has not been used, and the nature of the program is not feasible.

AUTHORITY: section 620.050, RSMo Supp. 2009. Original rule filed Jan. 27, 2010, effective Aug. 30, 2010. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Business and Community Services, PO Box 118, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 1—Organization

PROPOSED AMENDMENT

4 CSR 195-1.010 General Organization. The division is amending the purpose and sections (1), (2), and (8).

PURPOSE: This amendment corrects the name of the division.

PURPOSE: This rule describes the general organization and functions of the Division of [Job] Workforce Development [and Training] and how the public may obtain information or make submissions to or requests from the division.

(1) The Division of [Job] Workforce Development [and Training] operates under the control of the Department of Economic Development. The division develops job training plans and administers job training programs implemented at both state and local levels. Division activities include: administration; planning; research; program development; and fiscal and program monitoring.

(2) Administration. The director is responsible for the administration of the division with the assistance of the deputy director and the manager of administrative services. The deputy director assists the director in the administration of the office of the Division of [Job] Workforce Development [and Training] and has such duties as the director may require. The manager of administrative services is charged with the responsibility for fiscal policies and procedures as well as accounting functions of the division. The chief clerk is responsible for all permanent records in the office, the division files, all related correspondence, and all records of the official documents published by the division.

(8) Public Access to the Division of [Job] Workforce Development [and Training].

(A) General. Any complaint, request, inquiry, submission, or other communication not specified otherwise in this section, should be addressed in writing to Director of [Job] Workforce Development [and Training], [221 Metro Drive] PO Box 1087, Jefferson City, MO [65101] 65102.

AUTHORITY: section 620.010(19), RSMo [1986] 2016, P.L. 97-300

and 20 CFR 627.1. Original rule filed May 4, 1987, effective July 23, 1987. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 2—General Rules, Missouri Job Development Fund Training Programs

PROPOSED RESCISSION

4 CSR 195-2.010 New or Expanding Industry Training Program. This rule established guidelines for the New or Expanding Industry Training Program.

PURPOSE: This rule is being rescinded because the underlying program and statute were repealed by L. 2013 H.B. 196 A, and replaced with sections 620.800 to 620.809, RSMo.

AUTHORITY: section 620.472, RSMo (1994). Original rule filed May 4, 1987, effective July 23, 1987. Amended: Filed May 14, 1996, effective Dec. 30, 1996. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 2—General Rules, Missouri Job Development Fund Training Programs

PROPOSED RESCISSION

4 CSR 195-2.020 Basic Industry Retraining Program. This rule established guidelines for the Basic Industry Retraining Program.

PURPOSE: This rule is being rescinded because the underlying program and statute were repealed by L. 2013 H.B. 196 A, and replaced

with sections 620.800 to 620.809, RSMo.

AUTHORITY: section 620.474, RSMo (1994). Original rule filed May 4, 1987, effective July 23, 1987. Amended: Filed May 14, 1996, effective Dec. 30, 1996. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 195—Division of Workforce Development
Chapter 2—General Rules, Missouri Job Development
Fund Training Programs**

PROPOSED RESCISSION

4 CSR 195-2.030 Missouri Job Training Joint Legislative Oversight Committee. This rule described the general organization and functions of the Missouri Job Training Joint Legislative Oversight Committee.

PURPOSE: This rule is being rescinded because the underlying statute was repealed by L. 2013 H.B. 196 A, and replaced with sections 620.800 to 620.809, RSMo.

AUTHORITY: section 620.474, RSMo (1986). Original rule filed May 4, 1987, effective July 23, 1987. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 195—Division of Workforce Development
Chapter 3—General Rules, Missouri Bond-Funded
Industry Training Programs**

PROPOSED RESCISSION

4 CSR 195-3.010 New Jobs Training Program. This rule established

guidelines for the New Jobs Training Program.

PURPOSE: This rule is being rescinded because the underlying statute was replaced with sections 620.800 to 620.809, RSMo.

AUTHORITY: section 178.895, RSMo 2000. Original rule filed Dec. 16, 1988, effective April 27, 1989. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 195—Division of Workforce Development
Chapter 3—General Rules, Missouri Bond-Funded
Industry Training Programs**

PROPOSED RESCISSION

4 CSR 195-3.020 Job Retention Training Program. This rule established guidelines for the Job Retention Training Program.

PURPOSE: This rule is being rescinded because the underlying statute was replaced with sections 620.800 to 620.809, RSMo.

AUTHORITY: section 178.763, RSMo Supp. 2004. Original rule filed May 16, 2005, effective Dec. 30, 2005. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 195—Division of Workforce Development
Chapter 4—General Rules, Missouri Youth Service and
Conservation Corps Programs**

PROPOSED RESCISSION

4 CSR 195-4.010 The Missouri Youth Service and Conservation Corps. This rule established guidelines for the Missouri Youth

Service and Conservation Corps Program.

PURPOSE: This rule is being rescinded because the program is obsolete.

AUTHORITY: section 620.566, RSMo 1994. Original rule filed May 2, 1991, effective Sept. 30, 1991. Amended: Filed Nov. 16, 1992, effective June 7, 1993. Amended: Filed Feb. 10, 1995, effective July 30, 1995. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 5—General Rules, Individual Training Account Program

PROPOSED RESCISSION

4 CSR 195-5.010 Purpose; Business Eligibility. This rule established program goals and business eligibility requirements for the Individual Training Account Program.

PURPOSE: This rule is being rescinded because the underlying statute was repealed. L. 2004 S.B. 1155 A.

AUTHORITY: sections 620.1400, 620.1410, 620.1440 and 620.1460, RSMo Supp. 1999. Original rule filed March 15, 2000, effective Oct. 30, 2000. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 5—General Rules, Individual Training Account Program

PROPOSED RESCISSION

4 CSR 195-5.020 Application to Participate and Qualifications for Tax Credits. This rule established the process for employer participation in the Individual Training Account Program.

PURPOSE: This rule is being rescinded because the underlying statute was repealed. L. 2004 S.B. 1155 A.

AUTHORITY: sections 620.1410, 620.1420, 620.1430, 620.1440 and 620.1460, RSMo Supp. 1999. Original rule filed March 15, 2000, effective Oct. 30, 2000. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 195—Division of Workforce Development Chapter 5—General Rules, Individual Training Account Program

PROPOSED RESCISSION

4 CSR 195-5.030 Employee/Trainee Eligibility. This rule established guidelines for employee eligibility in the Individual Training Account Program.

PURPOSE: This rule is being rescinded because the underlying statute was repealed. L. 2004 S.B. 1155 A.

AUTHORITY: sections 620.1410, 620.1420, 620.1440 and 620.1460, RSMo Supp. 1999. Original rule filed March 15, 2000, effective Oct. 30, 2000. Rescinded: Filed Sept. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workforce Development, PO Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 20—Division of Learning Services Chapter 100—Office of Quality Schools

PROPOSED AMENDMENT

5 CSR 20-100.160 Policies and Standards for Summer School Programs. The State Board of Education is proposing to amend sections (1), (2), (3), and (4), delete sections (5), (7), (8), (9), (10), (11), (12), and (13), and renumbering as needed.

PURPOSE: The State Board of Education has adopted rules to govern the oversight and operation of summer school programs in the state. This proposed amendment will remove unnecessary language from the rule on policies and standards for summer school programs.

(1) Summer school programs, **approved by the local board of education**, may be held any time between the close of the regular school term and the beginning of the next regular school term *[and must be approved by the local school board]*. School districts with a “year-round” regular term schedule may conduct an approved component of summer school during the breaks in the regular term. A summer school program *[shall]* consist of a planned schedule of course offerings for *[resident]* **Missouri domiciled** students at the elementary or high school level. An approved summer school program for students without disabilities must be in session for at least one hundred twenty (120) clock hours. Summer school programs for students with disabilities *[must be in session for at least sixty (60) clock hours depending upon the hours needed to comply with]* **are to be aligned to the Individualized Education Program (IEP)**.

(2) A school board may authorize the operation of summer school programs at the elementary or high school level, or both. *[Each approved summer school program shall have at least the required minimum clock hours of instruction.]* **Minimum clock hours for programs are included in section (1)**. An elementary summer school program may include any combination of grades kindergarten through eight (K–8). A high school summer school program may include any combination of grades seven through twelve (7–12). A school district or charter school may operate one (1) or more summer school programs at any level. *[Each summer school program that is operated separately with different opening and closing dates must meet the minimum clock hours of instruction requirements. A variety of classes may be offered at either the elementary or secondary level which meet state guidelines and whose total hours of instruction equal at least one hundred twenty (120) clock hours. A second method of meeting]* **Minimum clock hours apply to each program. Schools may “stack” a variety of classes to meet the [clock hour] requirement [is to offer a variety of classes at the elementary and secondary level whose combined hours total at least one hundred twenty (120). This method is commonly referred to as “stacking.”] of one hundred twenty (120) clock hours.** Under the “stacking” method, typically sixty (60) hours of instruction are offered at the elementary level with sixty (60) hours of instruction offered at the secondary level for a combined total of one hundred twenty (120) clock hours. The clock hours of regular summer school classes may be combined with the clock hours of special education extended school year programs to reach the one hundred twenty (120) clock hour requirement. *[No individual course or segment of an approved summer school program, other than special education programs, may consist of less than thirty (30) clock hours of classroom instruction.]* **With the exception of special education programs, individual courses or segments consist of a minimum of thirty (30) hours.** Minimum time requirements exclude break time and lunch time. School districts with “year-round” regular term schedules may include instructional hours offered in a structured summer school program held during breaks in the regular term.

[(A) Examples of acceptable combinations are as follows:

- 1. Sixty (60) hours in grades kindergarten through six (K–6) or kindergarten through eight (K–8) plus sixty (60) hours in grades seven through eight (7–8) or nine through twelve (9–12) in an approved summer school;*
- 2. Sixty (60) hours in a special education extended school year program plus sixty (60) hours in grades kindergarten through eight (K–8) or nine through twelve (9–12) in an approved summer school;*
- 3. Thirty (30) hours in grades kindergarten through six*

(K–6) plus thirty (30) hours in grades seven through eight (7–8) plus sixty (60) hours in grades nine through twelve (9–12) in an approved summer school; or

4. Sixty (60) hours in grades kindergarten through eight (K–8) offered during breaks in the regular term plus sixty (60) hours in grades nine through twelve (9–12) offered during breaks in the regular term for school districts with year-round regular term schedules.]

[(B)](A) Title I summer school hours may not be used in the “stacking” method per federal law. [The district or charter school must demonstrate compliance with the supplement not supplant requirement before federal programs funds may be used for summer services. Prior to obligating federal funds for summer services, the district must complete a Federal Program Proposed Summer School Plan.]

(3) The curriculum in an approved summer school program at any level *[must]* include one (1) or more of the following academic areas as the major portion of the clock hours of instruction in the program: elementary school—language arts, mathematics, science, social studies; and high school—language arts, mathematics, science, social studies, practical arts.

(A) Any course which may be offered in the regular school term may be approved *[as part of the]* for summer school with the exception of physical education hours that do not count as credit toward graduation for students in grades nine (9), ten (10), eleven (11) and twelve (12). Special approval must be requested for summer school courses that would require special approval during the regular term.

[(B) The following are examples of courses which may be approved as part of the summer school program but must be in addition to, and not in place of, the academic areas: driver education, art, crafts, physical education and music.]

[(C)](B) Activities such as gymnastics, weight lifting, tennis, and swimming lessons conducted under the sponsorship of the school cannot be included as part of the approved summer school program unless they are an integral part of a comprehensive physical education course which is part of the scheduled clock hours of instruction in the approved summer school program.

[(D)](C) [Activities such as recreation programs, athletic practices, isolated music rehearsals and isolated band practices may be offered by the school but shall not be included as part of the clock hours of instruction in an approved summer school program and shall not be counted for summer school membership and attendance for state aid purposes.] **Non-curricular programs such as camps and athletic practices may be offered but not included in clock hour requirements or for summer school membership and/or the associated attendance hours for state aid purposes.**

(4) The attendance of resident students between the ages of six and twenty (6–20) in grades one through twelve (1–12) and students who are eligible to attend kindergarten the next fall (must be five (5) years old before the first day of August of the school year beginning in that calendar year) may be counted for summer school state aid purposes in accordance with Chapter 163, RSMo.

[(5) Some high school courses may be offered for credit and some courses for no credit in an approved summer school program. High school students may earn one-half (1/2) unit of high school credit for laboratory courses which meet at least seventy-five (75) clock hours and one-half (1/2) unit of high school credit for other courses which meet for sixty to seventy-five (60–75) clock hours. One-fourth (1/4) unit of high school credit may be granted for driver education classes which provide thirty (30) clock hours of classroom instruction, six (6) clock hours behind the wheel and twelve (12) clock hours as an observer in a driver education car. Minimum time requirements exclude any break time and lunch time.]

[(6)](5) Summer school teachers must have valid Missouri teacher certification.

[(7)] Transportation for summer school students with disabilities is reimbursable as provided in 5 CSR 30-261.040 Allowable Costs for State Transportation Aid.

[(8)] School food services for summer school students are not required but may be provided.

[(9)] Facilities and equipment used for summer school shall be of a quality equal to that used during the regular term.

[(10)] Textbooks, library resources and other instructional materials and aids shall be of a quality equal to that used during the regular term.

[(11)] State Board of Education classification standards pertaining to class size are applicable to summer school programs.

[(12)] Department of Elementary and Secondary Education (DESE) staff will review applications for approval of summer school programs, consult with local school officials as needed and approve eligible summer school programs for state aid. Approved summer school programs will be visited and reviewed by DESE staff.

[(13)] School districts and charter schools must keep individual student membership and attendance records for summer school programs. The summer school records shall be audited as required by law.]

[(14)](6) Summer school program applications and reports shall be submitted in a form and at a time as may be required by DESE.

AUTHORITY: sections 161.092(2), 163.011, [163.021(2) and] 163.031, [RSMo Supp. 2007 and sections] 167.227, and 178.280, RSMo [2000] 2016, and section 163.021(2), RSMo Supp. 2018. This rule previously filed as 5 CSR 50-340.050. Original rule filed May 14, 1971, effective May 24, 1971. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 20, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: School Improvement, Office of Quality Schools, PO Box 480, Jefferson City, MO 65102-0480, or by email to msip@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 20—Division of Learning Services Chapter 100—Office of Quality Schools

PROPOSED AMENDMENT

5 CSR 20-100.200 A+ Schools Program. The State Board of Education is amending subsection (1)(A) and sections (2) and (6), deleting subsections (2)(D) and (E) and sections (3)–(5), and renu-

bering as needed.

PURPOSE: The changes in this amendment are to include nonpublic schools and to eliminate the requirements for receiving A+ compensation grant.

(1) The Department of Elementary and Secondary Education (department) Office of Quality Schools (QS) is authorized to establish procedures for the implementation of the A+ Schools Program including:

(A) Public school district, **charter school, and nonpublic school** participation; and

(2) To participate in the A+ Schools Program, the chief administrator and school board of a public school district **or charter school** with secondary schools **or a nonpublic secondary school** must—

(B) Provide assurance that the [district] **eligible secondary school** will:

1. Establish measurable [district-wide] performance standards for the program;

2. Specify the knowledge, skills, and competencies in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify students for graduation from the school;

3. Establish student performance standards, that lead to or qualify students for graduation, and meet or exceed the performance standards adopted by the State Board of Education (board);

4. Require rigorous coursework with standards of competency in basic academic subjects for students pursuing career-technical education or employment; and

5. Develop a partnership plan in cooperation and with the advice of local business persons, labor leaders, teachers, senior citizens, parents, and representatives of colleges and postsecondary career-technical schools, with the plan then approved by the local board of education. The plan shall specify:

A. A mechanism to receive updated information on an annual basis from those who developed the plan in order to best meet the goals of the program;

B. Procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students;

C. Counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship, and intern programs; and

D. Procedures for the recruitment of volunteers from the community to serve in the school;

(C) Designate a certificated employee to serve as the A+ Schools Program coordinator;/. **Nonpublic schools will designate a qualified employee to serve as the A+ Schools Program coordinator.**

[(D)] **Make facilities and services available for adult literacy training; and**

[(E)] **Schools may request a designation two (2) years after the submission of the Notification of Commitment Form and when they have met the requirements of the program.]**

[(3)] **High schools seeking designation must provide the department with notification of their intent to seek designation. The notification must contain—**

(A) **The name and address of the high school and school district applying for A+ status;**

(B) **The signature of the chief administrator and board president of the school district submitting the request for designation;**

(C) **Statement(s) of assurance that the school district will—**

1. **Demonstrate a commitment to the established goals of the A+ Schools Program;**

2. **Implement and annually update a partnership plan;**

3. **Establish a data and accountability system necessary**

to determine and report at least student demographics and enrollment, student completion and performance of coursework, student follow-up after leaving high school, program outcome, and student success relating to the implementation of the partnership plan, and student eligibility to receive student financial incentives available through the A+ Schools Program;

4. Comply with all reporting requirements of the department; and

5. Develop and implement a plan in compliance with all applicable state law and regulations to report students who drop out of school;

(D) Develop a plan of implementation which addresses each of the program requirements specified in this rule, including:

1. A listing of major objectives that include:

A. Curricular and instructional change;

B. Lower drop-out rates;

C. Student mastery of measurable learning expectations;

D. Successful transition from high school to continued education or employment;

E. A description of the process of the identification of and planned services for students considered to be at risk of educational failure and dropping out of school;

F. A plan to evaluate the effectiveness of the A+ Schools Program. Such evaluation should include but not be limited to:

(I) Annualized high school drop-out rate;

(II) Graduation rate;

(III) Number of students enrolled by grade level, kindergarten through grade twelve (K–12);

(IV) Number of high school graduates continuing their education at four- (4-) year colleges and universities, community colleges, or career-technical schools. This data shall be recorded separately by category of institution;

(V) Number of high school graduates entering the labor force;

(VI) Career education enrollment disaggregated by program/course and by location (local school district and area career-technical school); and

(VII) Career education follow-up/placement rates for local school district and career education programs in the area career-technical school; and

G. Name and description of each course offered at high school(s) and area career-technical school(s).

(4) The designated A+ Schools Program coordinator shall possess a valid Missouri certificate of license to teach in the secondary grade levels, an administrator certificate of license to teach, or a counselor certificate of license to teach.

(5) In preparation for designation, participating public high school districts must—

(A) Accomplish at least the following requirements:

1. Establish measurable district-wide performance standards for each of the three (3) established program goals and specific measures to determine attainment of each standard;

2. Demonstrate that developmental activities have taken place within the district or high school to specify the knowledge, skills/competencies, and mastery in measurable terms, that students must demonstrate to successfully complete all of the individual courses offered by the school, and in any course of studies which will qualify students for graduation from high school;

3. Demonstrate that procedures have been implemented within the district or school to eliminate the offering of a general track of courses that do not provide sufficient prepa-

ration for students upon graduation to successfully enter and progress in employment or postsecondary studies;

4. Establish a schedule of rigorous coursework with standards of competency;

5. Organize a local advisory committee of individuals that will meet annually to cooperatively develop and revise the school's partnership plan. Members should include:

A. Business person(s);

B. Labor leaders;

C. Parents;

D. Community college and postsecondary career-technical schools;

E. Senior citizens;

F. Teachers; and

G. Students;

6. Demonstrate that specific knowledge, skills, and competencies have been identified, in measurable terms, that students must demonstrate to successfully complete all individual courses offered by the school, and any course of studies which qualify students for graduation from the school and are a part of the school's curriculum;

7. Demonstrate that specific measurement and student mastery record-keeping procedures have been developed for each item of knowledge, skill, or competency identified for each individual course that the school offers; and

8. Show evidence that a reduction in the number of high school students dropping out of school has occurred.]

[(6)](3) Public and nonpublic high schools may be designated by the board as A+ Schools when they demonstrate that they have:

(A) Made significant progress or attained the three (3) established program goals of the A+ Schools Program; and

(B) Met the established program requirements of the A+ Schools Program.

AUTHORITY: section[s 160.545 and] 161.092, RSMo [Supp. 2011] 2016, and section 160.545, RSMo Supp. 2018. This rule was previously filed as 5 CSR 60-120.060 and 5 CSR 50-350.040. Original rule filed Nov. 10, 1993, effective June 6, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 20, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Educational Support Services, Office of Quality Schools, PO Box 480, Jefferson City, MO 65102-0480, or by email to aplus@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 345—Missouri School Improvement Program**

PROPOSED AMENDMENT

5 CSR 30-345.030 Metropolitan School District Retired Teacher Program. The State Board is proposing to amend sections (1) and

(2) and deleting sections (3), (4), and (5).

PURPOSE: This amendment provides the clarification needed to implement the statute under which a metropolitan school district may employ retired teachers pursuant to section 105.269, RSMo.

(1) As used in this rule, unless specifically provided otherwise, the following term shall be defined as follows:

[(A) Metropolitan school district—any school district the boundaries of which are coterminous with the limits of any city which is not within a county; and]

[(B)](A) Retired teacher—any retired teacher who taught in any metropolitan school district and who receives retirement benefits from the St. Louis Public Schools Retirement System.

(2) Any metropolitan school district may *[apply to the Department of Elementary and Secondary Education (DESE) for waivers to allow retired teachers to teach in the metropolitan school district if the district has—]* employ retired teachers as provided by section 105.269, RSMo.

[(A) Individuals working in a metropolitan school district who are employed by the state of Missouri and who participate in a volunteer tutoring program as authorized pursuant to section 105.268, RSMo Supp. 1999; and]

(B) At least a five percent (5%) shortage of certified teachers to be determined by the metropolitan school district no later than August 1 of the school year in which a retired teacher as defined in this rule may be employed to teach.

(3) For the purpose of this rule, a position must be vacant as of August 1 prior to the beginning of the school year in order to be considered in the calculation of the teacher shortage.

(4) A retired teacher as defined in this rule may teach up to two (2) years in the metropolitan school district without losing his or her retirement benefits.

(5) The metropolitan school district shall place emphasis on hiring retired teachers to teach in areas that include, but are not limited to, reading improvement, which may include elementary remedial reading and the “Read to be Ready Program,” math, science, and special education.]

AUTHORITY: section 105.269, RSMo [Supp. 1999] 2016. Original rule filed Sept. 30, 1999, effective March 30, 2000. Amended: Filed Sept. 20, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Office of Quality Schools, PO Box 480, Jefferson City, MO 65102-0480, or by email to QualitySchools@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [30] 40—[Child Support Enforcement]
Family Support Division
Chapter [5] 106—[Determining Child Support
Obligations] Child Support, Modification

PROPOSED AMENDMENT

13 CSR [30-5.020] 40-106.010 Review and Modification of Child and/or Medical Support Orders. The division is moving this rule’s division and chapter and is amending the title, purpose, and all sections.

PURPOSE: This amendment updates terminology and provides clarification of timeframes in the review process, timeframes and requirements for withdrawing a request for review, and timeframes for rebutting denial of a modification review that determines modification is inappropriate. In addition, incarceration of an obligated parent for more than 180 days is considered a substantial change in circumstance for an early review and is no longer considered voluntary unemployment.

PURPOSE: This rule sets forth the Family Support Division’s [of Child Support Enforcement’s] procedures for review and modification of existing child and/or medical support orders in accordance with sections 454.400, [RSMo,] 454.496, and 454.500, RSMo, and 42 U.S.C. 666.

[Editor’s Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.]

(1) Definitions. *[As used in this rule—]*

(A) “Administrative order” means a child and/or medical support order established through the administrative process in accordance with sections 454.470[—]454.520, RSMo[;].

(B) *[Aid to Families with Dependent Children (AFDC)]* “Temporary Assistance for Needy Families (TANF) case” means a case in which *[a parent] an applicant for or recipient of assistance* has assigned to the state his/her rights to support as a condition of eligibility for public assistance under Title IV-A of the Social Security Act[;].

(C) “Division” means the Missouri Family Support Division *[of Child Support Enforcement;].*

[(D) Interstate case means a case in which one (1) or both of the parties subject to a child support order do not reside in Missouri;]

[(E)](D) “Medicaid case” means a case in which a custodial parent or custodian has assigned to the state his/her rights to medical support to receive public assistance, but has not assigned to the state his/her rights to child support[;].

[(F) Parent means the obligated parent or the custodial parent or caretaker who is receiving child support enforcement services; and]

[(G)](E) “Review” means an objective evaluation of complete, accurate, up-to-date information necessary for application of the child support guidelines and criteria for support set forth in Missouri Supreme Court Rule 88.01 and other applicable law.

(2) Review.

[(A) Any child support obligation being enforced by the division shall be reviewed by the division at its own request, or at the request of the child support agency of another state, or upon the written request of either parent subject to the order.]

[(B)](A) The division shall review the following cases, at its own request[, no less frequently than once every thirty-six (36) months from the date the order was established, last reviewed or modified]:

1. *[AFDC] TANF cases with child and/or medical support orders, but the review will occur no less frequently than once every thirty-six (36) months from the date the order was established, last*

reviewed, or modified; and

2. Medicaid cases with child support orders that lack medical support provisions **if the obligated parent has health insurance available through an employer, union, or group affiliation.**

[(C) The division shall review the support order to determine the amount of difference between the ordered amount and a proposed amount calculated on current financial information in accordance with the guidelines and criteria for support set forth in Missouri Supreme Court Rule 88.01.

[(D) The division will seek a modification if the review indicates that one (1), or both, of the following conditions exist:

1. The case meets the modification threshold requirements of section 452.370 or 454.500, RSMo; or

2. The child support obligation does not contain a provision for health insurance coverage by the obligated parent and the children are not covered under a health benefit plan, other than Medicaid, by the custodial parent.]

[(E)](B) A review shall be conducted [no less frequently than once every] after thirty-six (36) months from the date the order was established, last reviewed, or modified, or the date a review terminated pursuant to subsection [(7)](5)(B) of this rule, when the review is being conducted at the request of either [parent] the obligated parent or the person or agency having custody of the dependent child subject to the order. A review may be conducted earlier than thirty-six (36) months at the request of [a parent] the obligated parent or the person or agency having custody of the dependent child subject to the order, or the division in [an AFDC] a TANF or Medicaid case, if—

1. A child should be added to an administrative order;

2. A child should be removed from a general order, whether administrative or judicial;

3. The requesting party submits information that shows, or a sworn statement that alleges, there has been a fifty percent (50%) or more [change] increase or involuntary decrease in income of either party to the order, and the division determines that the circumstances that caused the change have existed for at least three (3) months, and that it is reasonably likely they will remain unchanged for another six (6) months or longer;

4. The requesting party submits information that shows, or a sworn statement that alleges there has been a fifty percent (50%) or more voluntary decrease in income of either party to the order, and the division determines that the circumstances that caused the change have existed for at least six (6) months, and that it is reasonably likely they will remain unchanged for another six (6) months or longer;

[4.].5. A health insurance provision should be added to an administrative or judicial order; [or]

6. The obligated parent will be incarcerated for more than one hundred eighty (180) calendar days; or

[5.].7. A child support obligation should be added to an administrative or judicial order, and—

A. The order only addresses a health insurance obligation; or

B. The order specifically states that no child support is ordered; or

C. The court specifically reserved or retained jurisdiction of the child support issue in the order.

[(3) Notices.

(A) The division shall notify, in writing, each parent subject to a child support order—

1. Of the right to request a review of the order;

2. Of any proposed review at least thirty (30) calendar days before commencement of review; and

3. Of the proposed modification (or determination that there should be no change) in the order, and of his/her right to initiate proceedings to challenge the modification or determination within thirty (30) calendar days after notification.

(B) Paragraph (3)(A)1. of this rule shall become effective on October 1, 1993.

(C) The division shall mail all notices required in this section to the last-known address of each parent subject to a child support order, except that the division can provide the notice required by paragraph (3)(A)1. of this rule either by sending a one (1)-time mailing or by including the notice in the child support order.]

[(4)](3) Financial Information.

*(A) Both parents subject to the order to be reviewed shall provide financial information and verification of income within ten (10) calendar days after the date the division mails a written request for the information. Documents verifying income shall include, but not be limited to, the following: copies of federal and state income tax returns, W-2 statements, pay stubs or a signed statement from an employer or other source of income. If the division is unable to obtain financial information concerning the nonrequesting parent, it may request the other [parent] party to provide the financial information if that [parent] party is able to do so. **If a requesting parent fails to provide financial information, the division may terminate the review.***

(B) The division may use all other resources normally accessed to obtain the parents' financial information.

[(5) Best Interests of the Child. If the custodial parent or caretaker has assigned his/her support rights as a recipient of benefits under the AFDC, alternative care or Medicaid programs, and the Division of Family Services has made a finding of good cause and determined that support enforcement may not proceed without risk, a review of the support order will not be considered in the best interests of the child and the review will not be conducted unless one (1) of the parents requests the review.]

[(6)](4) Denying Requests.

[(A)] A request for review by [a parent] the obligated parent or the person or agency having custody of the dependent child subject to the order may be denied for the following reasons:

[1.](A) The location of the nonrequesting party [parent] is unknown at the time the request is made;

[2.](B) It has been less than thirty-six (36) months since the entry date of the support order or most recent modification, or last completed review, whichever is later, or it has been less than thirty-six (36) months since a review or modification action was terminated pursuant to subsection [(7)](5)(B) of this rule. However, a review may be conducted earlier than thirty-six (36) months if the case meets criteria for earlier review set forth in subsection (2)[(E)](B) of this rule;

[3.](C) The division is not providing services with respect to the order for which the review has been requested;

[4.](D) The request is for the purpose of modifying custody or visitation rights;

[5.](E) The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order;

[6.](F) The request is for the purpose of modifying the amount of spousal support under a support order; [and] or

[7.](G) The request is for the review of a temporary support order.

[(B) A request for review of an order in an interstate case may be denied if—

1. Neither party of the order resides in Missouri and the division is not enforcing the order; or

2. The order is not filed with a Missouri court.]

[(7)](5) Withdrawing a Request/s] by a Party.

(A) The division will consider the written withdrawal of the [parent] party who requested a review pursuant to subsection (2)[(E)](B) of this rule if the withdrawal is submitted after the division acknowledged the request for review, but no later than—

1. Thirty (30) calendar days after service of process is achieved on a motion to modify filed pursuant to sections 454.496 and

454.500, RSMo, if neither party requested an administrative hearing; or

2. The date of the administrative hearing if either party requested an administrative hearing within thirty (30) calendar days after service of process was achieved on a motion to modify filed pursuant to sections 454.496 and 454.500, RSMo.

(B) Upon receiving a withdrawal pursuant to subsection [(7)](5)(A) of this rule, the division will notify the nonrequesting [parent] party of the withdrawal. The nonrequesting [parent] party will have ten (10) calendar days from the date of notice to contact the division in writing—

1. If the nonrequesting [parent] party protests the withdrawal, the division will notify the requesting [parent] party of the protest and will continue the review or modification of the order; or

2. If the nonrequesting [parent] party agrees to the withdrawal, either in writing or by his/her failure to contact the division in writing within ten (10) calendar days, the division will terminate all actions to review or modify the order.

(C) If the division terminates a review or modification action pursuant to subsection [(7)](B) (5)(A) of this rule, the division will not accept from either [parent] party a request to review the order earlier than thirty-six (36) months from the date the action was terminated, unless the case meets criteria for earlier review set forth in subsection (2)(E)(B) of this rule.

(6) Withdrawing a Division Request

(A) If the child(ren) of the order stop receiving TANF and/or Medicaid after the division has initiated a review, the division may withdraw from the review and modification.

(B) Upon withdrawing, the division will notify both parties of the withdrawal. The parties will have ten (10) calendar days from the date of notice to contact the division in writing—

1. If one (1) of the parties protests the withdrawal, the division will notify the other party of the protest and will continue the review or modification of the order; or

2. If both parties agree to the withdrawal, either in writing or by his/her failure to contact the division in writing within ten (10) calendar days, the division will terminate all actions to review or modify the order.

(C) If the division terminates a review or modification action pursuant to subsection (5)(B) of this rule, the division will not accept from either party a request to review the order earlier than thirty-six (36) months from the date the action was terminated, unless the case meets criteria for earlier review set forth in subsection (2)(B) of this rule.

[(8)](7) Modifications.

[(A) For modification of an administrative order—

1. The division shall inform the obligated parent of the review results and obtain a consent order for the new terms; or

2. The obligated parent, custodial parent or caretaker, or the division may file a motion to modify pursuant to section 454.500, RSMo.

[(B) For modification of a judicial order—

1. The division shall serve the obligee and the obligor with a motion to modify pursuant to section 454.496, RSMo; or

2. The division, at its discretion may refer the case to the prosecuting attorney in the county that issued the order or to another attorney under contract to the division to petition the court for a modification of the order.]

(A) The division will seek a modification if the review indicates that:

1. The case meets the modification threshold requirements of section 452.370 or 454.500, RSMo;

2. The child support obligation does not contain a provision for health insurance coverage by the obligated parent, and the children are not covered under a health benefit plan, other than

Medicaid, by the custodial parent/custodian;

3. A child should be added to an administrative order; or

4. A child should be removed from a general order, whether administrative or judicial.

(B) If the obligated parent agrees to the modification, the division will send the order to the obligated parent to sign.

1. The obligated parent must return the signed and notarized order to the division in ten (10) calendar days.

2. Upon receipt of a signed and notarized order, the division will send the order to the person or agency having custody of the dependent child for signature. The person or agency having custody of the dependent child must return the signed and notarized order to the division in ten (10) calendar days.

(C) If the obligated parent and the person or agency having custody of the dependent child fail to return the signed and notarized order, the division will enter a default order.

(8) Modification Inappropriate.

(A) If the review of the order reveals a modification is inappropriate, the division will notify the parties in writing that the division will not modify the order.

(B) The parties will have thirty (30) calendar days from the date of the written notice to rebut in writing the division's decision not to proceed with a modification of the order.

AUTHORITY: sections 454.400 and 660.017, RSMo [1994] 2016. Original rule filed Dec. 24, 1990, effective June 10, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division [30] 40—[Child Support Enforcement] Family Support Division Chapter [6] 104—[Credit Reporting] Enforcement

PROPOSED AMENDMENT

13 CSR [30-6.010] 40-104.020 Reporting of Child Support Debts to Consumer Reporting Agencies. The Family Support Division is moving this rule's division and chapter number. It is also amending the rule purpose and subsections (1)(B), (1)(C), (1)(D), (2)(A), (2)(B), (2)(C), (2)(D), and section (5).

PURPOSE: This amendment updates terminology. This rule is also moved from Title 13, Division 30—Child Support Enforcement, to Title 13, Division 40—Family Support Division, with this amendment.

PURPOSE: The purpose of this rule is to establish procedures where a consumer reporting agency may request debt information from the Family Support Division [of Child Support Enforcement (DCSE)] (FSD). It also contains procedures for [DCSE] FSD to report an

[absent parent] obligor who has an arrearage of \$1000 or more to consumer reporting agencies. This rule references 13 CSR [30-7.010] 40-100.020, regarding procedures where an [absent parent] obligor, whose debt is to be reported to a consumer reporting agency, may request and receive an administrative hearing regarding the report. The information given to consumer reporting agencies will be used to update individual consumer records.

(1) Definitions. *[As used in this regulation—]*

(A) “Consumer reporting agency” (CRA), or a credit bureau, is any person, corporation, association, partnership or other entity which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in assembling and/or evaluating consumer credit information or other information on consumers for the purpose of furnishing credit reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports[;].

(B) “Division” means the Missouri Family Support Division *[of Child Support Enforcement (DCSE)] (FSD)* and its employees[;].

(C) “Arrearage” means an amount of money owed for past-due[;] child support, spousal support, or a state debt arising from *[Aid to Families with Dependent Children (AFDC)] Temporary Assistance for Needy Families (TANF)*, which includes, but is not limited to, a cash grant, funds expended for medical services, and alternative care payments[; and].

(D) *[Noncustodial parent is the] “[o]Obligor” means any person* who is ordered to pay support by a court or administrative authority.

(2) Division (IV-D) Responsibilities.

(A) *If [a noncustodial parent.] an obligor—*

1. Is at least two (2) months delinquent in the payment of support and the arrearage is one thousand dollars (\$1,000) or more, the division shall periodically report to consumer reporting agencies *[a noncustodial parent’s] an obligor’s* name and other identifying information specified in subsection (2)(D) and may continue to do so after the arrearage is less than one thousand dollars (\$1000); or

2. Has an arrearage of one thousand dollars (1,000) or more and is not two (2) months delinquent in the payment of support, the division may periodically report to consumer reporting agencies the *[noncustodial parent’s] obligor’s* name and other identifying information specified in subsection (2)(D), and may continue to do so after the arrearage is less than one thousand dollars (\$1,000).

(B) A CRA may request information *[a noncustodial parent] an obligor* from the division. The request must always be in writing, signed by a CRA’s managerial officer and sent to the division at its main office address contained in 13 CSR *[30-1.010] 40-1.010*. The officer must possess authority to make the request and that authority must be cited in the request. If the *[noncustodial parent] obligor* already has been referred to a CRA, the division must provide the information within a reasonable time. If a referral has never been made to a CRA, and the *[noncustodial parent] obligor* is at least two (2) months delinquent in the payment of support, the division must send advance notice to the *[parent] obligor* as provided in subsection (2)(C), prior to providing the CRA with the requested information.

(C) Prior to the referral to a CRA under subsection (2)(A) or (2)(B), the division must provide notice to the *[noncustodial parent] obligor* that consist[ing]/s of the arrearage information the division intends to give the CRA and the *[noncustodial parent’s] obligor’s* right to contest the accuracy of that information. The advance notice to the *[noncustodial parent] obligor* will be sent by first class mail. The advance notice must contain—a statement that the division intends to report the *[noncustodial parent’s] obligor’s* arrearage to one (1) or more CRAs; the date the CRA(s) will be sent the arrearage information; the arrearage amount as calculated by the division; identifying information specified in subsection (2)(D); a statement that the *[noncustodial parent] obligor* may contest the arrearage amount by requesting an administrative hearing within

twenty (20) calendar days after the notice is mailed; and the name, address, and telephone number of the person from whom the *[noncustodial parent] obligor* can request a hearing. The division shall not refer *[a noncustodial parent’s] an obligor’s* name and other identifying information to a CRA under this rule while *[a] the* request for hearing *[made under 13 CSR 30-7.010(7)]* is pending.

(D) The division will generate a monthly *[in an electronic format to each CRA, a] file* of all *[noncustodial parents] obligors* meeting the criteria under subsection (2)(A) and electronically transmit the file to each CRA. The file shall include, but not be limited to, the *[noncustodial parent’s] obligor’s* name, Social Security number, current arrearage figure, and other identifying information as determined necessary by the division.

(5) *[Interim Contacts] Disputing Arrearage Amounts on File with the CRA.*

(A) *[A noncustodial parent] An obligor* may seek to contest arrearage figures on file with a CRA. If the *[noncustodial parent] obligor* contacts the division, s/he must do so in writing and clearly state the grounds on which the arrearage figure is being contested. An administrative hearing will not be held, but the division *[must] will* review the case and respond to the *[noncustodial parent within sixty (60) calendar days of the written request] obligor regarding the results of the review.*

(B) If the arrearage figure does change, the CRA will be notified on the next monthly electronic file listing. If the CRA representative contacts the division to verify the accuracy of information which is disputed by the *[(NCP)] obligor*, the division will then review the case for accuracy in the same manner as if contacted directly by the *[noncustodial parent] obligor.*

AUTHORITY: sections 454.400 and 660.017, RSMo [1994] 2016. Original rule filed Dec. 13, 1989, effective April 26, 1990. Emergency amendment filed June 2, 1995, effective July 15, 1995, expired Nov. 11, 1995. Amended: Filed June 2, 1995, effective Sept. 30, 1995. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division [30] 40—[Child Support Enforcement]
Family Support Division
Chapter [7] 100—[Administrative Hearings]
Child Support Program, General Administration

PROPOSED AMENDMENT

13 CSR [30-7.010] 40-100.020 Administrative Hearings. The division is moving the rule, amending the purpose, deleting sections (1)–(12), and adding new sections (1)–(5).

PURPOSE: This amendment updates terminology, standardizes the

timeframes, and provides clarification of the process for administrative hearings. This amendment also includes an explanation of ex-parte communication and procedures for telephone hearings for all parties, including incarcerated parties. The rule is moved from Title 13, Division 30—Child Support Enforcement, to Title 13, Division 40—Family Support Division with this amendment.

PURPOSE: This rule sets forth procedures by which the **Family Support Division** [of Child Support Enforcement] conducts hearings before its designated hearing officers to resolve disputes between the division and persons from whom the division is seeking to establish or modify an obligation for [child] support or collect an established obligation.

[(1) Definitions. As used in this rule—

- (A) Absent parent means the noncustodial parent;
- (B) Administrative process hearing means a hearing to dispute a Notice and Finding of Financial Responsibility issued by the division or a hearing concerning a motion to modify an administrative order under section 454.500, RSMo;
- (C) Agency means the Department of Social Services and its employees;
- (D) Case means the proceeding in which a dispute between an absent parent and the division has been or is in the process of being resolved, including all division records, facts and statements in evidence and all findings and conclusions made;
- (E) Client means the custodial parent who is receiving Division of Child Support Enforcement services;
- (F) Consumer reporting agency means a credit bureau;
- (G) Division means the Division of Child Support Enforcement and its employees;
- (H) Division representative means an employee, attorney or designated representative who appears in an administrative proceeding on behalf of the division;
- (I) General hearing request means an administrative hearing to resolve a dispute with the division arising from the absent parent's receipt of— 1) notification of a lottery interception under section 454.505, RSMo and Missouri's right to set off under common law, 2) an administrative order on an existing order under section 454.476, RSMo, 3) a notification of referral to a consumer credit bureau under section 454.512, RSMo, 4) a claim of abatement in the support obligation under section 452.340, RSMo or 5) a claim involving the age of majority under section 452.340, RSMo;
- (J) Hearing request means a request made by an absent parent, personally or through a representative, according to the procedures set forth under this rule and applicable Missouri statutes;
- (K) Internal Revenue Service (IRS) administrative review means an administrative hearing to challenge a preintercept notice sent by the federal Office of Child Support Enforcement to the absent parent or to challenge an intercept notice sent by the United States IRS to the absent parent. This hearing request may also be made on any other preintercept notice sent by the division as long as it involves the interception of a federal tax refund;
- (L) Issue means a question of fact disputed by the absent parent, the division or the custodial parent, the determination of which is material to a decision in the case;
- (M) Submitting state means the state that submitted the absent parent's name to the Internal Revenue Service for intercept of all or part of any tax refund for a specific year;
- (N) Tax refund intercept hearing means a hearing to contest the interception by the division of an absent parent's Missouri tax refund under section 143.784, RSMo; and
- (O) Unreimbursed assistance means the total amount of Aid to Families with Dependent Children (AFDC) received by the client less any support paid to and retained by the state.

(2) Administrative Process Hearing Requests.

(A) To make a valid request for a hearing, the absent parent or his/her representative must send to the division a written request for an administrative process hearing within twenty (20) calendar days after the date upon which the Notice and Finding of Financial Responsibility was hand-delivered to the absent parent by a division representative, or served on the absent parent in a manner prescribed for service of process in a civil action, or by a duly authorized process server appointed by the director or by certified mail, return receipt requested.

(B) The absent parent's request for an administrative process hearing will not be effective unless it is sent or delivered to the division according to the instructions on the Notice and Finding of Financial Responsibility the absent parent has received.

(C) Within two (2) division working days after it receives an absent parent's request for an administrative process hearing, the division shall send to the absent parent a written acknowledgment of the hearing request.

(D) If the division determines that the absent parent is not entitled to an administrative process hearing, it shall send the absent parent a written notice that his/her request for an administrative process hearing has been denied. The division may deny a request for an administrative process hearing for any one (1) of the following reasons:

1. The absent parent's hearing request is based solely on issues that have previously been litigated and decided by a court of law;

2. The hearing request was sent to the division more than twenty (20) calendar days after the Notice and Finding of Financial Responsibility was hand-delivered to the absent parent by a division representative, or was served on the absent parent in a manner prescribed for service of process in a civil action, or by a duly authorized process server appointed by the director or by certified mail, return receipt requested; or

3. The absent parent's request for administrative process hearing is based solely on issues which cannot be decided in an administrative process hearing including, but not limited to, visitation, legal custody and nonpaternity.

(E) If the division discovers an error in the case that materially affects the Notice and Finding of Financial Responsibility after the notice has been sent to the absent parent, the division shall communicate the nature of this error and corrected information to the absent parent. In cases in which a second Notice and Finding of Financial Responsibility has been sent to the absent parent before the absent parent has requested a hearing, the absent parent will have an additional ten (10) calendar days to file a timely request for hearing with the division. The additional ten (10) calendar days will be counted from the twentieth day after service of the first Notice and Finding of Financial Responsibility on the absent parent.

(F) After the division has sent the absent parent an acknowledgment of the hearing request, either the division or the absent parent may request a conference to reach agreement. The request, whether initiated by the absent parent or the division, will be conducted according to the following procedures:

1. If the absent parent is represented by legal counsel, the request or consent in writing to a conference being held must be made by the legal counsel;

2. The conference may proceed whether or not division legal counsel is present unless the counsel's absence is objected to by the absent parent's legal counsel; and

3. An administrative process hearing need not be held if all disputed matters are resolved at a conference to reach agreement before the hearing. This agreement must have

the absent parent's written consent (on advice of legal counsel, if represented) and the consent of the division's client to the extent that the client's interests may be affected. The division's client or his/her legal counsel may be included in the conference to reach agreement.

(G) An administrative process hearing may be held to resolve a motion for modification of an existing administrative process order of support and will be held according to the same procedures as set forth in this rule for administrative process hearings, except time limitations for requests. A hearing may be requested on a motion for modification by the division, the client or the absent parent. When an administrative process hearing has been requested by any of these parties, the division shall not deny a request for hearing. A conference to reach agreement may be conducted as in other administrative process hearings.

(3) Missouri Tax Refund Intercept Hearings.

(A) The absent parent must request a Missouri tax refund intercept hearing within thirty (30) calendar days after the Missouri Department of Revenue mails a Notice of Tax Refund Intercept to the absent parent.

(B) To be valid, the absent parent's request for a Missouri tax refund intercept hearing must be made in writing and delivered to the division according to the instructions contained in the Notice of Tax Refund Intercept. Separate instructions are sent to the non-debtor taxpayer (spouse) to receive his/her apportionment either by requesting it in writing or by having it automatically apportioned and sent by the Department of Revenue.

(C) The division, upon receipt of a non-debtor spouse's written request for apportionment, shall send an apportionment calculation request to the Missouri Department of Revenue. The division shall send an acknowledgment to the nondebtor spouse that his/her apportionment request has been forwarded to the Department of Revenue. The division shall also send notice of the apportioned amount to the non-debtor spouse with instructions that s/he may request a hearing if s/he disagrees with the amount of the apportionment.

(D) If the nondebtor spouse's apportionment will be sent automatically to him/her, the division shall send to the non-debtor spouse notification of the apportioned amount and notice that s/he may request a hearing if s/he disagrees with the amount of apportionment.

(E) The division must receive a nondebtor spouse's request for an apportionment hearing no more than thirty (30) calendar days after the day upon which the division mailed or delivered to the nondebtor spouse notification of the apportioned amount.

(F) If the request for a Missouri tax refund intercept hearing appears to have been made jointly by the absent parent and the absent parent's spouse who is requesting apportionment, the agency hearing officer may hold the tax refund intercept hearing and the apportionment hearing as a joint proceeding. At the discretion of the agency hearing officer and upon the request of the division, the absent parent or his/her spouse, the agency hearing officer may grant a severance of the joint proceeding and have separate proceedings on the two (2) issues. A request from any party may be denied by the agency hearing officer unless failure to separate the proceedings could clearly prejudice the debtor-taxpayer or his/her spouse.

(G) Within two (2) division working days after the division receives a request for hearing from an absent parent or a nondebtor spouse, the division shall send acknowledgment of the hearing request to the requesting party.

(H) The division may deny the request for hearing, but only if the denial is sent to the absent parent within ten (10)

calendar days after the request for hearing is received. The division may deny a request for a Missouri tax refund intercept hearing for any one (1) of the following reasons: 1) The hearing request is not timely, 2) the hearing request solely raises issues which have been previously decided by a court of law or 3) the hearing request solely raises issues that cannot be determined in an administrative proceeding. These issues include, but are not limited to, visitation, legal custody and nonpaternity.

(I) Any party to the Missouri tax refund intercept proceeding, after the division's acknowledgment of the hearing request is sent, may request a conference to reach agreement. If the absent parent or the nondebtor spouse is represented by legal counsel, the conference may not be held without the approval or agreement of all legal counsel. If a conference to reach agreement is held and a written agreement among all affected parties results, it will not be necessary for an administrative Missouri tax refund intercept hearing to be held in the case.

(J) The agency hearing officer shall give notice of the date, time and place of the Missouri tax refund intercept hearing to the absent parent, the nondebtor spouse, or both, in case of a joint hearing. The notice will be in writing and will be sent to any legal counsel known by the division to be representing any of the parties in the case. Within three (3) division working days after the division receives notice from the hearing officer of a scheduled Missouri tax refund intercept hearing, the division shall calculate the amount of any arrearage which has accrued between the time of the tax refund intercept and the most recent ordered payment date. The division shall send notice, at least ten (10) days before the hearing, of the amount of the additional arrearage to the absent parent and to the absent parent's legal counsel, if the absent parent is known to be represented by legal counsel in the proceeding. The additional arrearage will be included in the tax refund intercept proceeding, and it will be within the agency hearing officer's discretion to determine whether the late receipt of the additional arrearage notice has prejudiced the absent parent's ability to defend. In no event may the agency hearing officer separate the tax refund intercept and the additional arrearage into issues for separate hearings. If the absent parent, either individually or by and through legal counsel, does not request a continuance and elects to proceed with the scheduled hearing, the absent parent will be deemed to have waived any objection to the timeliness of the receipt of the notice of additional accrued arrearage.

(4) IRS Administrative Review.

(A) The absent parent shall have the right to an administrative review for the purpose of contesting the stated amount of arrearage certified by the division to the United States IRS for federal tax refund intercept and collection.

(B) A preintercept notice will be sent to the absent parent by either the federal Office of Child Support Enforcement or the division if the absent parent was certified for intercept on or before October 1 of the calendar year. The notice will contain the following information:

1. The absent parent's right to contest the division's determination that past-due support is owed or the amount of past-due support submitted;

2. The absent parent's right to an administrative review by the submitting state or, at the absent parent's request, the state where the order was entered upon which the referral to the United States IRS was based;

3. The procedures and time allowed for contacting the division to request an administrative review;

4. The right of the absent parent's spouse (if a joint return is filed) to protect his/her apportioned share of the tax refund and the steps the spouse must take in order to

receive the share of the refund which may be payable to him/her; and

5. The amount of the certified arrearage.

(C) The preintercept notice, whether sent by the division or the federal Office of Child Support Enforcement, will have the division's local office address and telephone number as the return address and will instruct that requests for administrative reviews must be sent to the division's local office by the date listed in the notice.

(D) The intercept notice, sent by the United States IRS at the time of actual intercept, will also have the division's local office and telephone number as the return address and will instruct the absent parent to contact that office if s/he has questions. A request for an administrative review at this time must be made within thirty (30) days of the date of mailing under Chapter 536, RSMo. The intercept notice must be presented at the administrative review as proof that the absent parent's request was made within the thirty (30)-day time limit. An administrative review request will be denied if the taxpayer requested an administrative review at the time of the preintercept notice for the same tax year.

(E) Within two (2) division working days after the division receives a request from an absent parent for an administrative review of a federal tax refund intercept certification (preintercept notice), the division shall send a written acknowledgment of the request. This will apply whether the request is received orally in person, orally on the telephone or in writing. If the request is not made within the time specified in the preintercept notice, the division shall send written notice that the request for administrative review is denied.

(F) The administrative review will be conducted by either an agency hearing officer or a division employee.

(5) General Hearing Request—Administrative Order on an Existing Order.

(A) An absent parent may contest the issuance of an administrative order on an existing order or the withholding order issued under it by requesting a hearing according to instructions given to the absent parent in the Notice of Withholding.

1. To be valid, the absent parent's request for hearing must be received by the division within fourteen (14) calendar days after the date on which the absent parent received the Notice of Withholding.

2. If the absent parent requests a hearing, the withholding will continue unless the absent parent posts a security bond in the amount as stated in the Notice of Withholding.

(B) The division, within two (2) division working days, shall send the absent parent an acknowledgment of the hearing request. If the hearing request was not timely sent by the absent parent, the division shall send a written denial of the request for hearing in lieu of the acknowledgment of the hearing request.

(C) The division shall notify the client of the hearing when—

1. The client has an interest in the arrearage (that is, the arrearage is more than the amount of the unreimbursed public assistance);

2. The client's testimony is needed for the division to defend the withholding;

3. The case is nonpublic assistance, or a combination of paragraphs (5)(C)1.–3.

(D) After the division has sent the absent parent an acknowledgment of the hearing request, either the division or the absent parent may request a conference to reach an agreement. The request for a conference, whether initiated by the absent parent or the division, will be conducted as follows:

1. If the absent parent is represented by legal counsel in the case, the legal counsel must either make the request or consent in writing to a conference being held;

2. The conference to reach agreement may proceed whether or not division legal counsel is present unless the counsel's absence is objected to by the absent parent's legal counsel; or

3. An administrative process hearing need not be held if all matters in dispute are resolved at a conference to reach agreement prior to the hearing. Any resolution must have the written consent of the absent parent (on advice of legal counsel, if represented) and the client to the extent that the client's interests may be affected. The client, his/her legal counsel, or both, may be included in the conference to reach agreement, or a combination of paragraphs (5)(D)1.–3.

(6) General Hearing Request—Lottery Intercept.

(A) An absent parent may contest interception of lottery winnings by requesting a hearing according to instructions given in the absent parent's notice of intercept. The absent parent's request for a hearing must be received by the division within twenty (20) calendar days of the date the absent parent received the notice, if hand-delivered, or of the date of mailing.

(B) Upon receipt by the division of a timely request for hearing from the absent parent, the division, within two (2) division working days, shall send an acknowledgment of the hearing request to the absent parent. If the hearing request has not been timely sent by the absent parent, the division shall send a written denial of the request for hearing in lieu of the acknowledgment of the hearing request.

(C) The division may intercept lottery winnings on an AFDC case which does not have an order establishing the child support obligation. When an intercept is made, the division shall send the absent parent a Notification of Lottery Setoff/No Order and a Notice and Finding of Financial Responsibility—Special.

(D) An absent parent may request a hearing to address both the issues of the lottery intercept and the administrative order.

(E) An absent parent may also request a hearing when the division has intercepted lottery winnings on a non-AFDC case where the order establishing the obligation has been rendered by a court in a foreign state or where a foreign state has obtained an administrative order.

(F) Within two (2) division working days after the receipt by the division of the absent parent's timely hearing request to contest a lottery intercept in a non-AFDC case, the division shall send the absent parent a notice of acknowledgment of the hearing request. In cases where the absent parent's hearing request was not timely received by the division, the division shall send notice that the hearing request has been denied in lieu of the acknowledgment of the hearing request.

(G) The division shall notify the client of the pending hearing when—

1. The client has an interest in the arrearage (that is, the arrearage is more than the unreimbursed amount of public assistance);

2. A current support obligation is being determined in the hearing;

3. The client's testimony, in the judgment of the division, is needed in order to fully conduct the hearing; or

4. The case is nonpublic assistance, or a combination of (6)(G)1.–4.

(7) General Hearing Request—Consumer Reporting Agency (CRA).

(A) An absent parent may request a hearing to contest the accuracy of the arrearage information provided on the division's notice informing the absent parent that his/her support debt will be referred to a CRA.

(B) The absent parent shall be deemed to have received proper notice of the agency's planned referral to a CRA when the absent parent has received written notification of the planned referral and a statement of his/her support debt.

(C) To be valid, the absent parent's hearing request must be received by the division in writing no more than twenty (20) calendar days after the date the notice of the planned CRA referral was mailed to the absent parent.

(D) Within two (2) division working days after the division's receipt of the absent parent's written hearing request, the division shall send written acknowledgment of the request. If the absent parent's hearing request was not timely received by the division, the division shall send written notice that the hearing request has been denied in lieu of the acknowledgment of the hearing request.

(E) After the division acknowledges receipt of the hearing request, the division may contact the absent parent in an effort to reach an agreement on the arrearage amount. If the absent parent is not contacted, or if an agreement is not reached within ten (10) division working days, the absent parent's request will be forwarded for scheduling of an administrative hearing.

(F) The division may notify the client of the pending CRA referral hearing when—

1. The client has an interest in the arrearage (that is, the arrearage is more than the amount of the unreimbursed public assistance);
2. The client's testimony will be needed in order for the division to defend the referral; or
3. The case is nonpublic assistance, or a combination of (7)(D)1.–3.

(8) General Hearing Request—Abatement Claim.

(A) An absent parent may request a hearing to contest the division's notice to the absent parent that the client does not agree with the absent parent's claim of an extended period of physical custody of the child(ren) which would cause a reduction or abatement in the child support obligation under an administrative process order.

(B) To be valid, the division must receive the absent parent's hearing request within thirty (30) calendar days from the date of mailing of the notice of abatement disagreement sent to the absent parent.

(C) Within two (2) division working days after the division's receipt of the absent parent's hearing request, the division shall send written acknowledgment of the request. If the absent parent's request for a hearing was not timely received, the division shall send written notice to the absent parent that the hearing request has been denied in lieu of the acknowledgment of the hearing request.

(D) The division shall notify the client of the pending hearing in all cases.

(E) A hearing request will not be accepted for an abatement hearing on a judicial child support order.

(9) General Hearing—Termination of Support.

(A) An absent parent may request a hearing to contest the division's notice to the absent parent that the client or caretaker has provided information that the child is over age eighteen (18) and meets the requirements for continuing current support stated in section 452.340, RSMo.

(B) Within two (2) division working days after the division's receipt of the absent parent's hearing request, the division shall send written acknowledgment of the request.

(C) The division shall notify the client of the pending hear-

ing in all cases.

(D) The sole issue addressed at the hearing will be the claimed school attendance or non-attendance by the child(ren) over age eighteen (18).

(E) A hearing request under this section will be granted only on an administrative child support order entered pursuant to Chapter 454, RSMo; provided:

1. The order specifies a per child amount; or
2. In the case of a multiple child order, only one (1) child is receiving or is arguably entitled to receive support at the time of the hearing request.

(F) This section does not preclude the division from considering termination of support issues in conjunction with the review and modification of an existing child support order as specified in 13 CSR 30-4.020.

(10) Continuances.

(A) In any administrative hearing under this rule, continuances may be granted only by the agency hearing officer assigned to the case or the hearing officer's supervisor. The agency hearing officer (or supervisor), at the hearing officer's discretion, may grant a continuance freely upon the first request for a continuance from any party.

(B) If a party requesting a continuance previously has been granted a continuance, the agency hearing officer shall grant a continuance only upon a clear and present showing that substantive rights of a party in interest will be severely prejudiced by the denial of the request for continuance or for good cause. For the purposes of this rule, good cause will be when—

1. The legal counsel of any necessary party has, in fact, a scheduling conflict with any judicial body;
2. Illness or other significant emergency prohibits the attendance at the hearing of any necessary party or his/her legal counsel; or
3. The division's client does not appear for the hearing and the division has determined that the client's presence is necessary for the proceeding. A continuance shall be granted in these circumstances only when the division, more than ten (10) calendar days prior to the hearing, has requested that a subpoena for the client's attendance be issued.

(11) Mailing.

(A) In any proceeding under this rule, the agency hearing officer may enter a decision in default against any party who has failed to appear or failed to perform a necessary act in the course of the proceeding. It shall be the absent parent's responsibility to update the proper mailing address for notices issued by the agency hearing officer including, but not limited to, hearing notices, continuance notices and hearing decisions.

(B) The valid entry of a decision in default by the agency hearing officer may be made in all cases, subject to the defaulting party's right to move that the decision in default be set aside for good cause, but only if the defaulting party gives notice of the good cause to the agency hearing officer in writing within ten (10) calendar days after the default decision is mailed to the absent parent.

(C) Any notice sent registered mail, with a return receipt requested, whose delivery is refused or any other mailing whose delivery is refused, will constitute delivery and notice under the meaning of this rule. Any notice mailed to the last-known address of any party in interest will be deemed valid delivery of that notice.

(D) Unless otherwise specified in this rule, all time limits shall be counted beginning with the day following the day upon which the written notice in question was mailed.

(E) A written hearing request mailed to the division, which is postmarked within the time frames given in this rule, will

constitute receipt by the division within the applicable time frame.

(12) Service of a Motion to Modify.

(A) In any administrative hearing proceeding under this rule, when a party is seeking to modify an administrative process order under section 454.500, RSMo, it will be the moving party's responsibility to serve the motion on or otherwise give valid notice to all other parties necessary to the proceeding.

(B) When an absent parent, with due diligence, has attempted to make delivery or service of a motion to modify upon the client, the absent parent may apply to the division to have service made upon the client by the division. The service may be made by the division or it may be referred to the agency hearing officer to perfect the service.

(C) When an absent parent seeks to have service made upon the client by the division or the hearing officer and the absent parent's attempt at service has been by means of personal delivery, the attempts at personal delivery must be verified by affidavit giving the time, dates and places where personal service was attempted.]

(1) Definitions.

(A) "Obligor" means any person who owes or is alleged to owe a duty of support.

(B) "Administrative hearing" means a hearing to dispute an action taken by the division on a child support matter that is heard by the Administrative Hearings Section of the Division of Legal Services, Department of Social Services.

(C) "Case" means a matter before the Administrative Hearings Section.

(D) "Division" means the Family Support Division and its employees.

(E) "Hearing request" means a request made by a party to the action, who personally or through a representative, requests a hearing according to the procedures set forth under this rule and applicable federal or Missouri statutes and regulations.

(F) "Administrative Hearing Officer" means a person designated by the Missouri Department of Social Services to resolve child support issues in compliance with all federal and state laws and regulations. The Administrative Hearing Officers have the authority to conduct child support hearings on behalf of the Family Support Division on child support matters.

(2) Administrative Hearing Procedures.

(A) All administrative hearings on child support cases will be conducted by an administrative hearing officer designated by the Director of the Department of Social Services pursuant to section 454.475.1, RSMo. Any hearing officer employed by the Department of Social Services, and appointed to the Administrative Hearings Section as a hearing officer to handle child support matters is deemed to have been designated by the Director of the Department of Social Services. The designation by the Director of the Department of Social Services shall expire when employment with the Department of Social Services, Division of Legal Services, ceases or at such time as their duties no longer include responsibility for conducting child support hearings.

(B) Ex-parte communication with the administrative hearing officer from the parties, the division or its employees, or any attorney representing any party to the case is prohibited. Ex-parte communication includes any written or verbal communication with the administrative hearing officer, before or after the hearing, without the presence of all parties about a pending case. Ex-parte communication also includes any written communication that has not been provided to all parties prior to any decision being rendered by the hearing officer on the document. This shall not prevent the parties from sending in hearing exhibits so long

as all exhibits are provided to all parties to the case.

(C) Hearings held by the Administrative Hearings Section will be held by telephone. Any party may choose to attend the telephone hearing in-person at the Administrative Hearings Section's office in Jefferson City. The Administrative Hearings Section will not provide transportation to any party to attend a telephone hearing in-person. If a party intends to participate by telephone, the party will need to provide the Administrative Hearings Section with a valid telephone number. If a party is incarcerated at the time of the hearing, the party may either provide a telephone number where the party can be reached on the day and time of the hearing or the party may call in directly to the Administrative Hearings Section. The Administrative Hearings Section will send a letter to all incarcerated parties prior to the hearing providing them with a contact number for the hearing. All parties participating in the telephone hearing will pay their own costs of the call in order to participate. Incarcerated parties will need to make their own arrangements with the correctional institution to participate in the telephone hearing and to provide any exhibits or evidence for the hearing.

(3) Request for Continuance.

(A) In any administrative hearing under this rule, continuances may be granted only by the Administrative Hearings Section. The Administrative Hearings Section, at their discretion, may grant a continuance freely upon the first request for a continuance from any party.

(B) If a party requesting a continuance previously has been granted a continuance, the Administrative Hearings Section shall grant a continuance only upon a clear and present showing that substantive rights of a party in interest will be severely prejudiced by the denial of the request for continuance or for good cause shown as determined by the Administrative Hearings Section.

(C) All requests for continuances filed prior to the hearing date must be in writing, must contain a clear explanation as to why the continuance is needed, and all parties must be notified of the request. If notification to one (1) of the parties is not possible, the request for continuance filed with the Administrative Hearings Section must explain why notification to the parties is not possible. Any request for continuance must provide available dates for the resetting of the hearing date. If necessary, a party may request a continuance at the time of the hearing for good cause as determined by the Administrative Hearings Section.

(4) Default Administrative Decision.

(A) In any proceeding under this rule, the administrative hearing officer may enter a decision in default against any party who has failed to appear, by telephone or in-person, at the proceeding. It shall be the parties' responsibility to provide the division and the Administrative Hearings Section with a current mailing address for notices issued by the Administrative Hearings Section including, but not limited to, hearing notices, continuance notices, and hearing decisions and/or orders, or proposed modification decisions and orders.

(B) The valid entry of a decision in default by the administrative hearing officer may be made in all cases, subject to the defaulting party's right to move that the decision in default be set aside for good cause, but only if the defaulting party gives notice of the good cause to the administrative hearing officer in writing within ten (10) calendar days after the default decision is mailed to all parties. Nothing in this subsection abrogates the rights of the parties under section 454.475, RSMo, to file a motion for correction or motion to vacate with the Administrative Hearings Section.

(C) Any notice mailed to the last-known address of any party in interest will be deemed valid delivery of that notice.

(5) Hearing Requests.

(A) If the parties are entitled to a hearing under federal or state law or regulation or the division has notified the party of the right to a hearing due to an action taken by the division in the administration of the child support program, the division will provide, upon request, a hearing as set forth in section 454.475, RSMo. Any request for hearing must comply with any request procedure as set out in the law or statute authorizing the hearing. For Missouri tax refund offset hearings for the obligor or nonobligated spouse, the notice to contest the tax offset is deemed received ten (10) calendar days after the date on the notice, unless refuted by competent evidence to the contrary. If the parties are entitled to a hearing, but federal or state law or regulation does not provide specific procedures or timelines for when the hearing requests must be made, then the parties to the child support case have thirty (30) calendar days from the date of the notice of the division's action to request a hearing. The hearing request, unless it is for a federal tax refund offset, must be in writing and provided to the division, unless the authorizing law or regulation requires otherwise. Hearing requests on federal tax refund offsets may be verbal or in writing. The division will review the hearing request and may contact the party requesting the hearing in an effort to resolve the issues raised by the hearing request. The parties will be notified in writing if the hearing request is granted, resolved, or denied and the reason for the denial. The division may deny a request for an administrative hearing for any one (1) of the following reasons:

1. The party's hearing request is based solely on issues that have previously been litigated and decided by a court of law;
2. The hearing request was untimely as set forth in either federal or state law or regulation; or
3. The party's request for administrative hearing is based solely on issues which cannot be decided in an administrative hearing including, but not limited to, visitation, legal custody, and nonpaternity.

(B) An administrative hearing need not be held if all disputed matters are resolved before the hearing.

(C) If the Administrative Hearings Section receives multiple hearing requests from the same parties, the Administrative Hearings Section may combine the hearing requests into one (1) hearing.

AUTHORITY: sections 454.400 and 660.017, RSMo [1994] 2016. Original rule filed May 2, 1989, effective Aug. 25, 1989. For intervening history, please consult the Code of State Regulations. Moved and amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes**

PROPOSED AMENDMENT

13 CSR 35-60.030 Minimum Qualifications of Foster Parent(s).
The department is amending sections (2), (3), and (4).

PURPOSE: This amendment describes the minimum qualifications of foster parents in a more concise and less burdensome manner.

(2) Citizenship Status of Foster Parent(s). Applicant(s) [to] who provide foster care must be a citizen of the United States, either through birth or naturalization, or be able to verify lawful immigration status.

(3) Personal Qualifications Required of Foster Parent(s).

(B) Foster parent(s) shall cooperate with the division in all inquiries involving the care of the foster children. The foster parents' ability to meet these competencies shall be reevaluated at each relicensure.

(4) Health of Foster Family.

(A) [At the time of application for an initial license and at the time of license renewal, foster parent(s) shall authorize their physician to submit a statement on a prescribed form regarding his/her opinion of the mental health of each foster family member and certifying that a physical examination was completed within the past year and that all household members were free from communicable disease or are not a threat to the health of foster children and are up-to-date on all immunizations. If any member of the family is not up-to-date on immunizations, there must be a statement from the family physician indicating that the health of foster children is not at risk. A tuberculosis (TB) test and a chest X ray may be completed if recommended by the physician.] Applicant(s) and all proposed foster family members must be determined by a physician to be in good physical and mental health. The physician shall complete a form provided by the licensing agency for each family member that verifies that the individual poses no risk to the health and safety of a foster child. If there is any question about the physical or mental health of any proposed foster family member, the licensing agency may require additional examinations or evaluations.

[B] Foster parents and all foster family members must be determined by a physician to be in good physical and mental health. The licensing agency shall review the examination reports.

[C] If the licensing agency has reason to question the physical or mental health of any member of the foster family, the agency shall require additional mental or physical evaluations.]

AUTHORITY: sections 207.020 and 660.017, [RSMo Supp. 2014, and section 210.506,] RSMo [2000] 2016. Emergency rule filed July 18, 2006, effective Aug. 4, 2006, expired Jan. 30, 2007. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015, effective March 30, 2016. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.010 General Application Procedures. The division is adding section (7) and removing a form.

PURPOSE: This amendment updates changes in procedures and policies and removes forms from this rule.

(7) The participant and applicant shall disclose all information which may impact eligibility for any Income Maintenance program. The participant and applicant have a continuing obligation to notify the division if any information specified in the application changes within ten (10) days of the change. The continuing duty includes, but is not limited to, disclosing any changes in income of the participant or household member, changes in residence or mailing address, and the addition or removal of any individual from the household whose information is or was required to be submitted.

AUTHORITY: [section 207.020, RSMo 2000, and] sections [208.991,] 207.022 and 660.017, RSMo [Supp. 2013] 2016. This version filed March 24, 1976. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.020 General Reinvestigation Procedures. The division is updating the names of the division, programs, and the authority reference. It also adds a reference to requirements regarding annual reviews of federally-funded Medicaid programs.

PURPOSE: This amendment updates the names of the division and statutory rule-making authority as well as deleting a reference to a program that no longer exists and replaces the name with the replacement program. It also adds a reference to requirements regarding annual reviews of federally-funded Medicaid programs. It also allows for information obtained from Food Stamp recertifications to be used for reinvestigations, gives participants at least ten (10) days to comply with a request as part of a reinvestigation, and affords hearing rights to participants.

PURPOSE: This rule [defines the reinvestigation procedures for Income Maintenance cases] provides general guidelines for

conducting annual reviews (reinvestigations) of a participant's eligibility for programs administered by the Family Support Division.

(1) The [county family services office] Family Support Division shall reinvestigate all [Aid to Families with Dependent Children] Temporary Assistance, [General Relief,] Supplemental Aid to the Blind, Blind Pension, [Adult Supplementation, Medical Assistance] Supplemental Payments, MO HealthNet, and Supplemental Nursing Care cases at least once every twelve (12) months.

(A) The division shall conduct reinvestigations for MO HealthNet, Supplemental Aid to the Blind, Supplemental Payments, and Supplemental Nursing Care in compliance with section 208.990, RSMo and any other federal requirements relevant to these programs that are not referenced by that statute.

(B) [These r]Reinvestigations for Blind Pension and Temporary Assistance shall be supplemented by more frequent reinvestigations whenever deemed advisable.

(2) This rule does not apply to the Supplemental Nutrition Assistance Program (SNAP or Food Stamps); however, information obtained from a SNAP recertification, pursuant to 7 CFR 273.14 may be used to complete an annual review under this rule, subject to verification requirements specific to the program that is under review.

(3) Subject to subsection (1)(A) of this rule, and subject to other laws or rules governing the eligibility determination for Blind Pension or Temporary Assistance, if any, the division shall give a participant at least ten (10) days to comply with any request for verification, information, or documentation related to a reinvestigation. If a participant does not comply with such a request within the time period allotted, the division may take action to close the participant's case.

AUTHORITY: sections [207.020,] 207.022 and 660.017, RSMo [1986] 2016. Original rule filed May 8, 1948, effective May 18, 1948. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.040 Definition of Abandonment of Residence. The division is amending section (1).

PURPOSE: This amendment updates changes in the division name.

(1) When it is known that a recipient of public assistance or Blind

Pension has left the state, the [county family services office] **Family Support Division** shall determine the reason for the absence and, if it is established that the recipient has abandoned his/her Missouri residence, assistance will be discontinued.

AUTHORITY: sections [207.020,] 207.022 and 660.017, RSMo [(1986)] 2016. Original rule filed Nov. 4, 1954, effective Nov. 14, 1954. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED AMENDMENT

13 CSR 40-2.120 Methods Used to Determine the Amount of Cash Payments. The division is amending sections (2), (3), (4), (6), and (8) and deleting the consolidated group size standard table for the General Relief program, which is no longer funded.

PURPOSE: This amendment updates terminology and statutory authority references used to determine the correct amount of cash payments in the various assistance programs.

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 shall be 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 may be found at the Family Support Division, Department of Social Services, 615 Howerton Court, Jefferson City, MO 65109, and is available to any interested person at a cost established by state law.

(2) Consideration of Available Income.

[(B) In General Relief (GR) cases, a household budget including the total income and expenses of the applicant or recipient and his/her spouse and any children under age twenty-one (21) will be prepared. If the applicant or recipient is under twenty-one (21) the income and expenses of his/her parent(s) living in the home shall be included. When a GR applicant or recipient is living with an employed specified relative as defined in 13 CSR 40-2.070, the specified relative's income in excess of the poverty level will be budgeted.]

[(C)](B) In Aid to the Blind (AB) cases, all income of the applicant or recipient shall be considered in determining whether the applicant or recipient is in need, and, if so, the amount of that need. The income of any other person in the household will be considered only in the amount made available to the AB applicant or recipient.

[(D)](C) In computing the income of an applicant or recipient, or

of the household of which s/he is a member, only that income which is available during the period under consideration shall be taken into account. To be considered as available, the income shall actually and presently exist (not to be a potential or remote income) and shall be sufficient to have some appreciable significance in meeting the immediate requirements of the applicant or recipient. The following will not be considered in determining eligibility: in Aid to Families with Dependent Children (AFDC) cases, the first fifty dollars (\$50) of monthly child support payments; home produce raised or used by the applicant or recipient for consumption by the family, and loans made under conditions which preclude their use for meeting current living costs. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(3) Each budget shall include provision in an amount per month as established by the [Division of Family Services] **Family Support Division** which represents the average of all individual need items formally budgeted (except day care expenses) for each size AFDC assistance group[, each size GR assistance group] and for the Supplemental Aid to the Blind (SAB) need eligibility budget and will be referred to as the AFDC, [GR] and SAB Consolidated Standard.

(A) The Consolidated Standard for each size AFDC assistance group[, each size GR assistance group] and for the SAB budget shall be as follows:

1. AFDC:

Assistance Group Size	Consolidated Standard
1	\$ 393.00
2	\$ 678.00
3	\$ 846.00
4	\$ 990.00
5	\$1123.00
6	\$1247.00
7	\$1372.00
8	\$1489.00
9	\$1606.00
10	\$1722.00
11	\$1839.00
12*	\$1956.00

*For any AFDC assistance group larger than twelve (12), add one hundred sixteen dollars (\$116) per individual.

2. GR:

Assistance Group Size	Consolidated Standard
1	\$ 181.00
2	\$ 256.00
3*	\$ 301.00

* For any GR assistance group larger than three (3), add forty-five dollars (\$45) per individual

3. When a GR assistance group includes ADC recipients, the ADC Consolidated Standard will be used; and/

[4.]2. SAB: The Consolidated Standard of three hundred dollars (\$300) implemented February 16, 1976 will be used as a base amount. Beginning January 1, 1985, but including the Old Age Supplemental Disability Income (OASDI) increases of July 1982 and January 1984, whenever OASDI benefits under Title II of the Social Security Act are increased, the SAB Consolidated Standard also shall be increased. The amount of the increase shall be determined by adding the same percentage increase to the last Consolidated Standard amount as was added to Title II benefits and rounding the result to the next highest dollar. When an SAB claimant is a member of [an ADC or GR] **Temporary Assistance to Needy Families (TANF)** assistance group, there shall be added one hundred dollars (\$100) to the [ADC or GR] **TANF** assistance group size Consolidated Standard. This amount represents the following special additional allowances: Food—twelve dollars (\$12); clothing—eight dollars (\$8); personal incidentals— eleven dollars (\$11); shopping

and errand expense—fifteen dollars (\$15); laundry and dry cleaning expense—fifteen dollars (\$15); household incidentals—ten dollars (\$10); transportation—nine dollars (\$9); preparation of food—five dollars (\$5); and cost for a seeing eye dog or other guide—fifteen dollars (\$15). (Original rule filed April 12, 1948, effective April 22, 1948. Amended: May 18, 1966, effective May 28, 1966. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: Dec. 2, 1968, effective Dec. 12, 1968. Amended: Dec. 22, 1975, effective Jan. 1, 1976.)

(4) Assistance recipients sixty-five (65) years of age or over will be expected to use fully the medical care benefits that are available to them through Title XVIII B of the federal Social Security law; however, the deductibles and coinsurance costs will be paid by the [Division of Family Services] **Family Support Division** by means of vendor payments. Assistance recipients over age sixty-five (65) who have exhausted their Title XVIII benefits and eligible assistance recipients under age sixty-five (65) will be eligible for vendor payments [in] on their behalf for the medical care benefits as specified in section 208.151, RSMo; this includes benefits for eligible recipients who are in a state mental institution or a state tuberculosis hospital. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: May 18, 1966, effective May 28, 1966. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: Sept. 24, 1970, effective Oct. 4, 1970. Amended: May 7, 1971, effective May 17, 1971. Amended: June 18, 1971, effective June 28, 1971. Amended: Feb. 6, 1975, effective Feb. 16, 1975. Amended: Dec. 22, 1975, effective Jan. 1, 1976.)

(6) Earned Income Exemption—AFDC.

(B) The disregards applied against earned income outlined in subsection (6)(A) shall not be applied to the earned income of any person who—

1. Terminated his/her employment or reduced his/her earned income without good cause within the period (of not less than thirty (30) days) preceding that month as may be prescribed by the secretary of the United States Department of Health and Human Services (HHS);

2. Refused without good cause, within the thirty- (30-)[/] day period or longer period prescribed by the secretary of the United States Department of HHS, to accept employment in which s/he is able to engage which is offered through the public employment offices of the state, or is otherwise offered by an employer if the offer of the employer is determined by the [Division of Family Services] **Family Support Division** or agency designated by the [Division of Family Services] **Family Support Division**, after notification by the employer, to be a bona fide offer of employment; and

3. Failed without good cause to make a timely report to the [Division of Family Services] **Family Support Division** of earned income received in that month.

(8) A standard amount for expenses of producing earned income will be budgeted for each member of the [GR and] SAB assistance group who has earned income to include allowances for all federal and state income tax and Retirement, Survivor's, and Disability Insurance (RSDI) withholdings. An additional standard for costs of union dues, extra food, clothing, personal expense, transportation to and from work, and other employment connected personal incidental costs will also be budgeted for each member of the [GR and] SAB assistance group who has earned income. The [attached] standard amounts, in direct relationship to varying increments of gross monthly earnings and number of dependents, will be budgeted. [Only the standard amount for expense of producing earned income will be budgeted except that if a person who has earned income can verify that s/he had expenses that exceed the standard amount included for union dues, extra food, clothing, personal expense, transportation to and from work or other employment connected personal incidental costs, these expenses shall be allowed as an expense of producing

income instead of the standard amount for these expenses.] If the actual expenses exceed the standard amount included for union dues, extra food, clothing, personal expense, transportation to and from work, or other employment connected personal incidental costs, the actual expenses will be used.

AUTHORITY: sections [207.020,] 207.022 and 660.017, RSMo [1986] 2016. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 18, 2018.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 40—Family Support Division Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.200 Determining Eligibility for Medical Assistance. The division is amending sections (1), (2), (3), (4), and (5) and removing a citation in the authority section.

PURPOSE: This amendment updates terminology. It also provides that the decision on the factor of disability shall be made by a qualified medical consultant employed by the division except in cases involving disability-based Social Security Income or Retirement, Survivor's and Disability Insurance and establishes the principles used by county staff in determining eligibility for Medical Assistance on the basis of income.

[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. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.]

(1) The medical diagnosis and other medical information on Medical Assistance (MA), Supplemental Nursing Care (SNC), Aid to the Blind (AB) and Blind Pension (BP) cases shall be reviewed by a medical consultant employed by the [Division of Family Services] **Family Support Division**, who shall certify eligibility or ineligibility on the basis of permanent and total disability or vision, except that this review will not be required to certify permanent and total disability when the claimant receives Supplemental Security Income (SSI) or Retirement, Survivor's, and Disability Insurance (RSDI)

based on his/her disability. In these cases, the verification of the receipt of disability-based SSI or RSDI benefits will be sufficient to establish permanent and total disability.

(2) If a single individual has an adjusted gross income per month that does not exceed the income limit and meets the other eligibility requirements, s/he will be eligible for MA. If eligibility is based on AB provisions, the income limit is one hundred percent (100%) of the federal poverty level (FPL). If eligibility is based on *[Old Age Assistance (OAA)] MO HealthNet for Aged, Blind, and Disabled (MHABD)* or Permanent and Total Disability (PTD) provisions, the income limit is eighty-five percent (85%) of the FPL. For a married couple living together, the adjusted gross income limitation will be one hundred percent (100%) of the FPL for two (2) persons, if eligibility is based on AB provisions. For a married couple living together, the adjusted gross income limitation will be eighty-five percent (85%) of the FPL for two (2) persons, if eligibility is based on *[OAA] MHABD* or PTD provisions. In determining adjusted gross income, the following exemptions will be applied to the gross income:

(3) If an individual qualifies for institutional vendor payments under the MA program, *[thirty dollars (\$30)] fifty dollars (\$50)* of the individual's personal income shall be retained as his/her personal needs allowance. Federal regulation 42 CFR, *[s/Section 435.733]* provides that there shall be a minimum amount available to meet the clothing and other personal needs of the individual. In order to meet other of the individual's basic personal needs, this amount shall not be exhausted to satisfy any guardianship fees, court costs, attorney's fees, or other related legal or court costs, or any combination of these, resulting from the administration of a guardianship or conservatorship, or both that has been sought on behalf of the Medicaid recipient. The claimant's personal needs allowance shall not be used for the provision of any medical or remedial services, or both, that are covered through the Missouri Medical Exception Process. Institutionalized individuals who participate in sheltered workshops are allowed a personal needs allowance of *[thirty dollars (\$30)] fifty dollars (\$50)* plus the sheltered workshop income.

(4) When an individual living in his/her home is assessed by *[the Division of Aging] Department of Health and Senior Services* as needing both a nursing facility level-of-care as defined in *[13 CSR 15-9.030] 19 CSR 30-81.030* and home- and community-based waiver services, his/her gross monthly income shall be compared to *[eight hundred dollars (\$800).] one thousand three hundred eleven dollars (\$1,311)* effective January 1, 2018, subject to adjustment by the Consumer Price Index beginning January 2019, *[/if his/her gross monthly income is equal to or less than [eight hundred dollars (\$800)] one thousand three hundred eleven dollars (\$1,311), s/he shall be considered income eligible for Title XIX under the MA program. When his/her gross monthly income is greater than [eight hundred dollars (\$800)] one thousand three hundred eleven dollars (\$1,311), s/he must qualify for Title XIX in accordance with section (2) of this rule.*

(5) If an institutionalized spouse (as defined in 13 CSR 40-2.030) qualifies for institutional vendor payments under the MA program, in determining the amount the institutionalized spouse must pay to the medical institution or nursing facility for the cost of his/her care, *[there] the following amounts* shall be disregarded *[the following amounts]:*

(A) A community spouse monthly income allowance which shall be determined as follows:

1. The amount by which—

A. The applicable percentage of the Federal Poverty Level for two (2) persons; plus

B. The amount by which the community spouse's shelter expenses exceed thirty percent (30%) of the applicable percentage of the Federal Poverty Level for two (2) persons; exceeds

C. The community spouse's own income;

2. The amount determined in subparagraphs (5)(A)1. A. and B. may not exceed one thousand five hundred dollars (\$1,500), subject to adjustment by the Consumer Price Index beginning January 1990;

3. The amount of court-ordered support, if higher, may be substituted for the amount determined in paragraph (5)(A)1.;

4. The applicable percentages of the Federal Poverty Level specified in paragraph (5)(A)1. shall be as follows:

A. Effective September 30, 1989, one hundred twenty-two percent (122%);

B. Effective July 1, 1991, one hundred thirty-three percent (133%); and

C. Effective July 1, 1992, one hundred fifty percent (150%);

5. Allowable shelter expenses for the community spouse shall include the following expenses incurred at the principal place of residence of the community spouse:

A. Mortgage payment or taxes, or both, and insurance;

B. Rent;

C. Maintenance fee for condominium or cooperative apartment; and

D. The utility standard of the Food Stamp program in accordance with the Food Stamp Act of 1977, if the utility expenses are actually incurred and are not a part of the maintenance fee or rent previously allowed. If the community spouse's only utility is telephone, the standard used shall be the telephone standard of the Food Stamp program. If the community spouse incurs any other type of utility, the standard used shall be the utility standard of the Food Stamp program;

6. If either spouse establishes in a fair hearing that the allowance as determined by the *[Division of Family Services] Family Support Division* is insufficient (resulting in significant financial duress), an adequate amount may be substituted; and

(B) An allowance for each family member equal to one-third (1/3) of the amount by which the amount described in subparagraph (5)(A)1.A. exceeds the monthly income of that family member. As used in this rule, the term family member shall mean minor or dependent children, dependent parents, or dependent siblings of either spouse who are residing with the community spouse. Dependent as used here means an individual who could be claimed as a dependent for federal income tax purposes.

AUTHORITY: sections [207.020,] 207.022 and 660.017, RSMo [2000] 2016. Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 18, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED AMENDMENT

13 CSR 40-2.260 Newborns Deemed to be Eligible for Title XIX.

The division is amending section (1) and adding new sections (2), (3), (4), (5), and (6).

PURPOSE: This amendment puts Missouri in compliance with Federal Regulations establishing that newborns will be deemed to be eligible for Title XIX when they are born to a woman eligible for and receiving Title XIX on the date the child is born.

(1) A child born to a woman eligible for and receiving Title XIX on the date her child is born is deemed to have filed an application and been found eligible for Title XIX on the date of the birth and to remain eligible for one (1) year; provided—

[(A) The mother remains continuously eligible under Missouri's Title XIX plan, or for children born January 1, 1991 or later, the mother would remain eligible for Title XIX if she was still pregnant; and]

[(B)](A) [The child remains in the mother's household.] The child is living; and

(B) The child remains a resident of Missouri.

1. When the child's state of residence changes during the first year of life, MO HealthNet benefits shall be closed.

2. If the child's state of residence changes back to Missouri during the first year of life, MO HealthNet benefits shall be reinstated until the child's first birthday. An application and review of eligibility is not required.

(2) The child is not required to remain in the household of the biological mother to be eligible.

(3) The child's birth must be reported to Family Support Division (FSD) prior to beginning MO HealthNet benefits. Report of the birth may be accepted from:

(A) A legal adult member of the mother's MO HealthNet household as defined in 13 CSR 40-7.010;

(B) The mother's authorized representative;

(C) The hospital;

(D) A representative from the hospital; or

(E) The mother's managed care plan.

(4) Before beginning MO HealthNet benefits for newborns deemed eligible, FSD shall obtain all of the following:

(A) The mother's Departmental Client Number (DCN);

(B) The child's legal name, unless unavailable;

(C) The child's date of birth; and

(D) The child's gender.

(5) Pursuant to section 208.151.1(17), RSMo, and 42 USC 1396b(x)(2)(D), identification and citizenship shall be verified when newborns are deemed eligible for Title XIX for the first year of life.

(6) MO HealthNet benefits shall end for newborns deemed eligible for Title XIX when—

(A) The child is no longer a resident of Missouri;

(B) The child is deceased;

(C) The child's MO HealthNet benefits are voluntarily closed by an adult member of the child's household or an authorized representative, guardian, or conservator; or

(D) The child begins receiving healthcare under another state agency or division.

AUTHORITY: sections [207.020] 207.022 and 660.017, RSMo [1986] 2016. Emergency rule filed Dec. 19, 1988, effective Jan. 1, 1989, expired May 1, 1989. Original rule filed Dec. 19, 1988, effective March 25, 1989. Emergency amendment filed March 6, 1991, effective March 16, 1991, expired July 13, 1991. Amended: Filed March 7, 1991, effective Aug. 30, 1991. Amended: Filed Sept. 20, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 40—Family Support Division Chapter 2—Income Maintenance

PROPOSED AMENDMENT

13 CSR 40-2.395 Spend Down Program. The division is amending sections (2) and (4).

PURPOSE: This amendment updates the terminology for the spend down program and defines valid verification of incurred medical expenses.

(2) *[The following d]Definitions [apply throughout this regulation:].*

(A) "Incurred medical expenses[:]" means *[E]xpenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under state law and are not subject to payment by a third party, unless the third party is a public program of a state or political subdivision of a state. Incurred medical expenses include Medicare and other health insurance [premiums,] deductibles and co-insurance charges, and co-payments or deductibles imposed under 42 C.F.R. Section 447.51 or Section 447.53. The term incurred medical expenses includes expenses incurred by an individual's spouse whose income is included in the Medicaid eligibility determination;*

(B) "Individual[:]" means *[A]ged persons (over sixty-five (65) years), blind persons, or people with disabilities with income above limits established under section 208.151[. 1.(24)], RSMo, for [old age assistance benefits] MO HealthNet for the Aged, Blind, and Disabled, permanent and total disability benefits, or aid to the blind benefits; and*

(C) "Third party[: A third party is]" means *a Medicare, private health insurance, or other health care payer.*

(4) Spend down may be met in one (1) of the following ways:

(A) Incurred Costs Method. Spend down participants using this method must provide documentation of medical expenses they have incurred.

1. Incurred medical expenses that can be applied to spend down must be either—

A. Incurred within the month MO HealthNet coverage is requested and bills are submitted to the Family Support Division; or

B. Incurred within the three (3) months prior to the month for which MO HealthNet coverage is requested and bills are submitted to the Family Support Division for those eligible for MO HealthNet Aged, Blind, and Disabled spend down program[:];

C. Incurred medical expenses can be applied to future months limited to a maximum of three (3) months from the current month in which MO HealthNet coverage is requested when—

(I) The bills were incurred while the participant was eligible for MO HealthNet spend down;

(II) The bills were not paid and will not be paid by MO HealthNet;

(III) The bills are currently owed **or paid** by the participant;

(IV) The bills were not previously applied in any month to meet spend down, including use of out-of-pocket expenses; and

(V) The bills were incurred no earlier than three (3) months prior to the current month./;.

D. Allowable medical expenses include those specified in section 208.152, RSMo./; and

E. Proof of incurred costs does not require proof of payment of the incurred costs.

2. In order for an individual to claim that an incurred medical expense should be credited to the individual's spend down obligation, the individual shall provide documentation of the incurred medical expense within one (1) year of the date of the medical service.

3. No credit for incurred medical expenses shall be given without documentation that the individual has incurred, and is legally obligated to pay./, the expense, and has not previously used the expense for spend down. Documentation of an incurred medical expense shall be submitted in either one (1) of the following methods:

A. An invoice, billing statement, or receipt from the provider that contains the following information:

(I) Name of patient;

(II) Date of service;

(III) Type of service provided and/or description of the service;

(IV) Identification of the portion of the total charges that are billed to a third party and the portion of the total charges that are the patient's responsibility to pay; and

(V) To document incurred costs of mileage of medically necessary, nonemergency transportation, the individual shall certify the miles traveled and the purpose. Travel expenses required to obtain a medical item or service shall be determined at the State Employee Reimbursement rates established by the state of Missouri Office of Administration pursuant to 1 CSR 10-11.010 and 1 CSR 10-11.030 as of the date of travel; or

B. A Family Support Division Provider form signed and completed by the provider containing the information set out in subparagraph (4)(A)3.A. of this regulation.

4. The provider shall, upon request, provide any additional information required by the Family Support Division to establish that the individual has incurred the medical expense.

5. When it is known that the individual has coverage by a third party and the portion subject to payment by the third party cannot be identified, the Family Support Division shall—

A. For individuals with private health insurance or coverage by another healthcare payer, estimate the amount of the individual's incurred cost based upon the provisions of coverage; and

B. For individuals with Medicare Part A and/or B coverage and who do not have Qualified Medicare Beneficiary coverage, estimate the amount of the individual's incurred medical cost to be—

(I) One hundred percent (100%) of the Medicare reimbursement rate up to the individual's Medicare deductible, if the deductible has not been met; and thereafter

(II) Twenty percent (20%) of the Medicare allowable reimbursement once the deductible has been met.

6. Individuals receiving Qualified Medicare Beneficiary coverage cannot use incurred medical expenses covered by Medicare towards meeting spend down.

7. If a provider provides a direct medical service based on an "ability-to-pay" or "sliding" fee scale, only the amount the individual is legally obligated to pay the provider is an incurred medical expense./;.

(B) Pay-in Method. An individual may pay their spend down amount to the state. The monthly spend down requirement may be paid by the individual, their spouse, a financially responsible rela-

tive, or a public program of a state or political subdivision of a state./; and

(C) Combination Method. An individual may use a combination of the incurred costs method and the pay-in methods to satisfy the monthly spend down amount to the state.

AUTHORITY: [section 207.020, RSMo 2000, and] sections [208.151, 208.153, and 208.201,] 207.022 and 660.017, RSMo [Supp. 2011] 2016. Original rule filed March 1, 2012, effective Oct. 30, 2012. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division—Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 40—Family Support Division Chapter 7—Family Healthcare

PROPOSED AMENDMENT

13 CSR 40-7.010 Scope and Definitions. The division is amending section (1).

PURPOSE: This amendment codifies terms that are being used in determining eligibility for Family MO HealthNet programs and the Children's Health Insurance Program (CHIP). There is no change to FSD current practices.

(1) [For purposes of this chapter, the following definitions shall apply:] **Definitions.**

(A) "Applicant" is [the adult] a participant as listed in 13 CSR 40-7.015 who completes and submits an application for a Family MO HealthNet Program or CHIP program, whether for themselves or on behalf of someone else;/.

(B) "Authorized Representative" means an individual as defined in 13 CSR 40-2.015(2)(B).

[(B)](C) "Child" or "Children" means a person or persons who are under nineteen (19) years of age;/.

[(C)](D) "Children's Health Insurance Program" or "CHIP" means the health assistance provided to uninsured, low income children under Title XXI of the Social Security Act and established in sections 208.631 through 208.658, RSMo;/.

(E) "Deductions" means an allowable amount that is deducted from earned income and claimed on the participant's federal income taxes.

[(D)](F) "Division" means the Family Support Division, Department of Social Services;/.

(G) "Earned Income" means—

1. Wages, salaries, tips, commissions, and other taxable employee pay;

2. Union strike benefits;

3. Long-term disability benefits received prior to minimum retirement age;

4. Net earnings from self-employment if—

A. The participant or household member owns or operates

a business or a farm;

B. The participant or household member is a minister or member of a religious order; or

C. The participant or household member meets the definition of a “statutory employee” under section 3121(d) of the Internal Revenue Code and has income;

5. Compensation in lieu of wages/bartering.

[(E)](H) “Electronic data hub” means any electronic service established by the Secretary of the United States Department of Health and Human Services, through which the division may verify certain information with, or obtain such information from, federal agencies and other data sources[;].

(I) “Emancipated minor” means a minor who—

1. Has been declared emancipated by a court of competent jurisdiction; or

2. Meets all of the following criteria:

A. The minor is sixteen (16) or seventeen (17) years of age; and

B. The minor is self-supporting, such that the minor is without the physical or financial support of a parent or legal guardian; and

C. The minor’s parent or legal guardian has consented to the minor living independent of the parents’ or guardians’ control. Consent may be expressed or implied, such that—

(I) Expressed consent is any verbal or written statement made by the parent(s) or guardian(s) of the minor displaying approval or agreement that the minor may live independently of the parent’s or guardian’s control;

(II) Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:

(a) Barring the minor from the home or otherwise indicating that the minor is not welcome to stay;

(b) Refusing to provide any or all financial support for the minor; or

(c) Abusing or neglecting the minor, as defined in section 210.110, RSMo, or committing an act or acts of domestic violence against the minor, as defined in section 455.010, RSMo.

(J) “Family member” means a person who meets the following relationship criteria: father, mother, grandfather, grandmother, brother, sister, stepfather, or stepmother (but not step-grandparents), stepbrother, stepsister, uncle, aunt, first cousin, first cousin of a parent, nephew, niece, adoptive father or adoptive mother, grandfather-in-law or grandmother-in-law (meaning the spouse of a second marriage of one (1) of the child’s biological grandparents), great-grandfather or great-grandmother (including great-great grandfather or great-great grandmother), brother or sister of half-blood, adoptive brother or adoptive sister, brother-in-law or sister-in-law, uncle or aunt of the half-blood, uncle-in-law or aunt-in-law, great-uncle or great-aunt (including great-great uncle or great-great aunt). Relatives by adoption not specifically mentioned in this subsection are treated in the same way as blood relatives.

[(F)](K) “Family Mo HealthNet programs” means MO HealthNet benefits provided to participants under the MO HealthNet for Families (MHF) program, MO HealthNet for Kids (MHK) program, MO HealthNet for Pregnant Women (MPW) program, and Uninsured Woman’s Health Services (UWHS) program. Family MO HealthNet programs also include presumptive eligibility for any of the above programs[;].

(L) “Household” means individuals who make up an eligibility group under 42 CFR 45.603(f) and 13 CSR 40-7.020.

[(G)](M) “Non-custodial parent” means the parent who does not have physical custody of the child.

1. If physical custody is questioned, a court order, judgment, decree, or any legally enforceable separation, divorce, or custody agreement establishing which party has physical custody shall control who is the custodial parent[;].

2. If there is no such order or agreement, or the order or agreement is silent, or in the event of joint custody, the custodial parent is the parent with whom the child expects to spend more than fifty percent (50%) of his or her overnight visits in the year for which eligibility is being determined[; or].

3. In the case of true joint physical custody where the child spends an equal amount of overnight visits with both parents, the noncustodial parent is the parent who does not claim the child as part of their tax household[;].

(N) “Non-Filer” means an individual who is not expected to file a tax return or be claimed as a tax-dependent.

[(H)](O) “Parent” means a natural or biological, adopted, or step-parent[;].

[(I)](P) “Participant” means any individual who has applied for, is receiving, or has been denied Family MO HealthNet benefits or CHIP benefits[;].

[(J)](Q) “Sibling” means a natural or biological, adopted, half, or step sibling[;].

[(K)](R) “Reasonable Compatibility” means the information received by the division, is not in conflict with other information known by the division. Income information is “reasonably compatible” if the sources of information are above or both are at or below the applicable income standard or other relevant income threshold limit, or the difference between the sources of the income information is ten percent (10%) or less and the sources of income are similar[;].

[(L)](S) “Tax Dependent” means an individual for whom another individual claims a deduction for a personal exemption under *Internal Revenue Code*, section 151 for a taxable year[; and].

[(M)](T) “Taxpayer” means an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made and who does not expect to be claimed as a tax dependent by another individual.

(U) “Unearned Income” means—

1. Pay received for work while an inmate is in a penal institution;

2. Interest and dividends;

3. Retirement income;

4. Social Security;

5. Unemployment benefits;

6. Alimony; and

7. Child support.

AUTHORITY: sections [207.020,] 207.022 and 660.017, [RSMo 2000, and section 208.991,] RSMo [Supp. 2013] 2016. Original rule filed July 31, 2013, effective Feb. 28, 2014. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 34—Homeless, Dependent and Neglected
Children**

PROPOSED RESCISSION

13 CSR 40-34.060 Parental Support. This rule mandated that the Division of Family Services assess the capacity of the child's parents to contribute to the child's support while in care and recommend that the juvenile court order appropriate contribution from the parents.

PURPOSE: This rule is being rescinded because it is unnecessary. Children's Division already follows this internal procedure. Furthermore, this rule is duplicative of section 210.536, RSMo, which states that the court shall evaluate the ability of parents to pay part or all of the cost for such care, and shall order such payment to the Department of Social Services.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Aug. 6, 1982, effective Nov. 11, 1982. Rescinded: Filed Sept. 27, 2018.

PUBLIC COST: The proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: The proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 50—Licensing of Foster/Adoptive Homes**

PROPOSED RESCISSION

13 CSR 40-50.010 Family Homes Offering Foster/Adoptive Care. This rule set out the requirement for licensing of a foster/adoptive home.

PURPOSE: This rule is being rescinded as it is unnecessary. There is no statutory authority or definition of foster/adoptive care, the Division of Family Services no longer exists as it is now Children's Division, and it does not have legal authority to expend general revenue for the cost of care in foster/adoptive homes unless the legislature has appropriated funds for that specific purpose.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Dec. 14, 1987, effective March 25, 1988. Rescinded: Filed Sept. 20, 2018.

PUBLIC COST: The proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: The proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 91—Rehabilitation Services for the Blind (RSB)**

PROPOSED AMENDMENT

13 CSR 40-91.010 Business Enterprise for the Blind. The division is amending sections (1), (2), (8), (11), (16), and (19) and removing forms.

PURPOSE: This amendment simplifies the definition of creditable service, reflects changes in facility licensing levels, updates the definition of vending machine to include electronic transactions, changes minimum requirements to reflect the current Review of Locations form in procedures and policies, and removes additional forms.

PURPOSE: This rule establishes the guidelines for administration of the Business Enterprise Program of the [Division of Family Services] Family Support Division, Bureau for the Blind, as mandated by the Randolph-Sheppard Act, as amended through 1974, 34 CFR 395, sections 8.051 and 8.700-8.745, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Legal Authority. The Business Enterprise Program (BEP) of the [Division of Family Services] Family Support Division/Rehabilitation Services for the Blind is administered according to the Randolph-Sheppard Act, as amended through 1974, 34 CFR 361.50, 34 CFR 395, sections 8.051 and 8.700-8.745, RSMo. The [Division of Family Services] Family Support Division/Rehabilitation Services for the Blind administers the Business Enterprise Program according to the terms of this rule.

(2) Definitions. [The following definitions are used in this rule:]

(A) "Administrative fee" means an assessment against the operating income from direct sales in vending facilities, including income from manager-serviced vending machines and from commissions that vending companies pay on proceeds from vending machines located in facilities in which there is an on-site manager[;].

(B) "Assigned income" means income from commissions that vending companies pay to the nominee on proceeds from vending machines in vending facilities in which there is an on-site manager. The nominee disburses this income to the manager, according to subsection (15)(C)[;].

(C) "Blind person" is a person whose central visual acuity is no more than twenty-two hundred (20/200) in the better eye with best correction or whose field of vision in the better eye is restricted to a degree that its widest diameter subtends an angle no greater than twenty degrees (20°)[;].

(D) "Rehabilitation Services for the Blind" is the unit within the [Division of Family Services] Family Support Division that administers the Business Enterprise Program. Rehabilitation Services for the Blind is referred to in this rule as RSB[;].

(E) "Business Enterprise Program" means the total vending facility program within the [Division of Family Services] Family Support Division[,]/Rehabilitation Services for the Blind. The Business Enterprise Program is referred to in this rule as the BEP[;].

(F) "Cafeteria" means a full-line food service facility in which the food is prepared on-site[;].

(G) "Certificate of Training" means the certificate that RSB presents to a blind person who successfully completes vending facility manager training. The certificate indicates the level of the training

which a blind person has completed and the level at which the state licensing agency (SLA) may license the blind person, as stated in subsection (2)(T). *[A copy of the certificate follows this rule;]*

(H) "Change fund loan" means an interest-free loan from the nominee to be used for the manager's initial operating funds[;].

(I) "Convenience store" means a vending facility that has over-the-counter sales but does not have on-site food preparation that requires the manager to handle unpackaged products, except for hot and cold beverages[;].

(J) "Creditable service" means only those periods when a manager is employed as a full-time contracted BEP manager *[and is current in all reports and payments;]*.

(K) "Deputy director, *Division of Family Services*" means the person in the Family Support Division/Rehabilitation Services for the Blind *[means the person]* who directs the administration of all service programs of RSB and who is referred to in this rule as deputy director[;].

(L) "Direct competition" means the presence and operation of a vending machine or a vending facility operated by an entity other than a blind manager on the same premises as a vending facility operated by a blind manager. Vending machines or vending facilities operated in areas serving employees, the majority of whom normally do not have direct access, in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility, to the vending facility operated by a blind manager shall not be considered to be in direct competition with the vending facility that is operated by a blind manager[;].

(M) *[Division of Family Services]* "Family Support Division" is the state licensing agency that is designated by the Secretary of the United States Department of Education to issue licenses to blind persons for the operation of vending facilities on federal, state, and other property. The *[Division of Family Services]* Family Support Division is referred to in this rule as the SLA[;].

(N) "Equipment" means occupational fixtures, furnishings, machinery, tools, and accessories that are required in the operation of a vending facility. Equipment has a life of at least one (1) year and can be used repeatedly[;].

(O) "Executive committee of blind vendors" is the executive body that is elected by the Blind Vendors of Missouri, as discussed in section (6). Blind Vendors of Missouri is referred to in this rule as BVM[;].

(P) "Fair minimum return" means the amount RSB establishes as the minimum level of net income that a manager derives from a vending facility[;].

(Q) "Federal property" means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States, including General Services Administration, the Department of Defense, the Department of Energy, and the United States Postal Service, or any other instrumentality wholly owned by the United States[;].

(R) "Individual location," "installation," or "facility" means a single building or a self-contained group of buildings. In order for RSB to consider two (2) or more buildings to be a self-contained group of buildings, the buildings must be located in close proximity to each other and a majority of the employees housed in any of the buildings must move regularly from one (1) building to another in the course of official business during normal workdays[;].

(S) "Initial inventory" means the marketable merchandise and consumable supplies that RSB determines is necessary for a manager to begin operation of a new or substantially altered vending facility[;].

(T) "License" means the written instrument the SLA issues to a blind person and that confirms that person's eligibility to operate a vending facility on federal, state, or other property. A Level *///* 1 license is for the management of vending machine banks in which all income is derived from commissions. A Level *///* 2 license is for the management of *[vending machine banks and]* convenience stores. A Level 2.5 license is for the management of a manager-serviced vending machine route or a convenience store. A manager-serviced vending machine bank requires a Level *///* 2.5 license. A

Level *///* 3 license is for the management of vending machine banks, convenience stores, and snacks bars. A Level *///* 4 license is for the management of vending machine banks, convenience stores, snack bars, and cafeterias. A Level 5 license is for the management of military dining. The SLA shall issue a license only to those blind persons who are citizens of the United States, whom RSB certifies, as defined in subsection (2)(G), as qualified to operate a vending facility, who have successfully completed a six- (6-)/- month probationary period as an active facility manager, and who are in need of employment. *[A copy of the license follows this rule;]*

(U) "Licensee" means a blind person to whom the SLA has issued a license to operate a vending facility on federal, state, or other property[;].

(V) "Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs that pertain to the ongoing operation of an individual vending facility after the initial establishment period[;].

(W) "Manager-serviced vending machines" means vending machines for which the manager is responsible for purchase of product, filling, and maintenance of the machines. The manager receives all revenue, less administrative fees, from sales and pays all operational expenses except for repair of vending machines[;].

(X) "Net income" means operating income plus income from commissions, less administration[;].

(Y) "Nominee" means a nonprofit corporation which, through a written agreement with the SLA, acts as the agent of the SLA in providing services to vending facility managers in the BEP[;].

(Z) "Normal working hours" means an eight- (8-)/- hour work period between the approximate hours of 6:00 a.m. to 6:00 p.m., Monday through Friday[;].

(AA) "Operating income" means income from operations, less operating expenses[;].

(BB) "Other property" means property which is not federal property or state property and on which the SLA establishes or operates vending facilities by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on federal or state property[;].

(CC) "Over-the-counter sales," including "manager-serviced vending machines," mean any transaction in which a customer purchases products which a manager has procured for the purpose of resale within the vending facility[;].

(DD) "Probationary period" means the first six (6) months of active facility management by a certified graduate of the BEP training program[;].

(EE) "Property management" means a person or instrumentality that grants a permit, contract, or agreement to the SLA for the operation of a vending facility at a specific location[;].

(FF) "Set-aside funds" means funds which accrue to the nominee from all unassigned income from vending machines located on federal property and from the administrative fee that the nominee assesses against the operating income from direct sales in all vending facilities and from the administrative fee that the nominee assesses against commissions paid by vending companies on vending machine proceeds in all vending facilities in which there is a manager on-site[;].

(GG) "Snack bar" means a vending facility with limited on-site food preparation and over-the-counter sales[;].

(HH) "State property" means all real property, or part of real property, that is owned, leased, rented, or otherwise controlled or occupied by any department, agency or body of the state of Missouri, including roadside rest areas, except property of Department of Mental Health. State property does not include a building in which less than one hundred (100) state employees are, or will be, located during normal working hours; a building in which less than fifteen thousand (15,000) square feet of interior floor space is to be used for state government purposes or in which services are to be provided to

the public; or a building that state government employees are to occupy for less than three (3) years/;.

(II) "Supplies" means items that are expendable, necessary to carry out the day-to-day operation of a vending facility, and that are used on the premises/;.

(JJ) "Unassigned income" means income that accrues to the nominee from commissions that vending companies pay on proceeds from vending machines on federal, state, and other property in which there is no on-site manager. The nominee uses these funds for manager and program benefits according to subsection (15)(D)/;.

(KK) "Vending facility" means a business that the SLA establishes for the sale of products. It may consist, exclusively or in combination, of automatic vending machines, convenience stores, snack bars, or cafeterias. A vending facility may consist of only a portion of a building, it may be comprised of one (1) or more locations within a building, and it may encompass more than one (1) building/;.

(LL) "Vending facility manager" means a blind person who has been licensed by the SLA and who has a Vending Facility Manager's Agreement. Vending facility manager is referred to in this rule as manager/;.

(MM) "Vending Facility Manager's" Agreement means a written document, entered into by the licensee, the SLA and the nominee that states the terms and conditions for the licensee to be on-site to operate a vending facility at a specific location. Vending Facility Manager's Agreement, a copy of which follows this rule, is referred to in this rule as manager's agreement/;.

(NN) "Vending machine bank" means one (1) or more coin-operated or **electronic transfer of funds** vending machines that dispense articles or services and that are located in one (1) or more locations in one (1) or more buildings that RSB designates as a vending facility. Vending machine bank does not mean those machines that are operated by the United States Postal Services for the sale of postage stamps or other postal products and services, or machines located on federal property that provides services of a recreational nature/; and/.

(OO) "Vending machine income" means proceeds from vending machine operations on federal, state, or other property where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, Missouri, or other public or private entity. Vending machine income also includes commissions that a commercial vending company pays to the nominee on proceeds from vending machines that the commercial vending company operates, services, and maintains on federal, state, or other property for, or with the approval of, a department, agency, or instrumentality of the United States, the state of Missouri, or other public or private entity.

(8) Vending Facility Manager Training. RSB shall train a vending facility manager through the following procedures:

(D) Manager Training Requirements. Training for a Level *II* 1 license consists of orientation to the BEP and on-the-job training. Training for a Level *III* 2, Level *III* 3, or Level *IV* 4 license consists of orientation to the BEP, academic course work, and on-the-job training. **Training for a Level 5 license consists of a customized training for any Level 4 manager who has recently been awarded a military dining location, on all aspects of contract management for military dining.** The manager who provides on-the-job training for a trainee shall complete a Trainee Evaluation Report, a copy of which follows this rule.

1. The deputy director, with the concurrence of the executive committee, may waive a portion of training for those persons who have prior education, training or experience in food service operations. Regardless of prior education, training or experience, all Level *II* 1 trainees shall have a minimum of two (2) weeks BEP training and all Level *III* 2, Level *III* 3, or Level *IV* 4 trainees shall have a minimum of four (4) weeks BEP training. If the deputy director does not waive a portion of the training, Level *II* 1 training is a minimum of eight (8) weeks, Level *III* 2 is a minimum of sixteen (16) weeks, Level *III* 3 training is a minimum of eighteen (18) weeks,

and Level *IV* 4 training is a minimum of twenty-six (26) weeks.

2. When a trainee successfully completes all training, RSB will award to the trainee a Certificate of Training that certifies the person is qualified to be licensed as a vending facility manager. The Certificate of Training states the level for which the trainee is eligible to be licensed. Level *III* 2, Level *III* 3, and Level *IV* 4 trainees must attain a minimum score of seventy-two percent (72%) on the final exam to be eligible for licensure.

3. A certified graduate, upon assuming management of a facility, shall begin a six- (6-)/- month probationary period. During the probationary period, the probationary manager will receive insurance benefits normally associated with the BEP, but shall not be licensed until the probationary period has been completed. During the probationary period, a bond will be secured through established BEP procedures. If bondability cannot be achieved, the probationary manager will be terminated from the program. When the probationary period has been successfully completed and bond has been secured, the probationary manager will be issued a license. The license shall be retroactive, to include the probationary period and will establish eligibility for full benefits.

4. The deputy director may require an evaluation or additional training, or both, for any active manager whom RSB determines is not performing at a satisfactory level. The deputy director may require the manager to undergo comprehensive assessment of compensatory skills, and, or medical examinations, including visual and psychological, that the deputy director considers necessary in order to determine the manager's ability to continue management of a vending facility.

(11) Operation of a Vending Facility. The SLA, RSB, nominee, and each manager shall follow these procedures regarding the operation of a vending facility.

(D) Any person who is licensed as a Level *III* 2, Level *III* 3, *or* Level *IV* 4, or Level 5 manager after July 1, 1990, shall obtain recertification in the Applied Food Service Sanitation course every five (5) years. Any person who manages a Level *III* 2, Level *III* 3, *or* Level *IV* 4, or Level 5 facility in a municipality that requires certification in the Applied Food Service Sanitation course shall obtain recertification every five (5) years, regardless of the date the SLA licensed the person.

(G) RSB shall conduct a bimonthly on-site inspection of each vending facility to insure it is being managed according to the requirements of 34 CFR 395, section 8.051, RSMo, sections 8.700/-/8.745, RSMo and this rule. The findings of the inspection shall be recorded on the Review of Facility (ROF) form, a copy of which follows this rule. A score of less than *[eighty-five percent (85%)] two point seven-five (2.75)* on the ROF may require remedial training.

(W) Each manager shall maintain minimum levels of net profit from sales of nineteen percent (19%) for a Level *III* 2 facility, fourteen percent (14%) for a Level *III* 3 facility, and ten percent (10%) for a Level *IV* 4 facility. The maximum percent of merchandise costs shall not exceed seventy-two percent (72%) for a Level *III* 2 facility, fifty-eight percent (58%) for a Level *III* 3 facility, and fifty-two percent (52%) for a Level *IV* 4 facility.

(16) Termination of License or Manager's Agreement. The SLA may terminate a license or manager's agreement.

(A) Reasons for Termination of License or Manager's Agreement. Any of the following situations is sufficient reason for the SLA to terminate a manager's license or manager's agreement:

1. Willful or malicious destruction of, or failure to exercise reasonable and necessary care of, vending facility equipment;
2. Failure to operate the vending facility according to federal, state, or municipal law, this rule, or the terms of any permit or contract that governs the operation of the vending facility;
3. Falsification of reports or documents that are required by RSB;
4. Failure to report all sales and vending revenues on the

Manager's Weekly Report;

5. Failure to provide all sales and cost documentation, weekly, as required by RSB;

6. Failure to maintain a minimum acceptable rating of *[eighty five percent (85%)] two point seven-five (2.75)*, as established by the executive committee and RSB, on the Review of Facility Report, a copy of which follows this rule[:];

7. Abandonment of vending facility, which occurs when the manager is absent from a vending facility without arranging for the ongoing operation of the vending facility;

8. Failure to pay a legally enforceable debt of the manager that arises from the operation of the vending facility;

9. Failure to pay the amount owed to the SLA and the nominee, as stated in subsection (11)(Q);

10. Failure to comply with the nondiscrimination policy that is stated in section (3);

11. Loss of visual eligibility to participate in the BEP. The licensee shall notify RSB when there is a change in the licensee's vision that may affect eligibility to participate in the BEP. In order to verify a licensee's continued eligibility, RSB may require a manager to have periodic examinations by an eye care specialist that RSB selects. The cost of these examinations will be borne by the BEP;

12. Use of or being under the influence of an intoxicant or illegal drug while in a vending facility;

13. Conviction of a felony;

14. RSB determines that, due to mismanagement, a manager is not operating a vending facility profitably;

15. Failure to make or provide proof of having made the required deposits when due for employee withholdings for income taxes and Social Security and employer matching withholdings for Social Security;

16. Failure to provide thirty (30) days written advance notification of termination, unless RSB agrees to a shorter notification; and

17. In addition to the reasons stated in paragraphs (16)(A)1.—16., the SLA may terminate a manager's agreement if problems exist between a manager and property management; RSB, manager, and property management are unable to resolve the problems; the manager does not resign from managing the facility, and the SLA considers it to be in the best interest of that facility and the BEP for the manager to be removed as manager of the facility.

[(19) Forms Used in Administration of the BEP. RSB and the nominee shall use the following forms to administer the BEP:

(A) Certificate of Training;

(B) License;

(C) Vending Facility Manager's Agreement;

(D) Training Evaluation Report;

(E) Review of Facility;

(F) Promisory Note;

(G) Manager's Weekly Report;

(H) Vending Facility Payroll Report; and

(I) Monthly Operating Statement.]

AUTHORITY: sections 8.051, 8.700–8.745, 207.010, [207.020,] 207.022, 209.010, [and] 209.020, and 660.017, RSMo [1994] 2016. Original rule filed Oct. 6, 1977, effective Jan. 13, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 91—Rehabilitation Services for the Blind (RSB)**

PROPOSED AMENDMENT

13 CSR 40-91.030 Prevention of Blindness Program. The division is amending section (1).

PURPOSE: This amendment adds terminology to reflect Missouri residency as part of eligibility criteria, and updates the name of the division. These changes do not affect the rule itself, but rather offer clarification on who this pertains to and where the program resides.

(1) Prevention of Blindness Program. This program meets the cost of eye care for *[persons]* Missouri residents of all ages who meet visual eligibility requirements outlined in subsection (1)(A) and financial eligibility requirements outlined in subsection (1)(B).

(E) Fees for Service. Total payment or eye care authorized by Prevention of Blindness will not exceed fees established by the *[Division of Family Services]* Family Support Division.

AUTHORITY: sections [207.010, 207.020, 209.010 and 209.020,] 207.022 and 660.017, RSMo [1994] 2016. Original rule filed Aug. 11, 1978, effective Nov. 11, 1978. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 18, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.100 Filing of Claims, MO HealthNet Program. The division is amending sections (2) and (6).

PURPOSE: This proposed amendment updates the date in which a manual is incorporated by reference and clarifies the timely filing limitation for submission or resubmission of adjustments of paid claims by MO HealthNet providers.

(2) Specific claims filing instructions are modified as necessary for

efficient and effective administration of the program as required by federal or state law or regulation. *[Reference the appropriate MO HealthNet provider manual, provider bulletins, and claim filing instructions for specific claim filing instructions information, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd, September 15, 2009. This rule does not incorporate any subsequent amendments or additions.]* For specific claim filing instructions information, reference the appropriate:

(A) MO HealthNet provider manual, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions;

(B) Provider Bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dss.mo.gov/mhd/providers/pages/bulletins.htm>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions; or

(C) Forms, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/presentation/forms.jsp>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions.

(6) Time Limit for Filing an Adjustment. Adjustments to a paid claim must be filed within twenty-four (24) months from the date of *[the remittance advice on which payment was made. If an adjustment processed within the twenty-four (24) months from the date of the remittance advice limitation necessitates filing a corrected claim, the timely filing limit for resubmitting the corrected claim is limited to ninety (90) days from the date of the remittance advice indicating recoupment, or twelve (12) months from the date of service, whichever is longer]* service.

AUTHORITY: sections 208.153 *[and]*, 208.201, and 660.017, RSMo *[Supp. 2008]* 2016. This rule was previously filed as 13 CSR 40-81.070 and 13 CSR 40-81.071. Original rule filed June 2, 1976, effective Oct. 11, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 4—Conditions of Participant Participation,
Rights and Responsibilities**

PROPOSED AMENDMENT

13 CSR 70-4.051 [Copayment] Shared Dispensing Fee for Pharmacy Services. The division is amending the title of the rule, the purpose, and sections (1)–(8).

PURPOSE: *The purpose of this amendment is to update the rule to reflect current terminology and exemptions.*

PURPOSE: *This rule establishes the regulatory basis for the [Medicaid] MO HealthNet requirement of eligible [recipient copayment] participant shared dispensing fee when receiving covered pharmacy services.*

(1) All *[Medicaid-eligible recipients]* MO HealthNet eligible participants shall be responsible for *[a copayment]* paying a shared dispensing fee to the pharmacy upon receipt of each original or refilled prescription of a *[Medicaid] MO HealthNet*-covered drug unless the service is exempted under provisions of section (2). *[Copayment] Shared dispensing fee responsibility and amounts collectible shall be as follows:*

<i>[Medicaid] MO HealthNet Maximum Allowable Amount for Each Item of Service</i>	<i>[Recipient Copayment Amount] Participant Shared Dispensing Fee</i>
\$10.00 or less	\$0.50
\$10.01–\$25.00	\$1.00
\$25.01 or more	\$2.00

[The Medicaid maximum allowable amount for each item of service is the lesser of the providers billed charge or the price(s) in the drug pricing file 13 CSR 70-20.070(3).]

(2) Services exempted from the copayment requirement for drugs are—

(A) Services to *[recipients]* participants under nineteen (19) years of age;

(B) Services to *[recipients]* participants residing within a skilled nursing home, an intermediate care nursing home, a residential care home, an adult boarding home, or a psychiatric hospital;

(C) Those drugs specifically identified as relating to family planning services *[(oral contraceptives)]*;

(D) Those drugs which are prescribed and identified as relating to an Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program screening or referral service; *[and]*

(E) Those drugs prescribed for foster care children*[/]*;

(F) Emergency services in an outpatient clinic or emergency room;

(G) Services provided to pregnant women which are directly related to the pregnancy or a complication of the pregnancy; and

(H) Services provided to eligible MO HealthNet participants who receive Aid to the Blind.

(3) Those drugs which are exempt from the requirement of *[copayment] a shared dispensing fee* as related to an EPSDT screening or referral service must be confirmed as such to the dispenser through one (1) of the following methods:

(4) Providers of service may not deny or reduce services otherwise eligible for *[Medicaid] MO HealthNet* benefits on the basis of the *[recipient's]* participant's inability to pay the due *[copayment] shared dispensing fee* amount when charged.

(5) A [recipient's] participant's inability to pay a required [copayment] shared dispensing fee amount, as due and charged when a service is delivered, shall in no way extinguish the [recipient] participant liability to pay the due amount.

(6) Providers of service must collect [copayment] the shared dispensing fee as specified in accordance with section 208.152, RSMo. Participation privileges in the [Medicaid] MO HealthNet program shall be limited to providers who accept, as payment in full, the amounts paid by the state agency plus any [copayment] shared dispensing fee amount required of the [recipient] participant and collected or collectible as charged by the provider.

(7) Providers must maintain records of [copayment] shared dispensing fee amounts for five (5) years and must make these records available to the Department of Social Services upon request.

(8) The computation and application of the required [copayment] shared dispensing fee, as it applies to all [nonexempt Medicaid] nonexempt MO HealthNet-covered drug prescriptions, shall be performed by the provider dispensing the covered [Medicaid] drug. No alterations or changes are to be made to claims by providers which reflect the collection or application of the required [copayment] shared dispensing fee amount.

AUTHORITY: sections [208.152,] 208.153 and 208.201, RSMo [1994] 2016, and section 208.152, RSMo Supp. 2018. This rule was previously filed as 13 CSR 40-81.055. Original rule filed April 14, 1982, effective July 11, 1982. Amended: Filed Oct. 13, 1983, effective Jan. 13, 1984. Amended: Filed May 15, 2000, effective Nov. 30, 2000. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)22.

PURPOSE: This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of seven dollars and seventy-six cents (\$7.76) effective for dates of service beginning July 1, 2018. This per diem increase is contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the

limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in

effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June 30, 2004, of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78); and

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents (\$3.17) to improve the quality of life for nursing facility residents; and

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents (\$3.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six

dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents (\$5.50) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

15. FY-2012 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on October 1, 2011, shall be granted an increase to their per diem rate effective for dates of service beginning October 1, 2011, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of September 30, 2011, and is effective for dates of service beginning October 1, 2011; and

C. This increase is contingent upon the federal assessment rate limit increasing to six percent (6%) and is subject to approval by the Centers for Medicare and Medicaid Services.

16. FY-2013 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their per diem rate effective for dates of service/s/ beginning July 1, 2012, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2012, and is effective for dates of service beginning July 1, 2012; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

17. FY-2014 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2013, shall be granted an increase to their per diem rate effective for dates of service/s/ beginning July 1, 2013, of three percent (3.0%) of their current rate, less certain fixed cost items. The fixed cost items are the per diem amounts included in the facility's current rate from the following: subsection (2)(O) of 13 CSR 70-10.110, paragraphs (11)(D)1., (11)(D)2., (11)(D)3., (11)(D)4., (13)(B)3., and (13)(B)10. of 13 CSR 70-10.015;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2013, and is effective for dates of service beginning July 1, 2013; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

18. FY-2015 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2014, shall be granted an increase to their per diem rate effective for dates of service/s/ beginning July 1, 2014, of one dollar and twenty-five cents (\$1.25) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2014, and is effective for dates of service beginning July 1, 2014; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

19. January 1, 2016 – June 30, 2016 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on January 1, 2016, shall be granted an increase to their per diem rate effective for dates of service/s/ beginning January 1, 2016, of two dollars and nine cents (\$2.09) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment will not be added to the facility's rate

after June 30, 2016; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services and sufficient funding available through the Tax Amnesty Fund.

20. Continuation of FY-2016 trend adjustment and FY-2017 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall continue to be granted an increase to their per diem rate effective for dates of service beginning July 1, 2016, of two dollars and nine cents (\$2.09);

B. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall be granted an increase to their per diem rate effective for dates of service/s/ beginning July 1, 2016, of two dollars and eighty-three cents (\$2.83) to allow for a trend adjustment to ensure quality nursing facility services;

C. The trend adjustment of two dollars and eighty-three cents (\$2.83) shall be added to the [facility's] facilities' rate as of June 30, 2016, which includes the two dollars and nine cents (\$2.09) increase, and is effective for dates of service beginning July 1, 2016; and

D. These increases are contingent upon approval by the Centers for Medicare and Medicaid Services.

21. FY-2018 per diem adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2017, shall be subject to a decrease in their per diem rate effective for dates of service/s/ August 1, 2017 through June 30, 2018, of five dollars and thirty-seven cents (\$5.37);

B. The per diem adjustment of five dollars and thirty-seven cents (\$5.37) shall be deducted from the facility's current rate as of July 31, 2017, and is effective for dates of service beginning August 1, 2017;

C. Effective for dates of service beginning July 1, 2018, the per diem decrease shall be reduced to four dollars and eighty-three cents (\$4.83). A per diem adjustment of fifty-four cents (\$0.54) shall be added to the facilities' current rate as of June 30, 2018, which includes the five dollars and thirty-seven cents (\$5.37) decrease, and is effective for dates of service beginning July 1, 2018; and

D. This decrease is contingent upon approval by the Centers for Medicare and Medicaid Services.

22. FY-2019 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2018, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2018, of seven dollars and seventy-six cents (\$7.76) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2019 trend adjustment of seven dollars and seventy-six cents (\$7.76) shall be added is the facilities' rate as of July 1, 2018 set forth in subparagraph (3)(A)21.C. and is effective for dates of service beginning July 1, 2018. This trend adjustment shall result in a rate no greater than eight dollars and thirty cents (\$8.30) higher than the rate in effect on January 1, 2018; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

AUTHORITY: sections 208.153, 208.159, [and] 208.201, and 660.017, RSMo 2016. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 28, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$72,435,465 in SFY 2019.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
- Division Title:** Division 70 - MO HealthNet Division
- Chapter Title:** Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated Cost for SFY 2019 = \$72,435,465
Non-State Government Owned Nursing Facilities (49)	No estimated costs of compliance for SFY 2019.

III. WORKSHEET

Description	Nursing Facility Rate Increase	Impact on Hospice for Services Provided in NFs	Total Impact
Estimated Paid Days – SFY 2019	8,697,776	670,383	
Per Diem Increase – Effective July 1, 2018	\$7.76	\$7.37	
Estimated Impact – SFY 2019	\$ 67,494,742	\$ 4,940,723	\$ 72,435,465
State Share (34.797%)	\$ 23,486,145	\$ 1,719,223	\$ 25,205,368
Federal Share (65.203%)	\$ 44,008,597	\$ 3,221,500	\$ 47,230,097

IV. ASSUMPTIONS

Non-State Government Owned Nursing Facilities (49): This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of seven dollars and seventy-six cents (\$7.76) effective for dates of service beginning July 1, 2018. There are no costs of compliance to Medicaid enrolled non-state government owned nursing facilities.

Hospice: Hospice providers will be impacted by this regulation. MHD conducted a fiscal analysis using 13 CSR 70-50.010 to estimate the impact to hospice. Any payments to hospice providers as a result of this regulation would be subject to appropriation authority.

The per diem increase of \$7.76 to the nursing facility rate effective for dates of service beginning July 1, 2018 computes to an increase to hospice reimbursement rates resulting from this amendment of \$7.37 (\$7.76 x 95%).

Department of Social Services, MO HealthNet Division: The above impact to DSS, MIID was calculated using the following assumptions:

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2019 for nursing facilities are based on the Medicaid days paid for nursing facility services during SFY 2018 decreased by 0.37% for SFY 2019.

Hospice:

The estimated paid days for SFY 2019 for hospice are based on the actual hospice days provided in nursing facilities from January 2017 through December 2017.

Impact on Home and Community Based Services (HCBS):

HCBS provided on a monthly basis are limited to a percentage of the average monthly nursing facility payment (referred to as the HCBS cost cap). The HCBS cost cap for a given SFY is based on the average monthly nursing facility payments for the 12 months ending in April of the previous SFY. Therefore, the per diem increase of \$7.76 to the nursing facility rate effective for dates of service beginning July 1, 2018 will not impact the HCBS cost cap for SFY 2019 but may impact the HCBS cost cap for SFY 2020. The HCBS cost cap is estimated to increase in SFY 2020 by 5.6%. This may increase the amount of services available to participants.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.031 List of [Excludable] Drugs for Which Prior Authorization Is Required and Drugs Excluded from Coverage Under the MO HealthNet Pharmacy Program. The department is amending the title, purpose statement, and section (3), and adding section (4).

PURPOSE: The purpose of this amendment is to incorporate 13 CSR 70-20.032 and 13 CSR 70-20.034 into this rule.

PURPOSE: This rule establishes a listing of [excludable] drugs and categories of drugs for which prior authorization is required in order for them to be reimbursable and for which reimbursement is not available under the MO HealthNet Pharmacy Program.

(3) List of drugs or categories of [excludable] drugs for which [are restricted to require] prior authorization is required for certain specified indications, and those which are excluded from reimbursement through the MO HealthNet Pharmacy Program shall be made available through [the Department of Social Services, MO HealthNet Division website at dss.mo.gov/mhd, provider bulletins, and updates to the provider manual which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website, October 15, 2013. This rule does not incorporate any subsequent amendments or additions.]—

(A) MO HealthNet provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions;

(B) Provider Bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dss.mo.gov/mhd/providers/pages/bulletins.htm>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions; or

(C) Forms, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/presentation/forms.jsp>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions.

(4) The division reserves the right to affect changes in the list of [excludable] drugs for which prior authorization is required and for which reimbursement is not available by amending this rule.

AUTHORITY: sections 208.153 [and], 208.201, and 660.017, RSMo [Supp. 2013] 2016. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED RESCISSION

13 CSR 70-20.034 List of Non-Excludable Drugs for Which Prior Authorization Is Required. This rule established a listing of non-excludable drugs and categories of drugs for which prior authorization is required in order for them to be reimbursable under the MO HealthNet Pharmacy Program.

PURPOSE: This rule is being rescinded because this information is duplicated in 13 CSR 70-20.031.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2008. Emergency rule filed Nov. 21, 2000, effective Dec. 1, 2000, expired May 29, 2001. Original rule filed June 29, 2000, effective Feb. 28, 2001. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Sept. 27, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.340 National Drug Code Requirement. The department is removing sections (1) and (2), renumbering the remaining sections, and amending sections (3) and (6).

PURPOSE: This amendment removes the NDC requirement exemption for 340B providers, removes section (2) as this is duplicate information found in 13 CSR 70-20.030 and removes contrast materials from section (8).

[(1) Claims from 340B health care facilities for outpatient hospital covered are exempt from the NDC requirement in this rule so long as those claims utilize a valid J-Code (not a dump code) and comply with all other applicable state and federal laws.

(2) All drug products produced by manufacturers that have entered into a rebate agreement with the Federal Government are reimbursable under the MHD Pharmacy Program, with the exception of Drug Efficacy Study Implementation (DESI) drugs and drugs specified in Section 13, "Benefits and Limitations," in the Pharmacy Manual. The MHD Pharmacy Manual can be found on the MHD website at: http://manuals.momed.com/collections/collection_pha/print.pdf. A list of manufacturers that have entered into a rebate agreement with the Federal Government (along with the Labeler Code which is the first five (5) digits of the NDC number by which products may also be identified), can be found on the Centers for Medicare and Medicaid Services (CMS) website, in Drug Manufacturer Contact Information at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Medicaid-Drug-Rebate-Program.html>. Products for which the Labeler Code is not included on the list are not reimbursable under the MHD Pharmacy Program.]

[(3)](1) Drug charges submitted by providers on an electronic Professional or Institutional ASC X12 837 Health Care claim transaction or manually entered on a medical or outpatient claim into MHD's billing website eMOMED (www.emomed.com), are to be billed with a valid J-Code and a valid NDC for each medication, including injections, provided to the participant. Medical or outpatient claim lines submitted with a J-Code without the corresponding NDC will be denied. For medical or outpatient claims correctly submitted with the appropriate J-Code and the corresponding NDC, the system will automatically generate a separate drug claim for the NDC to process as a pharmacy claim, and will appear as a separate claim on your Remittance Advice. The corresponding line with J-Code and NDC will be dropped from the medical or outpatient claim. If an NDC is not provided, the J-Code will remain on the claim to report the denied line. If the drug being provided does not have a J-Code associated with it, the appropriate Healthcare Common Procedure Coding System (HCPCS) procedure code should be submitted with an NDC. For drugs without a valid HCPCS procedure code, revenue code 0250 "General Classification: Pharmacy" must be used with the appropriate NDC. Only drugs and items used during outpatient care in the hospital are covered. Take-home medications and supplies are not covered by MHD under the Hospital Program.

[(4)](2) A critical component to submitting claims with an NDC is to ensure that the appropriate HCPCS procedure code is billed with each NDC. To ensure accurate billing of drug charges, MHD will use the Noridian Crosswalk (www.dnmpdac.com) to determine whether the appropriate HCPCS procedure code is billed for the submitted NDC. Claims will be denied if the NDC submitted is not valid for the HCPCS procedure code submitted.

[(5)](3) Effective for dates of service on or after April 1, 2016, the MO HealthNet Division (MHD) will require the National Drug Code (NDC) for all medications administered in the clinic or outpatient hospital setting, to comply with federal law. MHD must collect the eleven- (11-) digit NDC on all outpatient drug claims submitted to MHD from all providers for rebate purposes in order to receive federal financial participation. Providers [will be] are required to submit their claims with the exact NDC that appears on the product dispensed or administered to receive payment from MHD. The NDC is found on the medication's packaging and must be submitted in the five (5) digit - four (4) digit - two (2) digit format. If the NDC does not appear in the five (5) digit - four (4) digit - two (2) digit format on the packaging, zero(s) (0) may be entered in front of the section that does not have the required number of digits.

[(6)](4) All drug claims shall be routed through an automated computer system to apply edits specifically designed to ensure effective

drug utilization. The Preferred Drug List (PDL) and clinical edits are designed to enhance patient care and optimize the use of program funds through therapeutically prudent use of pharmaceuticals. The edits are based on evidence-based clinical criteria and nationally recognized peer-reviewed information. This clinical information is paired with fiscal evaluation and then developed into a therapeutic class PDL recommendation. The PDL process incorporates clinical edits, including step therapies, into the MHD pharmacy program. Claims for drugs will automatically and transparently be approved for those patients who meet any of the system approval criteria. For those patients who do not meet the system approval criteria, the drugs will require a call to the MHD Drug Prior Authorization hotline at (800) 392-8030 to initiate a review and potentially authorize payment of claims. Providers may also use the CyberAccess tool to prospectively determine if a drug is a preferred agent or requires edit override, electronically initiate an edit override review, and to review a participant's MHD paid claim history.

[(7)](5) The quantity to be billed for injectables and other types of medications dispensed to MHD participants must be calculated as follows:

(A) Containers of medication in solution (for example, ampoules, bags, bottles, vials, syringes) must be billed by exact cubic centimeters or milliliters (cc or mL) dispensed, even if the quantity includes a decimal (e.g., if three (3) 0.5 mL vials are dispensed, the correct quantity to bill is 1.5 mL);

(B) Single dose syringes and single dose vials must be billed per cubic centimeters or milliliters (cc or mL), rather than per syringe or per vial;

(C) Ointments must be billed per number of grams even if the quantity includes a decimal;

(D) Eye drops must be billed per number of cubic centimeters or milliliters (cc or mL) in each bottle even if the quantity includes a decimal;

(E) Powder filled vials and syringes that require reconstitution must be billed by the number of vials;

(F) Combination products, which consist of devices and drugs, designed to be used together, are to be billed as a kit. Quantity will be the number of kits used;

(G) The product Herceptin, by Genentech, must be billed by milligram rather than by vial due to the stability of the drug; and

(H) Non-Vaccines for Children (VFC) Immunizations and vaccines must be billed by the cubic centimeters or milliliters (cc or mL) dispensed, rather than per dose.

[(8)](6) [Contrast materials and r]Radiopharmaceuticals used in radiologic procedures may be billed separately using the appropriate HCPCS code and/or the NDC representing the materials or agent used in the procedure. If available, MHD would prefer the NDC for reporting purposes. If the material or agent used does not have an NDC, the appropriate HCPCS code alone is acceptable. All HCPCS codes for [contrast materials and] radiopharmaceuticals are manually priced and must be billed with the manufacturer's invoice of cost attached to the claim.

AUTHORITY: sections [208.153 and] 208.201 and 660.017, RSMo [Supp. 2013] 2016. Emergency rule filed June 19, 2015, effective July 1, 2015, expired Dec. 28, 2015. Original rule filed July 1, 2015, effective Feb. 29, 2016. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 26—Federally-Qualified Health Center Services**

PROPOSED AMENDMENT

13 CSR 70-26.010 MO HealthNet Program Benefits for Federally-Qualified Health Center Services. The division is amending sections (2), (3), (4), and (5) and adding section (6).

PURPOSE: This rule is being amended to reflect the current cost report form and related worksheet, provide an exemption to the cost report filing requirements, and to clarify documentation and record retention requirements, interim payments, and final settlements.

(2) General Principles.

(C) Reasonable costs shall be apportioned to the MO HealthNet program based on a ratio of covered charges for [beneficiaries] MO HealthNet participants to total charges. Charges mean the regular rate for various services which are established uniformly for both MO HealthNet participants and other patients. MO HealthNet charges shall include MO HealthNet managed care charges for covered services.

(D) An FQHC shall submit a MO HealthNet cost report in the manner prescribed by the state MO HealthNet agency. [The cost report and cost report instructions are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, August 1, 2011. This rule does not incorporate any subsequent amendments or additions.] The cost report shall be submitted within five (5) months after the close of the FQHC's reporting period. [A single] An extension[, not to exceed thirty (30) days,] may be granted upon the request of the FQHC and the approval of the MO HealthNet Division [when the provider's operation is significantly affected due to extraordinary circumstances over which the provider had no control, such as fire or flood] with an agreed upon date of completion. The request must be in writing and post-marked prior to the first day of the sixth month following the FQHC's fiscal year end.

1. An FQHC may be exempt from filing a Missouri Medicaid Title XIX Cost Report if MO HealthNet reimbursement is twenty-five thousand dollars (\$25,000) or less for the facility's reporting period. The facility must submit a request to the division to waive the cost report filing requirement within five (5) calendar months after the close of the facility's reporting period. To request an exemption for the cost report filing requirement, the following information must be submitted to the division for review and approval:

A. A Low or No Missouri Medicaid Utilization Waiver Request Form. This form may be obtained from the division. The form must be fully completed and signed by an officer or administrator; and

B. Worksheet S series of the Medicare Cost Report. The Worksheet S must be completed and signed by an officer or administrator.

(G) Records.

1. Maintenance and availability of records.

A. A provider must keep records in accordance with generally accepted accounting principles (GAAP) and maintain suf-

ficient internal control and documentation to satisfy audit requirements and other requirements of this rule, including reasonable requests by the division or its authorized agent for additional information.

B. Adequate documentation for all line items on the cost report shall be maintained by a provider. Upon request, all original documentation and records must be made available for review by the division or its authorized agent at the same site at which the services were provided. Copies of documentation and records shall be submitted to the division or its authorized agent upon request.

C. Records of related organization, as defined by 42 CFR 413.17, must be available upon demand.

D. The division shall retain all uniform cost reports submitted by the FQHCs for seven (7) years after the final settlement relating to a cost report is finalized, including the resolution of any subsequent appeals or other administrative actions pertaining to the cost report.

E. Each facility shall retain all financial information, data, and records relating to the operation and reimbursement of the facility for seven (7) years after the final settlement relating to a cost report is finalized, including the resolution of any subsequent appeals or other administrative actions pertaining to the cost report, and shall maintain those reports pursuant to the record-keeping requirements of 42 CFR 413.20.

2. Adequacy of records.

A. The division may suspend reimbursement or reduce payments to the appropriate fee schedule amounts if it determines that the FQHC does not maintain records that provide an adequate basis to determine payments under MO HealthNet.

B. A suspension or reduction will continue until the FQHC demonstrates, to the division's satisfaction, that it has an ongoing and current process in place to ensure the maintenance of adequate records.

(H) Audits.

1. Any cost report submitted may be subject to field audit by the division or its authorized agent.

2. A provider shall have available at the field audit location one (1) or more knowledgeable persons authorized by the provider and capable of explaining the provider's accounting and control system and cost report preparation, including all attachments and allocations.

3. If a provider maintains any records or documentation at a location which is not the same as the site where services were provided, the provider shall transfer the records to the same facility at which the services were provided, or the provider must reimburse the division or its authorized agent for reasonable travel costs necessary to perform any part of the field audit in any off-site location, if the location is acceptable to the division.

(I) Change in Provider Status. The next payment due the provider after the division has received the notification of the termination of participation in the MO HealthNet program or change of ownership may be held by the division until the cost report is filed. Upon receipt of a cost report prepared in accordance with this rule, the payments that were withheld will be released.

(3) Nonallowable Costs. Any costs which exceed those determined in accordance with the Medicare cost reimbursement principles set forth in 42 CFR Part 413 are not allowable in the determination of a provider's total reimbursement. [42 CFR Part 413 (Revised as of October 1, 2010), incorporated by reference in this rule, is published by the U.S. Government Printing Office; for sale by the Superintendent of Documents, U.S. Government Printing Office; Internet: bookstore.gpo.gov; telephone toll free 1-866-512-1800; Washington, DC area 202-512-1800; fax 202-512-2250; mail: Stop SSOP, Washington, DC 20401-0001. The rule does not incorporate any subsequent amendments or additions.] In addition, the following items

specifically are excluded in the determination of a provider's total reimbursement:

(A) Grants, gifts, and income from endowments will be deducted from total operating costs, with the following. [e]Exceptions[:]-

1. Grants awarded **directly to an FQHC** by federal government agencies, such as the Health Resources and Services Administration (HRSA) and Public Health Service, *directly to an FQHC*;

2. Grants received by an FQHC from the Missouri Primary Care Association (MPCA) in accordance with contractual agreements between the MO HealthNet Division and MPCA;

3. Grants to FQHCs for covered services provided to uninsured patients resulting in uninsured FQHC charges that are included on Worksheet 2 of the MO HealthNet Division FQHC cost report;

4. Grants or incentive payments, for the meaningful use of electronic health records (EHR) systems which are either paid directly to FQHCs or assigned to FQHCs by their performing providers, for the meaningful use of electronic health records (EHR) systems; and

5. Payments to FQHCs for participation in MO HealthNet Division Medical Home initiatives.

(4) Interim Payments.

(A) FQHC services shall be reimbursed on an interim basis up to *[ninety-seven percent (97%)]* **ninety-two percent (92%)** of charges for covered services billed to the MO HealthNet program. Interim billings will be processed in accordance with the claims processing procedures for the applicable programs.

(B) An FQHC *[in]* **contracted with a MO HealthNet managed care [region] health plan** shall be eligible for supplemental reimbursement of up to *[ninety-seven percent (97%)]* **ninety-two percent (92%)** of managed care charges. *[This] The supplemental reimbursement shall make up the difference between [ninety-seven percent (97%) of] what the FQHC would have been paid by the division based on the FQHC's managed care charges for a reporting period[,] and payments made to the FQHC during the reporting period by the managed care health plans [to the FQHC] for covered services rendered to managed care [patients during that period] participants as set forth in the Managed Care contract.* The supplemental reimbursement shall occur pursuant to the schedule agreed to by the division and the FQHC, but shall occur no less frequently than every four (4) months. Supplemental reimbursement shall be requested by the FQHC on forms provided by the division. Supplemental reimbursement for managed care charges shall be considered interim reimbursement of the FQHC's MO HealthNet costs.

(5) Final Settlement.

(A) An annual desk review will be completed following submission of the FQHC's Medicaid cost report. **The total reimbursement amount due the FQHC for covered services furnished to MO HealthNet participants is based on the allowable costs from the Medicaid cost report.** The MO HealthNet Division will make an additional payment to the FQHC when the allowable reported MO HealthNet costs exceed interim payments made for the cost-reporting period. The FQHC must reimburse the division when its allowable reported MO HealthNet costs for the reporting period are less than interim payments.

(D) Notification of Final Settlement.

*[(D)]*1. The division will notify an FQHC by letter of a cost report **final settlement** after completion of the division's cost report desk review. **The division's notification letter will include the desk review which details the adjustments the division made to the facility's cost report, the calculation of the final settlement, and a Settlement Agreement, which the facility will sign and return to the division indicating it agrees with the final settlement calculation. The division's written notice to the FQHC shall indicate if the final settlement results in the following:**

A. Underpayments. If the total reimbursement due the FQHC exceeds the interim payments made for the reporting period, the division makes a lump-sum payment to the FQHC to

bring total payments into agreement with total reimbursement due the FQHC; and

B. Overpayments. If the total interim payments made to an FQHC for the reporting period exceed the total reimbursement due the FQHC for the period, the division arranges with the FQHC for repayment of the overpayment either by having it offset against the FQHC's subsequent interim payments, having the FQHC repay by sending the division a payment, or a combination of offset and payment.

2. The FQHC shall review the division's notification letter and attachments and *[shall]* respond with *[an acceptance of]* a signed **Settlement Agreement indicating it has accepted the final settlement** within fifteen (15) calendar days *[from receipt of the cost report] of receiving the final settlement letter.* If the FQHC believes revisions to the division's desk review and/or *[cost] final settlement* are necessary before it can accept *[a cost] the settlement*, it must submit additional, amended, or corrected data within the fifteen- (15-)-day deadline. Data received from the FQHC after the fifteen- (15-)-day deadline *[will] may not be considered by the division [for desk review and cost settlement] in determining if revisions to the final settlement are needed* unless the FQHC requests and receives, *prior to the end of the fifteen (15)-day deadline,* an extension for submitting additional information **prior to the end of the fifteen- (15-) day deadline.** If the fifteen- (15-)-day deadline passes without a response from the provider, the division will proceed with *[the cost report] processing the final settlement as [stated] set forth* in the division's notification letter, and the *[cost report] final settlement* shall be deemed final. The division *[will] may not accept an amended cost report or any other additional information to revise the cost report or final settlement after the [finalization of the cost report] final settlement is finalized.*

(6) Payment Assurance.

(A) The state will pay each FQHC, which furnishes the services in accordance with the requirements of the state plan, the amount determined for services furnished by the FQHC according to the standards and methods set forth in the regulations implementing the FQHC Reimbursement Program.

(B) FQHC services provided for those participants having available Medicare benefits shall be reimbursed by MO HealthNet to the extent of the coinsurance and deductible as imposed under Title XVIII.

(C) Where third-party payment is involved, MO HealthNet will be the payer of last resort.

(D) Regardless of changes of ownership, management, control, or leasehold interests by whatever form for any FQHC previously certified for participation in the MO HealthNet program, the division will continue to make all the Title XIX payments directly to the entity with the FQHC's current provider number and hold the entity with the current provider number responsible for all MO HealthNet liabilities.

AUTHORITY: sections [208.153 and] 208.201 and 660.017, RSMo [Supp. 2010] 2016. Emergency rule filed June 4, 1990, effective July 1, 1990, expired Oct. 28, 1990. Original rule filed June 4, 1990, effective Nov. 30, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 18, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking,

PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 30—Podiatry Program**

PROPOSED AMENDMENT

13 CSR 70-30.010 Podiatric Services Program. The division is amending section (2).

PURPOSE: This amendment makes current the rule's incorporation by reference.

(2) Payment will be made for services by podiatrists who have an agreement with the MO HealthNet Division to the extent that those services are covered under the guidelines established by the MO HealthNet Division *[and shall be included in the MO HealthNet provider manuals and bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website www.dss.mo.gov/mhd, December 1, 2008.] through—*

(A) MO HealthNet provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, September 27, 2018; or

(B) Provider Bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dss.mo.gov/mhd/providers/pages/bulletins.htm>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: sections 208.201 and 660.017, RSMo [Supp. 2008] 2016. This rule was previously filed as 13 CSR 40-81.130. Original rule filed Dec. 1, 1978, effective March 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 98—Behavioral Health Services**

PROPOSED AMENDMENT

13 CSR 70-98.015 Behavioral Health Services Program

[Documentation]. The division is amending the purpose, sections (1), (2), and (3), and removing sections (4) through (9).

PURPOSE: This amendment will eliminate separate and more restrictive documentation requirements for behavioral health services. Behavioral health services will remain subject to the adequate documentation requirements in 13 CSR 70-3.030 that apply to all MO HealthNet services.

PURPOSE: This rule establishes the regulatory basis for the *[documentation] program* requirements of *[services provided through] the MO HealthNet behavioral health services program*. *[The Health Insurance Portability and Accountability Act (HIPAA) mandates that states allow providers to bill for services using the standard current procedural terminology (CPT) code sets, however, it does not require states to add coverage for services that it does not currently cover. The MO HealthNet Division (MHD) has not added coverage of services previously not covered; however, it is redefining limitations based on standard code definitions, and clarification to MO HealthNet policy.]*

(1) Administration. The MO HealthNet behavioral health services program shall be administered by the Department of Social Services, MO HealthNet Division (MHD). The services covered and not covered and the limitations under which services are covered shall be determined by MHD and shall be included in the *MO HealthNet Behavioral Health Services Provider Manual* and *[Section 13 of] the Physician's Provider Manual*, which are incorporated by reference *[in] and made part of* this rule *[and available through] as published by* the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd November 1, 2013 <http://manuals.momed.com/manuals/>, October 1, 2018. This rule does not incorporate any subsequent amendments or additions. Behavioral health services shall include only those which are clearly shown to be medically necessary.

(2) Persons Eligible. The MO HealthNet Program pays for approved MO HealthNet *[services for]* behavioral health services when furnished within the provider's scope of practice. The participant must be eligible on the date the service is furnished. Participants may have specific limitations for behavioral health services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a participant based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's MO HealthNet and managed care or other lock-in status before any service is performed. The participant's eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(3) Provider Participation. To be eligible *[for participation in the] to participate as a* MO HealthNet provider of behavioral health services *[program]*, a provider must meet the *[licensing criteria] qualifications specified by the state agency* for his or her profession and be an enrolled MO HealthNet provider.

(A) The enrolled MO HealthNet provider shall comply with the following requirements:

1. *[Keep any records necessary to disclose the extent of services the provider furnishes to participants] Maintain adequate documentation and adequate records in accordance with 13 CSR 70-3.030(2)(A); and*

2. On request furnish to the MO HealthNet agency, the Medicaid Audit and Compliance Unit, or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan¹;

[3. Limit MO HealthNet billable hours to a maximum of one hundred fifty (150) hours in a single calendar month.

Services provided to MO HealthNet participants and participants who are both MO HealthNet and Medicare eligible are counted toward the monthly one hundred fifty (150)-hour limit; and

4. Refund payment for MO HealthNet services to the MO HealthNet Division when the provider has billed the MO HealthNet Division for more than one hundred fifty (150) hours in a single calendar month.

(4) Documentation Requirements for Behavioral Health Services. Documentation must be in narrative form, fully describing each session billed. A check-off list or pre-established form will not be accepted as sole documentation. Progress notes shall be written and maintained in the patient's medical record for each date of service for which a claim is filed. Progress notes for behavioral health services shall specify—

(A) First and last name of participant;

1. When family therapy is furnished, each member of the family included in the session must be identified. Description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention;

2. When group therapy is furnished each service shall include the number of group members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention and progress towards goals;

(B) The specific service rendered;

(C) Name of person who provided service;

(D) The date (month/day/year) and actual begin and end time (e.g., 4:00–4:30 p.m.) for face-to-face services;

(E) The setting in which the service was rendered;

(F) Patient's report of recent symptoms and behaviors related to their diagnosis and treatment plan goals;

(G) Therapist interventions for that visit and patient's response;

(H) The pertinence of the service to the treatment plan; and

(I) The patient's progress toward one (1) or more goals stated in the treatment plan.

(5) A plan of treatment is a required document in the overall record of the patient.

(A) A treatment plan must be developed by the provider based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the participant's situation and reflects the need for behavioral health services. If the service is for a child who is in the legal custody of the Children's Division, a copy of the treatment plan shall be provided to the Children's Division in order for the provider to retain reimbursement for the covered service(s).

(B) The treatment plan shall be individualized to reflect the patient's unique needs and goals.

(C) The plan shall include, but is not limited to, the following:

1. Measurable goals and outcomes;

2. Services, support, and actions to accomplish each goal/outcome. This includes services and supports and the staff member responsible, as well as action steps of the individual and other supports (family, social, peer, and other natural supports);

3. Involvement of family, when indicated;

4. Identification of other agencies working with the patient, plans for coordinating services with other agencies, or identification of medications, which have been prescribed, where applicable;

5. Services needed beyond the scope of the organiza-

tion or program that are being addressed by referral or services at another community organization, where applicable;

6. Projected time frame for the completion of each goal/outcome; and

7. Estimated completion/discharge date for the level of care.

(D) The treatment plan shall be reviewed on a periodic basis to evaluate progress toward treatment goals and outcomes and to update the plan.

1. Each person shall directly participate in the review of his or her individualized treatment plan.

2. The frequency of treatment plan reviews shall be based on the individual's level of care or other applicable program rules. The occurrence of a crisis or significant clinical event may require a further review and modification of the treatment plan.

3. The individualized treatment plan shall be updated and changed as indicated.

4. Each treatment plan update shall include the therapist assessment of current symptoms and behaviors related to diagnosis, progress to treatment goals, justification of changed or new diagnosis, response to other concurrent treatments such as family or group therapy and medications.

5. The therapist's plan for continuing treatment and/or termination from therapy and aftercare shall be considerations expressed in each treatment plan update.

6. A diagnostic assessment from a MO HealthNet enrolled provider shall be documented in the patient's case record, which shall assist in ensuring an appropriate level of care, identifying necessary services, developing an individualized treatment plan, and documenting the following:

A. Statement of needs, goals, and treatment expectations from the individual requesting services. The family's perceptions are also obtained, when appropriate and available;

B. Presenting situations/problem and referral source;

C. History of previous psychiatric and/or substance abuse treatment including number and type of admissions;

D. Current medications and identifications of any medications allergies and adverse reactions;

E. Recent alcohol and drug use for at least the past thirty (30) days and, when indicated, a substance use history that includes duration, patterns, and consequences of use;

F. Current psychiatric symptoms;

G. Family, social, legal, and vocational/educational status and functioning. The collection and assessment of historical data is also required unless short-term crisis intervention or detoxification are the only services being provided;

H. Current use of resources and services from other community agencies;

I. Personal and social resources and strengths, including the availability and use of family, social, peer, and other natural supports; and

J. Multi-axis diagnosis or diagnostic impression in accordance with the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or the International Classification of Diseases, (ICD). The ICD coding is required for billing purposes.

7. When interactive therapy is billed, the provider must document the need for this service and the equipment, devices, or other mechanism of equipment used.

8. When care is completed, the aftercare plan shall include, but is not limited to, the following:

A. Dates began and ended;

B. Frequency and duration of visits;

C. Target symptoms/behaviors addressed;

D. Interventions;

E. Progress to goals achieved;

F. Final diagnosis; and

G. Final recommendations including further services and providers, if needed, and activities recommended to promote further recovery.

(6) For all medically necessary covered services, a writing of all stipulated documentation elements referenced in this rule are an essential and integral part of the service itself. No service has been performed if documentation requirements are not met.

(7) Documentation required by MHD does not replace or negate documentation/reports required by the Children's Division for individuals in their care or custody. Providers are expected to comply with policies and procedures established by the Children's Division and MHD.

(8) Records Retention. MO HealthNet providers must retain for six (6) years from the date of service fiscal and medical records that coincide with and fully document services billed to the MO HealthNet Program, and 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, and retain adequate documentation for services billed to the MO HealthNet Program may result in recovery of the payments for those services not adequately documented and may result in sanctions to the provider's participation in the MO HealthNet Program. This policy continues to apply in the event of the provider's discontinuance as an actively participating MO HealthNet provider through change of ownership or any other circumstance.

(9) The requirement to document services and to release records to representatives of the Department of Social Services or the U.S. Department of Health and Human Services is also found in 13 CSR 70-3.020 and 13 CSR 70-3.030.]

AUTHORITY: sections [208.152, 208.153, and] 208.201[,] and 660.017, RSMo [Supp. 2013] 2016. Original rule filed Nov. 14, 2003, effective June 30, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 98—Behavioral Health Services**

PROPOSED AMENDMENT

13 CSR 70-98.020 Prior Authorization [Process] Committee for Non-Pharmaceutical Behavioral Health Services. The division is

amending the title, purpose, and section (2) and removing section (5).

PURPOSE: This amendment updates the incorporation by reference, amends the purpose statement, and removes language in order to comply with mental health parity.

PURPOSE: This rule establishes [the process by which non-pharmaceutical behavioral health services will be prior authorized in order to be reimbursable by the MO HealthNet Program. The prior authorization process will serve as a utilization management measure allowing payment only for this treatment and services (interventions) that are medically necessary, appropriate and cost-effective, and to reduce over-utilization or abuse of services without compromising the quality of care to MO HealthNet participants.] a committee to advise the MO HealthNet Division on a prior authorization process for non-pharmaceutical behavioral health services. The prior authorization process will serve as a utilization management measure to ensure that services are medically necessary, appropriate, and cost-effective.

(2) All persons eligible for MO HealthNet benefits shall have access to non-pharmaceutical behavioral health services when they are determined medically necessary [when] using diagnostic criteria from the current edition of the [Diagnostic and Statistical Manual] **Diagnostic and Statistical Manual** (DSM) of the American Psychiatric Association. The services covered and not covered, **the prior authorization requirements, and the limitations under which services are covered[, and the maximum allowable fees for all covered services]** shall be determined by the MO HealthNet Division and shall be included in the **MO HealthNet Behavioral Health Services Provider Manual** and [Section 13 of] the **Physician's Provider Manual**, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, [on] at its website at [www.dss.mo.gov/mhd, November 15, 2013] **http://manuals.momed.com/manuals/, October 1, 2018.** This rule does not incorporate any subsequent amendments or additions. The MO HealthNet non-pharmaceutical behavioral health services prior authorization advisory committee shall review and make recommendations regarding the prior authorization process to the MO HealthNet Division. The MO HealthNet non-pharmaceutical behavioral health services prior authorization advisory committee shall hold a public hearing in order to make recommendations to the department prior to any final decisions by the division on the prior authorization process. The recommendations of the non-pharmaceutical behavioral health services prior authorization advisory committee shall be provided to the MO HealthNet Division, in writing, prior to the division making a final determination. The policy requirements regarding the prior authorization process for non-pharmaceutical behavioral health services [shall be] **are** available through the Department of Social Services, MO HealthNet Division website at [www.dss.mo.gov/mhd.] **https://dss.mo.gov/mhd/, October 1, 2018. This rule does not incorporate any subsequent amendments or additions.**

[(5) The provider may bill for up to four (4) hours of service for diagnosis and testing without prior authorization. If additional services are needed the provider shall initiate the prior authorization process for up to an additional ten (10) to twenty (20) hours of service dependent on the diagnosis and type of service. The first prior authorization does not require an assessment treatment plan, or progress notes. After the first aggregate fourteen (14) to twenty-four (24) hours of service an additional prior authorization with appropriate documentation is required. The prior authorization request can be phoned, faxed, or mailed to the division designee.]

AUTHORITY: sections 208.201 and 660.017, RSMo [Supp. 2013] 2016. Original rule filed Jan. 15, 2004, effective Aug. 30, 2004. Amended: Filed Oct. 30, 2007, effective April 30, 2008. Amended: Filed Oct. 10, 2013, effective April 30, 2014. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 3—[Aftercare Responsibilities]
Case Management

PROPOSED AMENDMENT

13 CSR 110-3.010 Comprehensive Individual Treatment Plans. The division is amending the chapter title, rule title, and section (1).

PURPOSE: This amendment changes the chapter title, and rule title to current terminology and updates terminology throughout the rule. It removes a paragraph which is not relevant to this rule and is covered in 13 CSR 110-3.020 - Aftercare Involvement During Residential Treatment. It adds a new paragraph to clarify who is responsible for initiating and finalizing the aftercare placement planning portion of the treatment plan prior to the youth's release from residential or community care. It adds a new paragraph stating the division will reexamine the youth's treatment plan per section 219.021.5, RSMo and adds a paragraph that states the youth or families may petition the director for a hearing under section 219.051.1(1), RSMo if they disagree with the content developed or information contained in the treatment plan.

(1) [An] **A comprehensive individual treatment plan [(ITP)] (CITP)** shall be developed by [the] Division of Youth Services [service coordinator] for the purpose of meeting individual youth and family needs. The [ITP shall] CITP also serves to record case activity and fulfill requirements for official notifications.

(A) [ITP] CITP procedures are [as follows:]—

1. The [services coordinator] **Division of Youth Services** shall initiate the **development** of a written [ITP] CITP within thirty (30) days of the commitment date. The treatment plan should involve the youth and [his/her] **their** parent(s) or guardian(s). The [ITP] CITP shall be [submitted] **completed** within forty-five (45) days of commitment[,] and distributed to the youth, family, court, and facility;

2. Involvement of the parent(s) or guardian(s) is encouraged;

[3. The service coordinator shall meet with youth in residential care at least once per month and shall meet with the youth on aftercare twice per month;]

[4.]3. Information contained in the [ITP shall] CITP includes, but is not [be] limited to:

A. [Family history (including mental health, criminal, or division of family services case information)] **Assessment, including youth and family strengths, needs, and trauma history;**

B. [Education/vocation] **Youth history, including core issues, and history with other systems such as mental health, Children's Division, and Juvenile Courts;**

C. [Youth's strengths/weaknesses] **Education; [and]**

D. **Youth's medical health/mental health needs; and**

E. **Transition Planning;**

[5.]4. The service coordinator [shall] will include the preliminary possibilities for the youth's placement [and needs of the youth to be considered for aftercare placement.];

5. **The Division of Youth Services will finalize aftercare placement planning for the youth prior to release from residential or community care;**

6. **The Division of Youth Services will reexamine the youth's CITP when deemed necessary, but in no case to exceed intervals greater than six (6) months; and**

7. **The youth, the youth's parent(s) or legal guardian(s), and other members of the youth's family, when appropriate, shall be consulted whenever the CITP is reviewed. Should youth or their families disagree with the content developed or information contained in the CITP they may petition the director for a hearing under section 219.051.1(1), RSMo.**

AUTHORITY: sections 219.036, 219.051, and 660.017, RSMo [1994] 2016. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 3—[Aftercare Responsibilities]
Case Management

PROPOSED AMENDMENT

13 CSR 110-3.040 Revocation of Aftercare Supervision. The division is amending the chapter title and sections (1), (2), and (3).

PURPOSE: This amendment changes the chapter title to updated terminology. It updates outdated terminology in section (1), updates section (2) and subsection (2)(B) to change the term Preliminary Hearing to the current terminology title of Revocation Hearing, and adds that rules of evidence and right to subpoena do not apply. It also updates outdated terminology in subsections (2)(C)–(F) and in section (3) and subsections (3)(A)–(C). It also adds in subsection (3)(B), that the hearing is an information process and that rules of evidence and right to subpoena witnesses do not apply. The amendment also changes, in section (3) the terminology of dispositional hearing to director's hearing and in subsection (3)(C), the requirement to deliver the written decision of the director's hearing from; within five (5) days of the close of the director's hearing to; within fifteen (15) days of the close of the director's hearing to allow the hearing officer additional time for review before making their decision.

(1) The director, at any time after the youth is placed in aftercare and before order of discharge is issued, may *[order the youth's apprehension]* request the apprehension and detention of the youth by law enforcement without notice to the youth *[by the issuance of a warrant for his/her apprehension and detention]*. Any service coordinator assigned to supervise youth in aftercare, or any other employee designated by the director, may apprehend a youth without a warrant or may issue such warrant to law enforcement officials, when in the judgment of the service coordinator, the youth has violated the conditions of his/her placement and his/her presence in the community is considered dangerous to him/herself or to the community, or when the youth may flee the jurisdiction of the division. When the youth is detained, the service coordinator shall present to the detaining authority a statement of the circumstances of the violation.

(2) *[Preliminary] Revocation Hearing.* Whenever revocation of aftercare is to be considered, *[the staff]* an employee of the aftercare services of the Division of Youth Services (DYS) shall hold a *[preliminary] revocation* hearing to determine if there is reasonable cause to believe that the youth has violated an aftercare condition.

(B) The *[preliminary] revocation* hearing *[shall be]* is an informal inquiry *[and shall]*. The rules of evidence and right to subpoena do not apply. The hearing is to be held promptly and reasonably near the place of violation or detention.

(C) The youth and his/her parent(s) or guardian(s), or the person with whom the youth has been placed, or other responsible adult, as well as *[the] a victim[/'s rights respondent] who has requested notification per 595.209, RSMo,* shall be given notice that the hearing will take place and that the purpose of the hearing is to determine whether there is *[probable] reasonable* cause to believe that the youth is in violation of the conditions of aftercare supervision and aftercare supervision should be revoked.

(D) At the hearing, the youth, his/her parent(s) or guardian(s), or a responsible adult, and legal counsel, if any, may appear and speak in the youth's behalf. They may bring and present documents and other evidence relating to the allegation against the youth. They may present witnesses in victim's behalf, but testimony of the witnesses must be relevant to the alleged violation. The youth may request that persons, who have given evidentiary testimony on which the allegation is based, be made available for questioning in the youth's presence at the hearing; however, if the hearing officer determines that the informant would be subject to risk or harm if his/her identity were disclosed, the hearing officer may excuse the informant from confrontation or cross-examination by the youth, his/her parent(s) or guardian(s), responsible adult, or counsel.

(E) The hearing officer shall *[make a] prepare a written* summary of the hearing including an explanation of the evidence presented by the youth and by the service coordinator. Based on the information before him/her, the hearing officer will determine whether there is *[probable] reasonable* cause to revoke the youth's aftercare supervision.

(F) A determination that *[probable] reasonable* cause exists is sufficient to warrant the youth's continued detention and *[s/he] the youth* shall be returned to a facility of the Division of Youth Services.

(G) If the hearing officer does not find *[probable] reasonable* cause to revoke aftercare supervision, the youth will be returned to active aftercare supervision. Further conditions for supervision may be imposed on the youth.

(3) *[Dispositional] Director's* Hearing or Review. If the youth is returned to a facility of DHS, the youth and his/her parent(s) or guardian(s) will be given an opportunity to petition on a form provided by the division for a *[dispositional] director's* hearing prior to the final decision on revocation of aftercare supervision by the director or his/her designated representative. If the youth[,/] or his/her parent(s) or guardian(s) do[es] not petition for *[such] a [dispositional] director's* hearing, the director, or *[his/her] the direc-*

tor's designee, will review the findings of the *[hearing officer at probable cause] revocation* hearing and other pertinent case material and will then make a final *[disposition of] decision regarding* the recommendation for revocation of aftercare supervision.

(A) If the youth[,/] or his/her parent(s) or guardian(s) *[shall]* petition for a *[dispositional] director's* hearing, the director, or *[his/her] the director's* designee, shall convene a hearing at the *[institution] facility* where the youth resides within thirty (30) days of the receipt of the written request for a hearing.

(B) The youth[,/] or his/her parent(s) or guardian(s) shall have the right to be represented by counsel, call and question witnesses, and *[cross-examine] cross-examine* those witnesses appearing against the youth. DHS shall not bear the cost or expenses of witnesses or attorneys requested by the youth[,/] or his/her parent(s) or guardian(s). This is an informal inquiry. The rules of evidence and right to subpoena witnesses do not apply.

(C) The individual conducting the *[dispositional] director's* hearing shall deliver *[his/her] the* decision in writing to the youth[,/] or his/her parent(s) or guardian(s) within *[five (5)] fifteen (15)* days of the close of the *[dispositional] director's* hearing. The decision shall clearly set forth the evidence presented, a summary of the testimony elicited, and the findings, conclusion, and decision of the individual conducting the hearing.

AUTHORITY: sections 219.016, 219.036, and [219.051] 660.017, RSMo [1994] 2016. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Amended: Filed Sept. 27, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 3—[Aftercare Responsibilities]
Case Management

PROPOSED AMENDMENT

13 CSR 110-3.060 Grievance Procedure for Youth in Aftercare. The division is amending the chapter title, purpose, section (1), and subsection (2)(C), and adding a new subsection (2)(D).

PURPOSE: This amendment updates terminology, changes the word "complaint" to "grievance," adds that the division has a process for submitting and responding to those grievances, and adds discrimination to the areas which will be considered for grievances.

PURPOSE: [The purpose of t]This rule [is to] insures that when youth[s] in aftercare have a [complaint] grievance, [this complaint will not be ignored] the division has a process for submitting and responding to those grievances.

(1) *[Complaints] Grievances.* Should a youth on *[placement] aftercare,* *[his/her parent or his/her guardian] the youth's*

parent(s)/guardian(s), or foster parent(s), have a grievance concerning treatment, supervision, or the lack thereof, or other relevant concerns [while on placement], [s/he, in writing,] they may file a grievance in writing with the appropriate [regional administrator] supervisor. The grievance shall be handled through an informal process. The [administrator] supervisor will make a decision and advise the youth and the service coordinator with regard to the decision made in the matter. Appropriate written records will be maintained concerning disposition of the matter. If the decision is not satisfactory to the youth, the youth's parent(s)/guardian(s), or foster parent(s), they may present the grievance to the regional administrator or designee for review and final decision. The decision of the regional administrator or designee will be the final decision of the division.

(2) Instructions. [It shall be the duty of t]The administrators of each program [to] will oversee the implementation of the grievance procedure [and interpret to youth and staff]. [t]The following areas [which] will be considered for grievances:

(A) Physical abuse by staff;

(B) Staff allowing physical abuse to a youth by another youth in aftercare;

(C) Repeated verbal abuse by staff, [that is,] such as the use of profanity or ill-temper in giving direction and guidance;

(D) Discrimination based upon a youth's race, color, religion, sex, national origin, age, or disability;

[(D)](E) Lack of opportunity to receive adequate supervision by an aftercare worker (in accordance with current caseload standards).; and

[(E)](F) Disagreement with placement decision or special conditions of aftercare supervision.

AUTHORITY: sections [219.051,] 219.036 and 660.017, RSMo [1994] 2016. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Feb. 10, 2000, effective Aug. 30, 2000. Amended: Filed Sept. 18, 2018.

PUBLIC COST: The proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: The proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2085—Board of Cosmetology and Barber
Examiners
Chapter 3—License Fees**

PROPOSED AMENDMENT

20 CSR 2085-3.010 Fees. The board is amending subsection (3)(C).

PURPOSE: This amendment is establishing fees for new certificate of registration to engage in hair braiding as prescribed in House Bill 1500 and House Bill 1719 signed into law and effective August 28,

2018.

(3) The following fees are hereby established by the board for crossover licensees under Chapter 328 or Chapter 329, RSMo.

(C) Miscellaneous Fees

1. Certification/Affidavit of Licensure	\$ 10
2. Certification of Training Hours, Examination Scores	\$ 10
3. Duplicate License Fee	\$ 10
4. Handling Fee (Any uncollectible check or other financial instrument)	\$ 25
5. Inactive License Fee	\$12.50
6. Late Fee	\$ 30
7. Name Search Fee	

(As determined by the Missouri State Highway Patrol)

8. Certificate of Registration

(Hair Braiding) \$ 20

AUTHORITY: section 329.025(4), RSMo [2016] Supp. 2018. Original rule filed June 27, 2007, effective Dec. 30, 2007. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 21, 2018, effective Oct. 1, 2018, expires March 29, 2019. Amended: Filed Sept. 21, 2018.

PUBLIC COST: This proposed amendment will increase the revenue of the Board of Cosmetology and Barber Examiners approximately thirty thousand dollars (\$30,000) during the first year of implementation, nine hundred dollars (\$900) during the second year of implementation, and annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately thirty thousand dollars (\$30,000) during the first year of implementation, nine hundred dollars (\$900) during the second year of implementation, and annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at cosbar@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2085 - Board of Cosmetology and Barber Examiners
Chapter 3 - License Fees
Proposed Amendment to 20 CSR 2085-3.010 - Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Increase of Revenue	
Board of Cosmetology and Barber Examiners		\$30,000
	Estimated Increased Revenue During the First Year of Implementation	\$30,000

Affected Agency or Political Subdivision	Estimated Increase of Revenue	
Board of Cosmetology and Barber Examiners		\$900
	Estimated Increased Revenue During the Second Year of Implementation and Annually	\$900

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total revenue increase is based on the costs to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
 Division 2085 - Board of Cosmetology and Barber Examiners
 Chapter 3 - License Fees
 Proposed Amendment to 20 CSR 2085-3.010 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost for the life of the rule by affected entities:
1,500	Hair Braider (Certificate of Registration Fee @ \$20)	\$30,000
	Estimated Cost of Compliance During the First Year of Implementation	\$30,000

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost for the life of the rule by affected entities:
45	Hair Braider (Certificate of Registration Fee @ \$20)	\$900
	Estimated Cost of Compliance Beginning the Second Year of Implementation and Continuing Annually Thereafter	\$900

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY 2019 projections.
2. It is anticipated that the total fiscal costs will occur beginning in FY2019, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2095—Committee for Professional Counselors
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2095-1.020 Fees. The board is amending subsection (1)(D).

PURPOSE: This amendment reduces the renewal fee.

(1) The following fees are established by the Committee for Professional Counselors and are payable in the form of a cashier's check, personal check, or money order:

- | | |
|---|---------------------------------|
| (D) Biennial Renewal | <i>[\$75.00]</i> \$50.00 |
| 1. Effective April 1, <i>[2017 to]</i> 2019
through June 30, 2019 | <i>[\$50.00]</i> \$25.00 |
| 2. Renewal received 1–60 days late | \$ 50.00 |
| 3. Renewal received 61 days–2 years late | \$100.00 |

AUTHORITY: sections 337.507 and 337.520.1(2), RSMo [2016] Supp. 2018. This rule originally filed as 4 CSR 95-1.020. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 1, 2018.

PUBLIC COST: This proposed amendment will cost state agencies approximately one hundred thirty-five thousand twenty-five dollars (\$135,025) in FY19 and biennially thereafter. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately one hundred thirty-five thousand twenty-five dollars (\$135,025) in FY19 and biennially thereafter. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Committee for Professional Counselors, PO Box 1335, 3605 Missouri Boulevard, Jefferson City, MO 65102-1335, by facsimile at (573) 751-0018, or via email at profcounselor@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this rule in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule 20 CSR 2095-1.020 - Fees**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Committee for Professional Counselors	\$135,025	
	Estimated Loss of Revenue in FY19 and Biennially thereafter for the Life of the Rule	\$135,025

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The committee utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five-year analysis, the committee voted on a reduction in individual biennial renewal fees for professional counselors.
3. The above figures are based on FY 2017 actuals.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2095 - Committee for Professional Counselors
Chapter 1 - General Rules
Proposed Rule 20 CSR 2095-1.020 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated savings for compliance with the amendment by affected entities:
5,401	Biennial Renewal Fee (Renewal Fee - \$25 decrease)	\$135,025
	Estimated Biennial Cost Savings in FY19 and Biennially Thereafter for the Life of the Rule	\$135,025

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above for renewals are based on FY17 actuals.
2. It is anticipated that the total cost savings will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Note: The committee is statutorily obligated to enforce and administer the provisions of Chapter 337, RSMo. Pursuant to section 337.507, RSMo the committee shall by rule and regulation set the amount of fees authorized by sections 337.500 to 337.540, RSMo at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 337.500 to 337.540 RSMo.