

Volume 45, Number 11
Pages 769–874
June 1, 2020

SALUS POPULI SUPREMA LEX ESTO

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



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015 and 536.033, RSMo. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or “official” without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

JOHN R. ASHCROFT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

EDITOR-IN-CHIEF

CURTIS W. TREAT

•

MANAGING EDITOR

JOHN C. STEGMANN

•

EDITOR

VONNE KILBOURN

•

ASSOCIATE EDITOR

JENNIFER ALEX MOORE

•

PUBLICATION SPECIALIST

JACQUELINE D. WHITE

•

ADMINISTRATIVE AIDE

TAMMY WINKELMAN

•

READER

THOMAS HUBER

ISSN 0149-2942

The *Missouri Register* and *Code of State Regulations* (CSR) are available on the Internet. The Register address is sos.mo.gov/adrules/moreg/moreg and the CSR is sos.mo.gov/adrules/csr/csr. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

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



IN THIS ISSUE:

EMERGENCY RULES

| | |
|--|-----|
| Office of Administration | |
| Commissioner of Administration | 773 |
| Personnel Advisory Board and Division of Personnel | 774 |
| Department of Agriculture | |
| Animal Health | 775 |
| Department of Social Services | |
| Family Support Division | 775 |
| MO HealthNet Division | 778 |
| Department of Commerce and Insurance | |
| Missouri Dental Board | 785 |
| State Board of Registration for the Healing Arts | 788 |

| | |
|-------------------------|-----|
| EXECUTIVE ORDERS | 789 |
|-------------------------|-----|

PROPOSED RULES

| | |
|--|-----|
| Office of Administration | |
| Commissioner of Administration | 791 |
| Personnel Advisory Board and Division of Personnel | 792 |
| Department of Agriculture | |
| Animal Health | 793 |
| Department of Social Services | |
| Family Support Division | 793 |
| MO HealthNet Division | 796 |
| Department of Health and Senior Services | |
| Division of Community and Public Health | 830 |
| Division of Maternal, Child and Family Health | 830 |

ORDERS OF RULEMAKING

| | |
|---|-----|
| Department of Agriculture | |
| Animal Health | 832 |
| Department of Revenue | |
| Director of Revenue | 832 |
| Department of Health and Senior Services | |
| Division of Regulation and Licensure | 833 |
| Department of Commerce and Insurance | |
| Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects | 833 |
| State Board of Chiropractic Examiners | 833 |
| State Board of Pharmacy | 834 |
| Missouri Real Estate Commission | 835 |
| Public Service Commission | 835 |

IN ADDITIONS

| | |
|---|-----|
| Department of Mental Health | |
| Director, Department of Mental Health | 837 |
| Certification Standards | 837 |
| Division of Developmental Disabilities | 837 |
| Department of Natural Resources | |
| Clean Water Commission | 838 |
| Safe Drinking Water Commission | 840 |
| Department of Public Safety | |
| Division of Fire Safety | 840 |
| Division of Alcohol and Tobacco Control | 840 |
| Department of Revenue | |
| Director of Revenue | 840 |
| Department of Social Services | |
| MO HealthNet Division | 841 |
| Department of Health and Senior Services | |
| Division of Senior and Disability Services | 842 |
| Division of Regulation and Licensure | 843 |
| Missouri Health Facilities Review Committee | 849 |
| Department of Commerce and Insurance | |
| State Board of Pharmacy | 849 |
| Division of Professional Registration | 850 |
| Real Estate Appraisers | 850 |
| Missouri Real Estate Commission | 850 |

| | |
|---------------------|-----|
| DISSOLUTIONS | 854 |
|---------------------|-----|

SOURCE GUIDES

| | |
|----------------------------------|-----|
| RULE CHANGES SINCE UPDATE | 856 |
| EMERGENCY RULES IN EFFECT | 862 |
| EXECUTIVE ORDERS | 864 |
| REGISTER INDEX | 866 |

| Register Filing Deadlines | Register Publication Date | Code Publication Date | Code Effective Date |
|---------------------------|---------------------------|-----------------------|---------------------|
| February 3, 2020 | March 2, 2020 | March 31, 2020 | April 30, 2020 |
| February 18, 2020 | March 16, 2020 | March 31, 2020 | April 30, 2020 |
| March 2, 2020 | April 1, 2020 | April 30, 2020 | May 30, 2020 |
| March 16, 2020 | April 15, 2020 | April 30, 2020 | May 30, 2020 |
| April 1, 2020 | May 1, 2020 | May 31, 2020 | June 30, 2020 |
| April 15, 2020 | May 15, 2020 | May 31, 2020 | June 30, 2020 |
| May 1, 2020 | June 1, 2020 | June 30, 2020 | July 30, 2020 |
| May 15, 2020 | June 15, 2020 | June 30, 2020 | July 30, 2020 |
| June 1, 2020 | July 1, 2020 | July 31, 2020 | August 30, 2020 |
| June 15, 2020 | July 15, 2020 | July 31, 2020 | August 30, 2020 |

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 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

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

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

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

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

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo. 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) business 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 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 3—Preapproval of Claims and Accounts**

EMERGENCY RULE

1 CSR 10-3.020 Deduction of Amounts Owed by Employees to the State

PURPOSE: Section 33.103.2(4), RSMo provides that the Commissioner may deduct from a state employee's compensation warrant "[a]ny amount determined to be owed by the employee to the state in accordance with guidelines established by the commissioner of administration which shall include notice to the employee and an appeal process." This rule sets forth the guidelines by which amounts owed by employees to the state may be deducted from compensation warrants.

EMERGENCY STATEMENT: This emergency rule establishes guidelines by which amounts owed by employees to the state, including outstanding borrowed leave balances, may be deducted from compensation warrants. The borrowed leave program authorized by emergency rule 1 CSR 20-5.030 will allow state employees impacted by COVID-19 to take additional sick leave beyond their existing balances. This emergency rule is a necessary component of the introduction of the borrowed leave program, as employees who leave state employment with outstanding borrowed leave balances must repay those balances to the state and can do so most efficiently through a payroll deduc-

tion. The COVID-19 pandemic poses an immediate danger to the public health, safety, and welfare, and emergency action is required to address this danger by allowing state employees without leave balances to take leave from the first moment they are sick free of immediate adverse economic consequences, which will help protect the co-workers of employees who might otherwise report to work while sick as well as the public and help to disrupt the spread of COVID-19. In addition to the foregoing, the emergency rule will help to preserve the compelling governmental interests of retaining employees, keeping employees and the public safe, maximizing government responsiveness and efficiency during the COVID-19 pandemic, and safeguarding state government resources. A proposed rule, which covers the same material with one additional subsection, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 16, 2020, becomes effective April 30, 2020, and expires October 30, 2020.

(1) Definitions.

(A) All terms used in this rule have the same meanings as in chapter 33, RSMo, unless otherwise indicated.

(B) The term "decision" shall have the same meaning as in section 536.010, RSMo.

(C) The term "Division of Accounting" shall mean the Division of Accounting of the Office of Administration. Contact information for the Division of Accounting may be found on the Office of Administration's website, <https://oa.mo.gov>.

(D) The term "employee" shall include both current state employees and former state employees.

(2) Deduction Procedure.

(A) Deductions Initiated by the Division of Accounting.

1. Division of Accounting Responsibilities. The Division of Accounting will utilize the following procedure to effectuate the deduction of an amount owed by an employee to the state from an employee's compensation warrant pursuant to section 33.103.2(4), RSMo:

A. The Division of Accounting may initiate deductions of amounts owed by an employee to the state due to erroneous overpayments, borrowed leave, or other circumstances in which the Division of Accounting can determine the amount of the deduction without receiving additional information from the state agency;

B. Prior to the effective date of the deduction, or as soon as practicable thereafter, the Division of Accounting will provide written notice to the employee, either in paper or electronic format, of the amount to be deducted, the reasons for the deduction, and his/her right to appeal the deduction pursuant to this rule; and

C. The Division of Accounting will provide notice of the deduction to the state agency no later than when notice is provided to the employee.

(3) Appeal Procedure.

(A) Timing of Appeal. Appeals of deductions must be received in hard-copy by mail or hand-delivery in the Office of the Commissioner, State Capitol Building, Room 125, P.O. Box 809, Jefferson City, Mo 65102-0809, no later than thirty (30) calendar days after the later of the date notice is sent to the employee or the effective date of the deduction from the employee's compensation warrant, or by the next working day thereafter if the appeal period ends on a weekend or holiday. For example, if an employee was paid on January 15th, received notice of the deduction prior to that date, and wishes to appeal a deduction taken from that paycheck, an appeal must be received no later than February 14th, or by the next working

day thereafter if February 14th falls on a weekend or holiday.

(B) Effect of Appeal on Pending Deduction. The submission of an appeal prior to the effective date of the deduction will not prevent the deduction from occurring so long as the state agency and/or Division of Accounting have complied with the applicable deduction procedure described in this rule, except in instances where a final decision is reached to modify the amount of the deduction or reverse the deduction with sufficient time remaining to effectuate the final decision prior to the deduction.

(C) Contents of Appeal. Appeals should set out in clear, concise language the employee's understanding of the events preceding the deduction, any inaccuracies in the state agency's communications to the employee regarding the deduction, the reason(s) why the employee believes the deduction is inappropriate, and attach all evidence supporting the employee's position.

(D) Standard of Review. Appeals shall involve a review of the appropriateness of the deduction in light of all of the relevant facts and law.

(E) Optional Hearing. The Commissioner or his/her designee may or may not decide to hold an informal hearing to gather additional information regarding the deduction. It is expected that the employee, one or more representatives of the state agency, and/or one or more representatives of the Division of Accounting will attend this hearing if held. The employee may request that the Commissioner or his/her designee allow the attendance of individuals with first-hand knowledge relevant to the deduction. The parties shall all proceed in a respectful and orderly fashion as directed by the Commissioner or his/her designee so as to allow the Commissioner or his/her designee the opportunity to gather information regarding the deduction.

(F) Final Decision. At any time following the receipt of a timely appeal of a deduction after sufficient information has been gathered to make an informed decision, the Commissioner shall issue a written decision disposing of the employee's appeal by either upholding the deduction, modifying the amount of the deduction, or reversing the deduction. The employee may request a stay of the appeal pending the resolution of other relevant administrative, civil, or criminal proceedings and the Commissioner or his/her designee may rule on the request in an exercise of their discretion. Any unruled request for stay will be presumed denied.

(4) Appeals from Final Decisions. Final decisions of the Commissioner under this rule may be appealed pursuant to section 536.150, RSMo.

AUTHORITY: sections 33.103 and 536.023, RSMo 2016. Emergency rule filed April 16, 2020, effective April 30, 2020, expires Oct. 30, 2020. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 5—Working Hours, Holidays and Leaves of Absence

EMERGENCY RULE

1 CSR 20-5.030 Borrowed Leave

PURPOSE: This rule provides for borrowed leave use and availability in response to Coronavirus Disease 2019 (COVID-19).

EMERGENCY STATEMENT: This emergency rule establishes the availability and eligibility requirements of the new borrowed leave program within state agencies subject to section 36.350, RSMo. The borrowed leave program will allow state employees impacted by COVID-19 to take additional sick leave beyond their existing balances. The COVID-19 pandemic poses an immediate danger to the public health, safety, and welfare, and emergency action is required to address this danger by allowing state employees without leave balances to take leave from the first moment they are sick free of immediate adverse economic consequences, which will help protect the co-workers of employees who might otherwise report to work while sick as well as the public and help to disrupt the spread of COVID-19. In addition to the foregoing, the emergency rule will help to preserve the compelling governmental interests of retaining employees, keeping employees and the public safe, and maximizing government responsiveness and efficiency during the COVID-19 pandemic. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 16, 2020, becomes effective April 30, 2020, and expires October 30, 2020.

(1) Scope. This rule establishes the availability and eligibility requirements of borrowed leave within state agencies subject to section 36.350, RSMo, notwithstanding any other rule in this chapter to the contrary. The board expects that section (2) of this rule will be rescinded when the availability of borrowed leave in response to the COVID-19 pandemic is no longer necessary.

(2) Borrowed Leave.

(A) State agencies may permit employees who have exhausted their sick leave balance to borrow against future sick leave accruals in circumstances caused directly or indirectly by COVID-19 as specified in this rule.

(B) Borrowed leave may be approved by state agencies in accordance with a written interagency memorandum issued by the Commissioner of the Office of Administration. The board does not anticipate that this memorandum will substantially affect the legal rights of, or procedures available to, the public or any segment thereof, because it only impacts the internal management of state agencies. In response to the exigencies created by the COVID-19 pandemic, the memorandum may describe any of the following:

1. The circumstances in which borrowed leave may be approved;
2. The amount of borrowed leave available, which may vary by circumstance;
3. Documentation requirements applicable to borrowed leave, which may vary by circumstance;
4. Additional requirements applicable upon taking threshold amounts of borrowed leave;
5. The procedure by which borrowed leave will be repaid while the employee remains in state service;
6. The establishment of ShareLeave programs by which eligible employees may donate leave hours to assist recipient employees in the repayment of borrowed leave; and
7. Any other procedures or requirements incident to the administration of leave as the Commissioner believes to be appropriate and necessary to address the emergency created by the COVID-19 pandemic.

(3) Repayment of Borrowed Leave. Employees approved to borrow against future sick leave accruals must repay the borrowed leave in

full. In addition to repaying borrowed leave with sick leave, the inter-agency memorandum may specify that other accumulated time may be used by employees and, in the event of separation must be used, to repay borrowed leave. In the event an employee separates from state service prior to full repayment of borrowed leave, the remaining balance will be deducted from the employee's compensation warrants in accordance with subdivision (4) of subsection 2 of section 33.103, RSMo, and guidelines established pursuant thereto. To the extent the employee's compensation warrants are insufficient to fully repay their borrowed leave balance, collection of the remaining balance is authorized.

AUTHORITY: section 36.350, RSMo 2016, and sections 36.060 and 36.070, RSMo Supp. 2019. Emergency rule filed April 16, 2020, effective April 30, 2020, expires Oct. 30, 2020. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of
Livestock, Poultry, and Exotic Animals**

EMERGENCY AMENDMENT

2 CSR 30-2.005 Vesicular Stomatitis Restrictions on Domestic and Exotic Ungulates (Hoofed Animals) Entering Missouri. The Director is amending section (1).

PURPOSE: This amendment reflects current scientific research on Vesicular Stomatitis disease control.

EMERGENCY STATEMENT: This emergency rule informs the public about new quarantine procedures for domestic or exotic ungulates originating from counties with Vesicular Stomatitis. Using current scientific research, the Animal Health Division wishes to better facilitate movement of domestic and exotic ungulates by applying updated and relevant movement regulations. A case of Vesicular Stomatitis was recently reported in the United States. As a result, the Animal Health Division finds a compelling governmental interest to facilitate commerce, which requires this emergency action to be implemented in the instance Vesicular Stomatitis is reported in other states. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Animal Health Division believes this emergency rule is fair to all interested persons and parties under the circumstances. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protection extended in the Missouri and United States Constitutions. The Department of Agriculture believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed April 30, 2020, becomes effective May 15, 2020, and expires November 10, 2020.

(1) In addition to any other entry requirements, any domestic or exotic ungulate(s) (hoofed animal) originating from a [state] county

affected with Vesicular Stomatitis, meaning a [state] county with a premises under quarantine for Vesicular Stomatitis, must meet the following requirements:

(A) Any animal entering Missouri requiring a Certificate of Veterinary Inspection must have an entry permit issued by the Missouri Department of Agriculture, Division of Animal Health and the permit number shall be listed on the Certificate of Veterinary Inspection.

(B) The Certificate of Veterinary Inspection must be issued within seven (7) days prior to entering Missouri and must state that the animals listed are free of clinical signs of Vesicular Stomatitis and have not been exposed to Vesicular Stomatitis or located [within ten (10) miles of a] on a premises quarantined for Vesicular Stomatitis within the past [thirty (30)] fourteen (14) days.

(C) These requirements shall remain in place until a quarantine release has been issued for all affected premises in the [state] county from which the animal originates.

AUTHORITY: section 267.645, RSMo [2000] 2016. Emergency rule filed July 14, 1995, effective July 24, 1995, expired Nov. 20, 1995. Original rule filed Aug. 15, 2005, effective March 30, 2006. Emergency amendment filed April 30, 2020, effective May 15, 2020, expires Nov. 10, 2020. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

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

EMERGENCY AMENDMENT

13 CSR 40-2.160 State Hearing Procedures. The division is amending section (1), adding new sections (2), (5), (6), (10)-(18), renumbering as necessary, and amending newly renumbered sections (3), (4), (7), (8), and (9).

PURPOSE: This emergency amendment accounts for changes in technology, and addresses issues that commonly occur in the appeals process and that the rule, in its current form, does not address.

EMERGENCY STATEMENT: The Department of Social Services, Family Support Division (FSD) finds that there is an immediate danger to the public health, safety or welfare requiring emergency action and that this emergency rule is necessary to preserve a compelling governmental interest as it allows the FSD to conduct hearings telephonically or through electronic means during the state of emergency and updates changes in technology and how the FSD can communicate with participants. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The FSD believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed April 16, 2020, becomes effective April 30, 2020, and expires February 9, 2021.

(1) If an Old Age Assistance, Nursing Care, Aid to Dependent Children, General Relief, Permanent and Total Disability Assistance or Aid to the Blind application is not acted upon within a reasonable length of time after the filing of the application or is denied in whole or in part, or if any

benefits are cancelled or modified and concurrently with each reinvestigation, the applicant or recipient shall be notified in writing by the county family services office of his/her right to appeal to the director of the Division of Family Services; however, those recipients receiving the maximum payment allowed by law will not be notified of their right to appeal on the basis of the amount of grant, following the completion of a reinvestigation of their case. (Original rule filed Sept. 26, 1951, effective Oct. 6, 1951.) This rule outlines the procedure for participant appeals resulting from the operation of the programs administered by the Missouri Department of Social Services pursuant to section 208.080, RSMo. For anything in this rule that conflicts with appeals of decisions regarding Temporary Assistance screening or testing for illegal controlled substances, the regulation at 13 CSR 40-2.440 shall control. For anything in this rule that conflicts with a federal or state law or regulation relevant to the program for which the appeal is made, the relevant federal or state law or regulation controls.

(2) Definitions.

(A) "Authorized Representative" means an individual or organization who a participant has legally authorized to act on behalf of the participant in the appeal process as provided for under 13 CSR 40-2.015. Participants shall designate an authorized representative in ways that are approved by the division and are authorized by state and federal law. If the participant is unable to reduce such authorization to writing or to a form approved by the division, the hearing officer or other division employee may assist the participant in doing so as allowed by law.

(B) "Division" means the relevant division of the Department of Social Services to whom a participant is requesting an appeal. Pursuant to section 208.080, RSMo, this shall be either the Family Support Division, Children's Division, or MO HealthNet Division.

(C) "Electronic access account" means the use of available online application processes or other available electronic systems by participants to submit an application or otherwise conduct business with the division.

(D) "Good cause" means a mistake or conduct beyond the control of the participant that is not intentionally or recklessly designed to impede the hearing process. For purposes of this regulation, failure to advise the division of a current mailing address shall not constitute good cause.

(E) "Hearing" means a legal proceeding to provide documents and testimony for the division. The proceeding shall be conducted for the purpose of presenting evidence relevant to the participant's appeal. The Hearing Officer may appear in person, by telephone or other electronic means.

(F) "Hearing Notice" means a document, sent by the Division of Legal Services of the Department of Social Services, advising the participant of the time, date, and place of their hearing.

(G) "Participant" means an individual or vendor who has applied for, is receiving, or has been denied benefits or services provided by the Department of Social Services or by other applicable programs administered by the Department of Social Services.

[[2]](3) [If] In addition to appeal rights conveyed by section 208.080, RSMo., if an institutionalized spouse, a community spouse or a representative of either has requested an assessment of countable resources for the month in which institutionalization begins, in accordance with [13 CSR 40-2.030] 42 USC 1396r-5, upon the determination of the spousal share, the institutionalized spouse and the community spouse shall be notified in writing by the [county family services office] division of their rights to appeal to the director of the [Division of Family Services] division. This notice shall inform the institutionalized spouse and community spouse that appeal rights are effective upon application for [Medicaid vendor] applic-

able MO HealthNet benefits for the institutionalized spouse. Hearings regarding assessment issues shall be held within thirty (30) days of the date of the request for the hearing.

[[3]](4) Upon the determination of the community spouse monthly income allowance described in [13 CSR 40-2.200, the county family services office] 42 USC 1396r-5, the division shall notify, in writing, the institutionalized spouse and the community spouse, of their rights to appeal to the director of the division [Division of Family Services].

(5) A participant may appeal any division decision that delays, denies, or adversely affects the participant's benefits or services to the division Director, pursuant to section 208.080 RSMo. This may include a failure of the division to act, as provided by law.

(A) A participant may request an appeal in person, by telephone, by mail, or through other commonly available electronic means that are used by the division, including email and facsimile transmission.

(B) Proper blank forms for requesting an appeal shall be available at local division offices and online through the division website.

(C) A request for an appeal shall include, at a minimum:

1. The name and Departmental Client Number (DCN), Social Security number, or date of birth of the participant for which the hearing has been requested, or the name and Departmental Vendor Number (DVN) of the vendor for which the hearing has been requested;

2. The name of the person requesting the hearing, if requested by someone other than the participant;

3. The current address and phone number of the participant, and the current address and phone number of the person requesting the hearing if requested by someone other than the participant; and

4. A brief description of the reason the appeal is being requested.

(D) An electronic signature shall serve as a valid signature for the purposes of requesting an appeal under this regulation.

(6) A participant may request an expedited hearing if the participant's life, health, or ability to attain, maintain, or regain maximum function would be jeopardized by the time ordinarily permitted for a standard hearing, or as otherwise required by law.

(A) A health care provider may request an expedited hearing on behalf of the participant and in regards to the participant's eligibility for benefits and services governed by section 208.080, RSMo., or alternatively, may submit documentation supporting the individual's request for an expedited hearing.

(B) A request for an expedited hearing may be made in the same manner as any other request for a hearing, as set forth in subsection 2, above.

(C) If the hearing officer denies the request for an expedited hearing, the hearing officer shall notify the participant through electronic means or orally, and if orally, with written notice sent within two (2) calendar days of the denial.

(D) If the hearing officer denies the request for an expedited hearing, the denied request shall still serve as a valid request for an appeal under this regulation.

[[4]](7) [Notice of hearing shall be mailed by registered United States mail to the appellant at least seven (7) days before the date of the hearing, specifying the time, date and place of hearing; provided, however, that a shorter notice period may be used if not prejudicial to the parties. A copy of the notice also will be mailed to the county family services office and to any party of record representing the appellant. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)] The department shall send notice to the participant electronically at the participant's last known electronic mail

address, or by posting it to the participant's electronic access account, at least ten (10) days before the date of the hearing, specifying the time, date, and location of the hearing. If the department determines that the participant has no electronic mail address on record and does not have an electronic access account, or has opted out of receiving electronic communications, the department shall send the notice by regular United States mail to the participant's last known mailing address.

(A) The burden is on the participant to keep the division advised of his or her current mailing address and other pertinent contact information.

(B) Service of notice to the participant's last known electronic or mailing address of record, pursuant to this section, shall be deemed proper service.

(C) If the department receives information prior to the scheduled hearing that the participant did not receive the notice, the department shall reset the scheduled hearing to a new hearing date and issue a new hearing notice to the participant's updated contact location. If the participant's updated contact location, or the contact location of his/her authorized representative or attorney, cannot be determined, the division shall take the appropriate action regarding the participant's benefits or services as provided for by law for situations in which the division is unable to locate a participant.

(D) The department may use a shorter notice period if it is not prejudicial to the parties.

(E) A copy of the notice also will be sent to any attorney, legal guardian, and/or authorized representative who has notified the division that they are representing the participant.

[(5)](8) Procedure with reference to the hearings shall be *[simple,]* informal *[and summary]* with respect to the conduct of the hearings. The Missouri Administrative Procedure Act, as set forth in section 536.070, RSMo., shall apply to hearings pursuant to this regulation unless in conflict with another statute or federal regulation, or as otherwise set forth herein. *I, but the rules of evidence as applied to civil cases in Missouri shall be applied. Exceptions to adverse rulings are automatically saved to the party ruled against.]*

(A) Stipulations may be entered into prior to final disposition to:

1. *[w]*Withdraw the application for a hearing;
2. *[a]*Agree to a statement of facts; or
3. *[a]*Agree to any other pertinent matter or order.

(B) *[Hearings may be adjourned, postponed or continued from time-to-time or place-to-place at the discretion of the director or referee. Continuances of hearings will not be granted as a matter of course unless the request for continuance is received five (5) days prior to the date scheduled for the hearing. Continuances will be granted during the five (5)-day period prior to the hearing only when the hearing officer determines from the request that extraordinary circumstances exist.]* An attorney shall not act as an advocate at a hearing in which the attorney is likely to be a necessary witness.

[(C) Subpoenas to compel the attendance of witnesses and the production of records may be issued by the director or referee upon a statement of the necessity therefore filed by the party requesting the issuance of the subpoena.

(D) Witness and mileage fees to any witness duly subpoenaed shall be paid as follows: Witnesses shall receive one dollar and fifty cents (\$1.50) for each day's attendance and in all cases five cents (50) per mile for each mile actually traveled. These witnesses and mileage fees may be claimed only at the time and place of hearing or the hearing adjournment and shall be certified by the witness and approved by the director or referee. Payment shall be made as other payments out of the Division of Family Services Administration Fund. Under no circumstances shall parties to the case or their relatives be granted witness fees.

(E) If any appellant fails to enter his/her appearance either

in person or by duly authorized representative or show good cause for not appearing at any hearing, his/her appeal shall be dismissed for want of prosecution.]

[(F)](C) Briefs setting forth written argument on the law and the facts may be filed in any case within a specified time designated by the *[director or referee]* hearing officer.

(D) In order to protect the integrity and fairness of the appeals process, the hearing officer requires all parties and persons acting in a representational capacity to comply with the following rules of conduct:

1. All individuals shall appear for the hearing and be ready to proceed no later than the starting time listed on the notice. A hearing officer may find a participant in default and dismiss the appeal if the participant or the participant's representative does not appear within ten (10) minutes after the starting time. However, the hearing officer shall retain the authority to commence the hearing at a time appropriate to the circumstances;

2. All individuals shall comply with all directions given by a hearing officer during a hearing. If any individual fails to follow these directions, the hearing officer may exclude the individual from the hearing, or may adjourn the hearing.

[(G) Within a reasonable time after the conclusion of a hearing, the director of the Division of Family Services will render a decision which shall include a statement of the Findings of Fact and Conclusions of Law. A copy of the decision will be sent to the appellant by registered United States mail. A copy also will be mailed to the county family services office and to any duly authorized representative of the appellant. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)]

[(6)](9) *[There are established the positions of state hearing officer within the Division of Legal Services]* The department's Division of Legal Services (DLS) has established hearing officer positions in order to comply with all pertinent federal and state law and regulations.

(A) Hearing officers shall be licensed to practice law in the State of Missouri at all times relevant herein.

(B) The *[state]* hearing officers shall have authority to conduct state-level hearings of a pre-termination or appeal nature. They shall serve as *[direct representatives]* designees of the division director, *[of the Division of Family Services]* as required by federal or state law.

(C) All decisions issued *[as a result of the hearing so]* after state-level hearings conducted by the hearing officers shall be in the name of the division director *[of the Division of Family Services]* or the director's designee, as required by federal or state law.

(D) *[Although the hearing officers may be assigned to a certain area, this]* The hearing officers' authority to conduct hearings shall be statewide.

(E) The authority of the hearing officers to conduct hearings arises under section 208.080, RSMo., and shall apply to all programs administered by the director of the *[Division of Family Services. (Original rule filed April 1, 1975, effective April 10, 1975.)]* Department as set forth in section 208.080, RSMo.

(10) Any party shall be entitled to conduct depositions pursuant to section 536.073 RSMo, as amended, and the Missouri Rules of Civil Procedure. The costs of the depositions shall be borne by the party conducting the deposition unless otherwise agreed to by the parties or ordered by a court of competent jurisdiction.

(A) Pursuant to section 536.073, RSMo., no discovery shall be allowed for hearings conducted pursuant to this rule unless it is expressly identified herein.

(11) Subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of records may be issued by the hearing officer upon a statement of necessity filed by the party requesting the issuance of the subpoena pursuant to

section 536.077, RSMo.

(A) The witness shall be entitled to the same fees and, if compelled to travel more than forty (40) miles from his or her place of residence, shall be entitled to the same tender of fees for travel and attendance, and at the same time, as is now or may hereafter be provided for witnesses in civil actions in the circuit court, such fees to be paid by the party requesting the subpoena, except where the payment of such fees is otherwise provided for by law.

(B) Under no circumstances shall the department grant witness fees to parties to the case or their relatives.

(12) The hearing officer may, as allowed by state and federal law, keep the record of the administrative hearing open to a fixed day so as to order, and receive the results of, a physical or mental health examination, to allow the parties to submit additional evidence, or for other good cause.

(A) In cases in which the hearings unit keeps the record open to a fixed day in order to allow the parties to submit additional evidence: if the additional evidence is not received by the department by the fixed day and no requests have been made to extend the record (in which case the hearing officer may extend the record further), the hearing officer shall close the record and the Director will issue a decision based on the record.

(B) A request for a continuance of the hearing date must be communicated to the hearing officer and any other parties to the hearing, if possible, at least five (5) days prior to the date of the scheduled hearing. Continuances will be granted only when the hearing officer determines from the request that extraordinary circumstances exist.

(13) For any time limit imposed by state or federal law under which the division must take final administrative action, starting with the date of the request for a hearing and ending on the date of the division's action, and as allowed by federal and state law, the time limit is tolled for the length of any delay in the hearing process caused either by one of the reasons identified in Section (12) of this rule, the claimant's actions, or by the actions of, or at the request of, the claimant's authorized representative, guardian, conservator, or attorney.

(A) If the record at an administrative hearing is held open at the request of a claimant under section (12) of this rule, the deadline for administrative action is extended by the number of calendar days between the date of the request for a hearing and the fixed day identified in section (12).

(B) Example: The division receives a request for a hearing regarding a person's eligibility for MO HealthNet on the basis of disability on May 1, 2020. Under federal law, the division has ninety (90) days to take a final action on the outcome of the hearing. The division must therefore take final administrative action on or before July 30, 2020. The hearings unit sets a hearing date for May 15, 2020 (fourteen (14) days into the ninety- (90-) day timeline). The claimant then requests a continuance of the hearing date, and the hearing is rescheduled for May 31, 2020. The ninety- (90-) day count stops on May 15, 2020 at fourteen (14) days. It resumes on May 31, 2020. This results in an extension of the deadline for administrative action by sixteen (16) days to cover the continuance period of May 15 through May 31, 2020. The new deadline for administrative action becomes August 15, 2020.

(14) Any party may represent themselves, be represented by an authorized representative, by a licensed Missouri attorney, by a nonresident attorney appearing in compliance with Supreme Court Rule 9, or by an eligible law student complying with Missouri Supreme Court Rule 13.

(15) All persons who will be acting in a representative capacity on behalf of a party before the hearing officer shall file notice of their intent to represent the party as soon as possible after being retained or chosen. Non-attorneys shall file proof that they are

authorized representatives of the participant pursuant to 13 CSR 40-2.015. Attorneys shall file an entry of appearance.

(16) The Hearings Unit shall dismiss an appeal under the following circumstances:

(A) The appeal was not timely requested;

(B) The division has not taken an action affording (or has not been inactive to such an extent as to afford) the participant a right to appeal; or

(C) The participant, having been notified of the time, date, and place of the hearing, fails to appear at the hearing without good cause.

(17) If the participant dies prior to or at any time during the appeal, the participant's attorney's or authorized representative's authority shall terminate.

(A) Upon being advised of the death of the participant, the hearing officer shall continue the hearing.

(B) Following the participant's death, only the duly authorized personal representative of or legal counsel for the participant's estate shall be allowed to represent the participant at the hearing.

(C) If the duly authorized personal representative of the participant's estate does not enter an appearance with the hearing officer within thirty (30) days after the hearing date, the hearing officer dismiss the appeal.

(D) This section shall not terminate an authorized representative's authority to assist with an application for MO HealthNet benefits prior to the participant's death, as allowed under 13 CSR 20-2.015(16).

(18) Within a reasonable time after the conclusion of a hearing, the Division director or the Director's designee, as required by federal and state law, will render a decision in compliance with section 208.080.7, RSMo.

(A) A copy of the decision will be sent to the participant and to the participant's legal guardian, attorney, and/or authorized representative by regular United States mail, or electronically if the participant so chooses and the department has the capability to send an electronic notice.

(B) A copy will also be sent to the division.

AUTHORITY: sections [207.020, RSMo 1986] 207.022 and 660.017, RSMo Supp. 2019. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Emergency amendment filed Sept. 19, 1989, effective Oct. 1, 1989, expired Jan. 28, 1990. Amended: Filed Nov. 2, 1989, effective Jan. 26, 1990. Amended: Filed Jan. 10, 1990, effective April 12, 1990. Emergency amendment filed April 16, 2020, effective April 30, 2020, expires Feb. 9, 2021. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 15—Hospital Program

EMERGENCY RULE

13 CSR 70-15.015 Direct Medicaid Payments

PURPOSE: This rule provides for the calculation of the Direct

Medicaid payments made on or after July 1, 2019.

EMERGENCY STATEMENT: *The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency rule is necessary to preserve a compelling governmental interest as it allows the State Medicaid Agency to pay hospital providers the per diem rate and Direct Medicaid Payment. These payments provide hospitals the ability to provide sufficient medical care to Medicaid participants and the uninsured. An early effective date is required because this emergency rule establishes the Federal Reimbursement Allowance (FRA) funded hospital payments for dates of service beginning July 1, 2020 in regulation to ensure that quality health care continues to be provided to MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The division uses the best information available for the trend for the upcoming state fiscal year by using the trend published in the First Quarter Healthcare Cost Review publication, which is generally not available until May. The division must also analyze hospital data, which are not complete until near the end of the state fiscal year, in conjunction with the trend and funding to determine the appropriate level of payments. Without this information, the trends cannot be determined; therefore, due to timing of the receipt of this information and the necessary July 1, 2020 effective date, an emergency regulation is necessary. As a result, the MHD finds it necessary to preserve its compelling governmental interest in providing these payments to hospital providers, which requires an early effective date. If this emergency rule is not enacted, there will be significant cash flow shortages causing a financial strain on Missouri hospitals which serve approximately nine hundred seventy-one thousand (971,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The MHD believes this emergency rule to be fair to all interested parties under the circumstances. The emergency rule was filed April 30, 2020, becomes effective May 15, 2020, and expires February 24, 2021.*

(1) Direct Medicaid Qualifying Criteria.

(A) An inpatient hospital provider may qualify as a Disproportionate Share Hospital (DSH) based on the following criteria. Hospitals shall qualify as a Disproportionate Share Hospital for a period of only one (1) state fiscal year (SFY) and must requalify at the beginning of each SFY to continue their DSH classification—

1. If the facility offered nonemergency obstetric services as of December 21, 1987, there must be at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to these services under the Missouri Medicaid plan. In the case of a hospital located in a rural area (area outside of a metropolitan statistical area, as defined by the federal Executive Office of Management and Budget), the term obstetrician includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This section does not apply to hospitals either with inpatients predominantly under eighteen (18) years of age or which did not offer nonemergency obstetric services as of December 21, 1987;

2. As determined from the fourth prior year desk-reviewed cost report, the facility must have either—

A. A Medicaid inpatient utilization rate (MIUR) at least one (1) standard deviation above the state's mean MIUR for all Missouri hospitals. The MIUR will be expressed as the ratio of total Medicaid days (TMD) provided under a state plan divided by the provider's total number of inpatient days (TNID). The state's mean MIUR will be expressed as the ratio of the sum of the total number of the Medicaid days for all Missouri hospitals divided by the sum of the

total patient days for the same Missouri hospitals. Data for hospitals no longer participating in the program will be excluded;

$$MIUR = \frac{TMD}{TNID}$$

or

B. A low-income utilization rate (LIUR) in excess of twenty-five percent (25%). The LIUR shall be the sum (expressed as a percentage) of the fractions, calculated as follows:

(I) Total MO HealthNet patient revenues (TMPR) paid to the hospital for patient services under a state plan plus the amount of the cash subsidies (CS) directly received from state and local governments, divided by the total net revenues (TNR) (charges, minus contractual allowances, discounts, and the like) for patient services plus the CS; and

(II) The total amount of the hospital's charges for patient services attributable to charity care (CC) (care provided to individuals who have no source of payment, third-party, or personal resources) less CS directly received from state and local governments in the same period, divided by the total amount of the hospital's charges (THC) for patient services. The total patient charges attributed to CC shall not include any contractual allowances and discounts other than for indigent patients not eligible for MO HealthNet under a state plan;

$$LIUR = \frac{TMPR + CS}{TNR + CS} + \frac{CC - CS}{THC}$$

3. As determined from the fourth prior year desk-reviewed cost report, the hospital—

A. Has an unsponsored care ratio of at least ten percent (10%). The unsponsored care ratio is determined as the sum of bad debts and CC divided by TNR and also meets either of the criteria in paragraph (1)(A)2.; or

B. Ranks in the top fifteen (15) in the number of Medicaid inpatient days provided by that hospital compared to Medicaid patient days provided by all hospitals, and the hospitals also have a Medicaid nursery utilization ratio greater than thirty-five percent (35%) as computed by dividing Title XIX nursery and neonatal days by total nursery and neonatal days; or

C. Operated a neonatal intensive care unit with a ratio of Missouri Medicaid neonatal patient days to Missouri Medicaid total patient days in excess of nine percent (9%) reported or verified by the division from the fourth prior year cost report;

4. As determined from the fourth prior year desk-reviewed cost report—

A. The acute care hospital has an unsponsored care ratio of at least sixty-five percent (65%) and is licensed for less than fifty (50) inpatient beds; or

B. The acute care hospital has an unsponsored care ratio of at least sixty-five percent (65%) and is licensed for fifty (50) inpatient beds or more and has an occupancy rate of more than forty percent (40%); or

C. The hospital is owned or operated by the Board of Curators as defined in Chapter 172, RSMo, or their successors; or

D. The hospital is a public hospital operated by the Department of Mental Health primarily for the care and treatment of mental disorders; and

5. As determined from the fourth prior year desk-reviewed cost report, hospitals which annually provide more than five thousand (5,000) Title XIX days of care and whose Title XIX nursery days represent more than fifty percent (50%) of the hospital's total nursery days.

(B) Those hospitals which meet the criteria established in paragraphs (1)(A)1., (1)(A)2., and (1)(A)4. shall be deemed safety net hospitals. Those hospitals which meet the criteria established in paragraphs (1)(A)1. and (1)(A)3. shall be deemed first tier Disproportionate Share

Hospitals (DSH). Those hospitals which meet only the criteria established in paragraphs (1)(A)1. and (1)(A)2. or (1)(A)1. and (1)(A)5. shall be deemed second tier DSH.

(2) Direct Medicaid Payments.

(A) Direct Medicaid Payments. Direct Medicaid payments will be made to hospitals for the following allowable MO HealthNet costs not included in the per diem rate as calculated in 13 CSR 70-15.010 (3):

1. The increased MO HealthNet costs resulting from the Federal Reimbursement Allowance (FRA) assessment becoming an allowable cost on January 1, 1999;

2. The unreimbursed MO HealthNet costs applicable to the trend factor which is not included in the per diem rate;

3. The unreimbursed MO HealthNet costs for capital and medical education not included in the trended per diem cost as a result of the application of the sixty percent (60%) minimum utilization adjustment in 13 CSR 70-15.010 (3)(A)4.;

4. The increased cost per day resulting from the utilization adjustment. The increased cost per day results from lower utilization of inpatient hospital services by MO HealthNet participants now covered by a managed care health plan;

5. The poison control adjustment shall be determined for hospitals which operated a poison control center during the base year and which continues to operate a poison control center in a MO HealthNet managed care region; and

6. The increased cost resulting from including out-of-state Medicaid days in total projected MO HealthNet days.

(B) The MO HealthNet Division will calculate the Direct Medicaid payment as follows:

1. The MO HealthNet share of the inpatient FRA assessment will be calculated by dividing the hospital's inpatient Medicaid patient days by the total inpatient hospital patient days from the hospital's base cost report to arrive at the inpatient Medicaid utilization percentage. This percentage is then multiplied by the inpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the inpatient FRA assessment. The MO HealthNet share of the outpatient FRA assessment will be calculated by dividing the hospital's outpatient MO HealthNet charges by the total outpatient hospital charges from the base cost report to arrive at the MO HealthNet utilization percentage. This percentage is then multiplied by the outpatient FRA assessment for the current SFY to arrive at the increased allowable MO HealthNet costs for the outpatient FRA assessment.

A. Effective for payments made on or after May 1, 2017, only the Fee-for-Service and Out-of-State components of the MO HealthNet share of both the inpatient and outpatient FRA assessment will be included in the Direct Medicaid add-on payment.

2. The unreimbursed MO HealthNet costs are determined by subtracting the hospital's per diem rate from its trended per diem costs. The difference is multiplied by the estimated MO HealthNet patient days for the current SFY plus the out-of-state days from the fourth prior year cost report trended to the current SFY. The FFS days are determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior SFY. The managed care days are based on the FFS days determined from the regression analysis, as follows: The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report. The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

A. Effective for payments made on or after May 1, 2017, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2017, second prior CY would be 2015) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the

second prior CY; and

(II) The days estimated to shift from FFS to managed care effective May 1, 2017. The estimated managed care days for populations added to managed care beginning May 1, 2017 will be subtracted from the trended FFS days to yield the estimated MO HealthNet patient days.

B. Effective for payments made on or after July 1, 2018, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2019, second prior CY would be 2017) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) From the total estimated MO HealthNet patient days, remove the SFY 2019 estimated managed care days to yield the estimated MO HealthNet FFS patient days.

C. Effective for payments made on or after July 1, 2019, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2020, second prior CY would be 2018) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by one of the following:

(a) For hospitals that are in a managed care extension region or a Psychiatric hospital, the lower of the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report or from the hospital's second prior year cost report to yield the estimated MO HealthNet patient days; or

(b) For hospitals that are not in a managed care extension region or a Psychiatric hospital, the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

D. Effective for payments made on or after July 1, 2020, the estimated MO HealthNet patient days for the SFY shall be determined by adjusting the FFS days from the state's MMIS for the second prior Calendar Year (CY) (i.e., for SFY 2021, second prior CY would be 2019) by:

(I) The trend determined from a regression analysis of the hospital's FFS days from February 1999 through December of the second prior CY;

(II) A percentage adjustment shall be applied to the regression due to statewide managed care;

(III) The FFS days are factored up by one of the following:

(a) For hospitals that are in a managed care extension region or a Psychiatric hospital, the lower of the percentage of FFS days to the total of FFS days plus managed care days from the hospital's fourth prior year cost report or from the hospital's third prior year cost report to yield the estimated MO HealthNet patient days; or

(b) For hospitals that are not in a managed care extension region or a Psychiatric hospital, the percentage of FFS days to the total of FFS days plus managed care days from the hospital's

fourth prior year cost report to yield the estimated MO HealthNet patient days; and

(IV) The difference between the FFS days and the FFS days factored up by the FFS days' percentage are the managed care days.

E. The trended cost per day is calculated by trending the base year costs per day by the trend indices as defined in 13 CSR 70-15.010 (3)(B)1., using the rate calculation in 13 CSR 70-15.010 (3)(A).

F. For hospitals that meet the requirements in paragraphs (1)(A)1., (1)(A)2., and (1)(A)4. of this rule (safety net hospitals), the base year cost report may be from the third prior year, the fourth prior year, or the fifth prior year. For hospitals that meet the requirements in paragraphs (1)(A)1. and (1)(A)3. of this rule (first tier Disproportionate Share Hospitals), the base year cost report may be from the third prior year, or the fourth prior year. The MO HealthNet Division shall exercise its sole discretion as to which report is most representative of costs. For all other hospitals, the base year cost report is the fourth prior year. For any hospital that has both a twelve- (12-) month cost report and a partial year cost report, its base period cost report for that year will be the twelve- (12-) month cost report.

G. The trended cost per day does not include the costs associated with the FRA assessment, the application of minimum utilization, the utilization adjustment, and the poison control costs computed in paragraphs (2)(B)1., 3., 4., and 5.;

3. The minimum utilization costs for capital and medical education is calculated by determining the difference in the hospital's cost per day when applying the minimum utilization, as identified in 13 CSR 70-15.010 (5)(C)4., and without applying the minimum utilization. The difference in the cost per day is multiplied by the estimated MO HealthNet patient days for the SFY;

4. The utilization adjustment cost is determined by estimating the number of MO HealthNet inpatient days the hospital will not provide as a result of the managed care health plans limiting inpatient hospital services. These days are multiplied by the hospital's cost per day to determine the total cost associated with these days. This cost is divided by the remaining total patient days from its base period cost report to arrive at the increased cost per day. This increased cost per day is multiplied by the estimated MO HealthNet days for the current SFY to arrive at the MO HealthNet utilization adjustment.

A. Effective July 1, 2011, the utilization adjustment will no longer apply to any hospital other than safety net hospitals as defined in subsection (1)(B), children's hospitals as defined in 13 CSR 70-15.010 (2)(Q), and specialty pediatric hospitals as defined in 13 CSR 70-15.010 (2)(O). Children's hospitals and specialty pediatric hospitals will continue to receive fifty percent (50%) of the adjustment calculated in accordance with paragraph (2)(B)4. Safety net hospitals will continue to receive one hundred percent (100%) of the adjustment calculated in accordance with paragraph (2)(B)4.;

5. The poison control cost shall reimburse the hospital for the prorated MO HealthNet managed care cost. It will be calculated by multiplying the estimated MO HealthNet share of the poison control costs by the percentage of managed care participants to total MO HealthNet participants; and

6. Effective July 1, 2006, the costs for including out-of-state Medicaid days is calculated by subtracting the hospital's per diem rate from its trended per diem cost and multiplying this difference by the out-of-state Medicaid days as determined from the regression analysis performed using the out-of-state days from the fourth, fifth, and sixth prior year cost reports.

(C) For new hospitals that do not have a base cost report, Direct Medicaid Payments shall be estimated as follows:

1. Hospitals receiving Direct Medicaid Payments shall be divided into quartiles based on total beds;

2. Direct Medicaid Payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average Direct Medicaid Payment per bed;

3. The number of beds for the new hospital without the base cost report shall be multiplied by the average Direct Medicaid

Payment per bed to determine the hospital's estimated Direct Medicaid Payment for the current state fiscal year; and

4. For a new hospital licensed after February 1, 2007, estimated total Direct Medicaid Payments for the current state fiscal year shall be divided by the estimated MO HealthNet patient days for the new hospital's quartile to obtain the estimated Direct Medicaid adjustment per patient day. This adjustment per day shall be added to the new hospital's MO HealthNet rate as determined in 13 CSR 70-15.010 (4), so that the hospital's Direct Medicaid Payment per day is included in its per diem rate, rather than as a separate Add-On Payment. When the hospital's per diem rate is determined from its first full year cost report in accordance with 13 CSR 70-15.010 (1)-(3), the facility's Direct Medicaid Payment will be calculated in accordance with subsection (2)(B) and reimbursed as an Add-On Payment rather than as part of the per diem rate. If the hospital is defined as a critical access hospital, its MO HealthNet per diem rate and Direct Medicaid Payment will be determined in accordance with 13 CSR 70-15.010 (5)(F).

5. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which re-enters the MO HealthNet Program, shall have its Direct Medicaid Payments determined in accordance with 13 CSR 70-15.010 (3)(B)4.

AUTHORITY: sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2019. This rule was previously filed as part of 13 CSR 70-15.010. Emergency rule filed April 30, 2020, effective May 15, 2020, expires Feb. 24, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: For SFY 2021, this emergency rule may save the state approximately \$21.2 million (State Share: \$7 million FRA and \$345 thousand IGT for DMH) in the time the emergency is effective. For SFY 2021, this proposed rule may cost public entities \$4.3 million in the time the emergency is effective.

PRIVATE COST: For SFY 2021, this emergency rule may cost private entities \$38.1 million in the time the emergency is effective.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
- Division Title:** Division 70 - MO HealthNet Division
- Chapter Title:** Chapter 15 – Hospital Program

| | |
|-------------------------------|---|
| Rule Number and Title: | 13 CSR 70-15.015 Direct Medicaid Payments |
| Type of Rulemaking: | Emergency Rule |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|--|---|
| Department of Social Services, MO HealthNet Division | SFY 2021 Impact (6 months): Total Cost – (\$21.2) million State Share (FRA Fund) – (\$7) million State Share (IGT Fund for DMH) = (\$345) thousand |
| Other Government (Public) & State Hospitals enrolled in MO HealthNet (40) | The estimated cost for SFY 2021 - \$2.2 million |

III. WORKSHEET

Department of Social Services, MO HealthNet Division Savings:

Estimated Savings for 6 Months of SFY 2021:

| | FRA Fund | IGT Fund for DMH | Total |
|--|----------------|------------------|----------------|
| Estimated Payments with days change | \$431,705,452 | \$5,646,366 | \$437,351,817 |
| Estimated Payments without days change | \$451,929,321 | \$6,637,622 | \$458,566,942 |
| Estimated Impact of days change | (\$20,223,869) | (\$991,256) | (\$21,215,125) |
| State Share Percentage | 34.868% | 34.868% | 34.868% |
| State Share | (\$7,051,558) | (\$345,626) | (\$7,397,184) |

Other Government (Public) & State Hospitals:

Estimated Costs for 6 Months of SFY 2021:

| | FRA Fund | IGT Fund for DMH | Total |
|--|---------------|------------------|---------------|
| Estimated Payments with days change | \$65,439,707 | \$5,646,366 | \$71,086,072 |
| Estimated Payments without days change | \$66,626,421 | \$6,637,622 | \$73,264,043 |
| Estimated Impact of days change | (\$1,186,715) | (\$991,256) | (\$2,177,971) |
| State Share Percentage | 34.868% | 34.868% | 34.868% |
| State Share | (\$413,778) | (\$345,626) | (\$759,404) |

IV. ASSUMPTIONS

The estimated cost is based upon the data in FRA 20-3 with adjustments to the base days. The base year for the SFY 2021 fee for service (FFS) days used for the SFY 2021 Direct Medicaid payments are calendar year 2019 days from the MMIS system. The percentage of managed care (MC) days to the total of FFS days plus MC days is from either the 2017 or 2018 cost report based on whether the hospital was in a MC extension region or a psychiatric hospital. However, these assumptions will change for SFY 2021 due to revenue and cost factors that are unknown at the time this regulation was filed.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

| | |
|-------------------------------|---|
| Rule Number and Title: | 13 CSR 70-15.015 Direct Medicaid Payments |
| Type of Rulemaking: | Emergency Rule |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities: |
|--|---|---|
| In-state hospitals - 100 | Private Hospitals enrolled in MO HealthNet | The estimated cost for SFY 2021 - \$19 million |

III. WORKSHEET

Private In-State Hospitals:

Estimated Costs for 6 Months of SFY 2021:

| | FRA Fund | IGT Fund for DMH | Total |
|--|----------------|------------------|----------------|
| Estimated Payments with days change | \$366,265,745 | \$0 | \$366,265,745 |
| Estimated Payments without days change | \$385,302,900 | \$0 | \$385,302,900 |
| Estimated Impact of days change | (\$19,037,155) | \$0 | (\$19,037,155) |
| State Share Percentage | 34.868% | 34.868% | 34.868% |
| State Share | (\$6,637,780) | \$0 | (\$6,637,780) |

IV. ASSUMPTIONS

The estimated cost is based upon the data in FRA 20-3 with adjustments to the base days. The base year for the SFY 2021 fee for service (FFS) days used for the SFY 2021 Direct Medicaid payments are calendar year 2019 days from the MMIS system. The percentage of managed care (MC) days to the total of FFS days plus MC days is from either the 2017 or 2018 cost report based on whether the hospital was in a MC extension region or a psychiatric hospital. However, these assumptions will change for SFY 2021 due to revenue and cost factors that are unknown at the time this regulation was filed.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**

**Division 2110—Missouri Dental Board
Chapter 2—General Rules**

EMERGENCY RULE

20 CSR 2110-2.020 Limited Temporary Dental License

PURPOSE: This rule creates a limited temporary dental license to allow recent dental school graduates to practice dentistry while they are waiting for clinical competency examinations to be rescheduled due to the COVID-19 Pandemic.

EMERGENCY STATEMENT: On January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency to aid the nation's healthcare community in responding to COVID-19. The Governor of Missouri declared a similar State of Emergency on March 13, 2020, finding that COVID-19 poses a serious health risk for Missouri residents and visitors. As a result, the clinical examinations that had been scheduled for March and April at Missouri's two (2) dental schools were cancelled. The current pandemic may result in it being several months before the exams can be rescheduled as the testing companies are currently closed nationwide. Completion of these clinical examinations is required for licensure as a dentist. This created a situation where graduates from both of Missouri's dental schools will be unable to obtain licensure upon graduating in May. Many graduating students already have jobs lined up in the dental field. The inability to obtain licensure could cause many of them to lose those jobs and render them unable to obtain work as a dentist. The board has determined that this emergency rule is necessary in order to create this temporary license as a way to enable those graduates to obtain a form of licensure and enter the healthcare workforce. As a result, the Missouri State Dental Board finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Dental Board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 23, 2020, becomes effective May 7, 2020, and expires February 16, 2021.

(1) The holder of a limited temporary dental license may practice dentistry, as defined in section 332.071, RSMo, under the direct supervision of a Missouri licensed dentist. For the purposes of this rule, direct supervision shall mean that the supervising dentist is physically present and remains in the treatment facility while the dental work is being performed by the limited temporary dental license holder. The supervising dentist shall check the work performed by the limited temporary dental license holder prior to the patient being discharged.

(2) To qualify for a limited temporary dental license each applicant shall—

(A) Be a graduate of and hold a Doctor of Dental Surgery (DDS) degree or a Doctor of Dental Medicine (DMD) degree from an accredited dental school as defined in section 332.011, RSMo, and meet the other requirements of sections 332.131 and 332.151, RSMo; and

(B) Have passed the National Board Examination in accordance with the criteria established by the sponsoring body; and

(C) Have passed a written examination given by the board on the Missouri dental laws and rules (hereinafter referred to as the jurisprudence examination) with a grade of at least eighty percent (80%).

(3) To apply for a limited temporary dental license each applicant shall submit the following:

(A) A completed application form provided by the board; and
(B) A nonrefundable application/examination fee of fifty dollars (\$50) payable to the Missouri Dental Board; and

(C) A two-inch by three-inch (2" × 3") photograph or passport photograph taken no more than six (6) months prior to the application date; and

(D) An official copy of his/her educational transcript from an accredited dental school as defined in 332.011, RSMo. Transcripts must be sent directly to the board from the accredited dental school; and

(E) Certification of passage of the National Board Examination sent directly to the board from the sponsoring body; and

(F) A form provided by the board and signed by the dean of the dental school the applicant graduated from attesting that the applicant is fit to practice.

(4) A limited temporary dental license shall be valid for a period of ninety (90) days from the date it is issued. At the completion of that ninety (90) day period, the board may renew a limited temporary dental license for an additional ninety (90) days. A limited temporary dental license shall become void once the holder obtains full licensure or becomes ineligible to take a clinical competency examination.

AUTHORITY: section 332.031, RSMo 2016. Emergency rule filed April 23, 2020, effective May 7, 2020, expires Feb. 16, 2021.

PUBLIC COST: This emergency rule will increase the revenue of the Missouri Dental Board by seven thousand five hundred dollars (\$7,500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities seven thousand five hundred dollars (\$7,500) in the time the emergency is effective.

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 -Department of Commerce and Insurance****Division 2110 - Missouri Dental Board****Chapter 2 - General Rules****Proposed Amendment to 20 CSR 2110-2.020 Limited Temporary Dental License****II. SUMMARY OF FISCAL IMPACT**

| Affected Agency or Political Subdivision | Estimated Revenue | |
|--|---|----------------|
| Missouri Dental Board | \$7,500 | |
| | Estimated Revenue In the Time the Emergency is Effective | \$7,500 |

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total revenue is based on the cost to private entities reflected in the Private Fiscal Note filed with this rule.

PRIVATE FISCAL NOTE

I. RULE NUMBER

**Title 20 -Department of Commerce and Insurance
Division 2110 - Missouri Dental Board
Chapter 2 - General Rules
Proposed Amendment to 20 CSR 2110-2.020 Limited Temporary Dental License**

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 costs for the life of the rule by affected entities: |
|--|--|---|
| 150 | Limited Temporary License (Temporary Fee @ \$50) | \$7,500 |
| | Estimated Total Cost in the Time the Emergency is Effective | \$7,500 |

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on the projected number of graduates from both Missouri Dental schools that will seek temporary licensure.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**Division 2150—State Board of Registration for the Healing Arts****Chapter 2—Licensing of Physicians and Surgeons****EMERGENCY RULE****20 CSR 2150-2.068 Graduate Medical Student Temporary License**

PURPOSE: This emergency rule establishes an avenue for temporary licensure for graduate medical students during the State of Emergency declared in Executive Orders 20-02 (2020) and 20-04 (2020).

PURPOSE: This rule establishes requirements for graduate medical students to obtain a temporary license.

EMERGENCY STATEMENT: On January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency to aid the nation's healthcare community in responding to COVID-19. The Governor of Missouri declared a similar State of Emergency on March 13, 2020, finding that COVID-19 poses a serious health risk for Missouri residents and visitors. In response to the state and federal public health emergencies, the Missouri State Board of Registration for the Healing Arts (Board) received a call to action for graduates of medical programs to provide care to Missouri citizens during this State of Emergency. Emergency action is needed to ensure access to the untapped resources of medical graduates who completed an accredited medical college or osteopathic college and have matched to a residency program in 2020. The board has determined this emergency rule is needed to ensure appropriate licensure and practice requirements for these individuals during a limited period of time; absent an emergency rule, medical graduates will not be able to assist with the medical needs of Missouri citizens during this State of Emergency. Similarly, multiple states have recently taken action to allow graduate medical students to assist during the COVID-19 pandemic. As a result, the Missouri State Board of Registration for the Healing Arts finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Registration for the Healing Arts believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 30, 2020, becomes effective May 15, 2020, and expires November 10, 2020.

(1) Definitions.

(A) "Accredited medical program" – a program accredited by the American Medical Association, the American Osteopathic Association or Association of American Medical Colleges' Liaison Committee on Medical Education.

(B) "Board" – Missouri State Board of Registration for the Healing Arts.

(C) "Graduate medical student" – an individual of good moral character who is a graduate of an accredited medical college or osteopathic college who matched in the National Resident Matching Program and anticipate starting their residency program in 2020.

(D) "License holder" – a graduate medical student who has been issued a temporary license approved by the board to practice in the state of Missouri to assist during the State of Emergency declared in Executive Orders 20-02 (2020) and 20-04 (2020).

(E) "Temporary license" – graduate medical student temporary license.

(2) The graduate medical student shall only practice upon the issuance of the temporary license as approved by the board and under

the supervision of a currently Missouri licensed physician and surgeon during the State of Emergency declared by the Governor. The board retains the right to deny, revoke, or suspend a temporary license pursuant to section 334.100, RSMo.

(3) An applicant for a graduate medical student temporary license shall submit a completed application form approved by the board. The application form shall include at least the following:

(A) Name of the applicant and any former names used;

(B) Date of birth of the applicant;

(C) Gender of applicant;

(D) The applicant's Social Security number. If applicant does not have a Social Security number then the applicant shall supply visa or passport identification number;

(E) Answers to questions regarding the applicant's moral character, professional background, and fitness to practice; and

(F) A signed and notarized statement attesting that the application is true, that the applicant has a duty to supplement the information if it changes before a temporary license is granted, that the applicant understands that he or she cannot practice unless and until a temporary license is granted, and he or she must work under the supervision of a Missouri licensed physician.

(4) Applicants applying for a temporary license shall submit:

(A) A completed application;

(B) Personal history information;

(C) Proof the applicant matched to a residency program;

(D) Proof of passing steps 1 and 2 or level 1 and 2 of a board approved medical licensing examination;

(E) One (1) photograph not larger than three and one-half inches by five inches (3 1/2" × 5");

(F) A copy of medical diploma;

(G) Name change documentation;

(H) Verification of licensure in another state for any professional licenses previously or currently held; and

(I) A National Practitioner Data Bank (NPDB) query.

(5) In addition to the items listed in section (4) of this rule, applicants applying for a temporary license who have graduated from schools outside the United States or Canada must submit:

(A) Proof of a permanent Educational Commission for Foreign Medical Graduates (ECFMG) certificate or show evidence to the board that applicant has passed the equivalent licensing board examination in another state; and

(B) Copies and official translations of his/her medical credentials.

(6) The temporary license shall be valid through June 30, 2020. The temporary license may be renewed at the discretion of the board.

(7) No license holder shall continue to practice beyond the expiration date of the temporary license unless otherwise granted by the board.

(8) The time an individual practices under this temporary license shall not count as credit toward the individual's resident program or any permanent license in the state of Missouri.

AUTHORITY: Executive Orders 20-02 (2020) and 20-04 (2020), sections 44.100.1(3)(g), 334.045.3, and 334.125, RSMo 2016. Emergency rule filed April 30, 2020, effective May 15, 2020, expires Nov. 10, 2020.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

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

EXECUTIVE ORDER 20-09

WHEREAS, I have been advised by the Missouri Department of Health and Senior Services and the State Emergency Management Agency that there have been confirmed and or presumptive positive cases of COVID-19 in this state; and

WHEREAS, COVID-19 can result in mild or severe symptoms, is highly contagious, and is spread through close contact between persons and respiratory transmission; and

WHEREAS, COVID-19 poses a serious health risk for Missouri residents and visitors; and

WHEREAS, the Centers for Disease Control and Prevention activated its Emergency Operations Center to better provide ongoing support to the COVID-19 response on January 21, 2020; and

WHEREAS, the U.S. Secretary of Health and Human Services declared a public health emergency to aid the nation's healthcare community in responding to COVID-19 on January 31, 2020; and

WHEREAS, the first case of COVID-19 in the State of Missouri was identified on March 7, 2020; and

WHEREAS, the World Health Organization officially declared a pandemic due to COVID-19 on March 11, 2020; and

WHEREAS, Executive Order 20-02, declared a state of emergency in response to the spread of COVID-19 on March 13, 2020; and

WHEREAS, the resources of the State of Missouri will be needed to assist in a joint incident response; and

WHEREAS, the resources of the State of Missouri will be needed during the recovery phase of the state's response to this emergency; and

WHEREAS, an invocation of the provisions of Sections 44.100 and 44.110, RSMo, is required to ensure the protection of the safety and welfare of the citizens of Missouri; and

NOW, THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, including Section 44.100 and 44.110, RSMo, do hereby incorporate the terms and provisions of Executive Order 20-02, declare that a State of Emergency continues to exist in the State of Missouri and direct the Missouri State Emergency Operations Plan continue to remain activated.

This order shall terminate on June 15, 2020, unless extended in whole or in part.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 24th day of April, 2020.



A handwritten signature in black ink, appearing to read 'Michael L. Parson', written over a horizontal line.

MICHAEL L. PARSON
GOVERNOR

ATTEST:

A handwritten signature in black ink, appearing to read 'John R. Ashcroft', written over a horizontal line.

JOHN R. ASHCROFT
SECRETARY OF STATE