

Volume 41, Number 21
Pages 1521-1654
November 1, 2016

SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER
SECRETARY OF STATE

MISSOURI
REGISTER

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The *Missouri Register* is published semi-monthly by

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

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

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

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.mo.gov/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.mo.gov/adrules/csr/csr.asp>. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2014. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

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

renewal information on or around December 1, 2016, and the decreased fee needs to be reflected in this information. Without this emergency amendment the decreased fee requirement will not be effective in time for the renewal notice, and confusion will result in the renewal process.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency amendment, the board has determined that the fee decrease is necessary for the 2017 renewal period to prevent funds from exceeding the maximum fund balance, thereby resulting in a transfer from the fund to general revenue as set forth in section 331.070.2, RSMo, "A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for license fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the board of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue." The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed September 26, 2016, becomes effective October 6, 2016, and expires April 3, 2017.

(3) To ensure compliance with section 331.070, RSMo, the following renewal fees shall be effective from November 14, 2016 to March 31, 2017:

(A) Renewal Fee

\$50

AUTHORITY: sections 43.543 and 331.100.2, RSMo Supp. [2014] 2013, and section 331.070, RSMo 2000. This rule originally filed as 4 CSR 70-2.090. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 26, 2016, effective Oct. 6, 2016, expires April 3, 2017.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2070—State Board of Chiropractic Examiners Chapter 2—General Rules

EMERGENCY AMENDMENT

20 CSR 2070-2.090 Fees. The State Board of Chiropractic Examiners is proposing to add section (3).

PURPOSE: The State Board of Chiropractic Examiners is statutorily obligated to enforce and administer the provisions of sections 331.010 to 331.115, RSMo. Pursuant to section 331.070, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 331.010 to 331.115, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 331.010 to 331.115, RSMo.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in the fee required for the renewal of a license. The board is proposing to decrease the license renewal fee from one hundred twenty-five dollars (\$125) to fifty dollars (\$50). The emergency amendment is necessary to allow the board to collect the decreased fee. Chiropractors with a license expiration date of February 28, 2017 will be mailed

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

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

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

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

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

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

Administrator, the Director of Accounting of the Office of Administration, has the authority to make and publish such rules as are necessary [to] for the efficient administration of Old Age Survivors and Disability Insurance coverage to employees of [state and local political entities] political subdivisions and instrumentalities. This rule establishes coverage[, recordkeeping and reporting] guidelines for [state and local governmental officials] political subdivisions and instrumentalities.

(1) Extension of Social Security Coverage to [Public Agencies] Political Subdivisions and Instrumentalities Other Than State Units.

(A) The governing body of [cities, towns and villages shall] any political subdivision or instrumentality having a Social Security qualified retirement plan may adopt and submit to the [OASDHI Unit an ordinance providing for] State Social Security Administrator a resolution requesting the extension of Social Security coverage to all eligible employees as defined by applicable federal and state laws, section 218 (42 USC 418) of the Social Security Act and section 105.300 through 105.440, RSMo. [see Exhibit I].

[(B) The governing body of political subdivisions and instrumentalities, as defined in section 105.300(7) and (8), RSMo except as provided in subsection (1)(A) of this rule, shall adopt and submit to the Social Security Unit a resolution providing for extension of Social Security coverage to all eligible employees as defined by applicable federal and state laws. (see Exhibit II).]

[(C)](B) [In addition to the requirements of subsections (1)(A) and (B)] If adopting a resolution requesting a referendum as described in subsection (1)(A) of this rule and section 105.300(7) and (8), RSMo, political subdivisions and instrumentalities, upon a successful referendum, shall execute and submit to the [Social Security Unit] State Social Security Administrator a Social Security ["/Plan and Agreement["] contract which shall provide for an effective date of coverage in accordance with applicable federal and state law. [see Exhibit III].] If the referendum is not successful, then Social Security coverage is not extended to members of the qualified retirement plan. A referendum can again be requested after a period of one (1) year.

[(D)](C) Political subdivisions and instrumentalities [shall, in addition to the requirements of (1) (A)-(C),] qualifying under section (1), shall provide to the [Social Security Unit] State Social Security Administrator all federal employer identification number(s) assigned by the Internal Revenue Service when a ["/Plan and Agreement["] is executed [or when a payroll reporting unit number is requested].

(D) The governing body of any political subdivision or instrumentality not having a Social Security qualified retirement plan may adopt and submit to the State Social Security Administrator a resolution requesting the extension of Social Security coverage to all eligible employees as set forth in applicable federal and state laws, section 218 (42 U.S.C. 418) of the Social Security Act and sections 105.300 through 105.440, RSMo.

(2) Designation of Reporting Officials.

(A) Each political subdivision or instrumentality [of the state] covered under the voluntary Social Security program[, hereinafter called a public agency(ies),] in section (1), shall designate, by position, one (1) individual through whom all [transactions] communications with the State Social Security [Unit] Administrator shall be channeled [and who shall be responsible for all reports to the Social Security Unit. A public agency requesting a separate payroll reporting unit (PRU) number for any integral part of that agency shall also designate one (1) individual, by position, of each PRU through whom all transactions with

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 12—State of Missouri—Social Security Manual

PROPOSED AMENDMENT

1 CSR 10-12.011 State of Missouri—State Social Security [Manual] Administration. The commissioner is amending the title, purpose, and sections (1)–(3), deleting sections (4)–(11), and deleting all Exhibits.

PURPOSE: This amendment updates the regulation to reflect the current role of the State Social Security Administrator in administering Social Security coverage to employees of political subdivisions and instrumentalities. This amendment also updates terminology used in the regulation.

PURPOSE: The [s]State Social Security [Administration]

the Social Security Unit shall be channeled and who shall be responsible for all reports to the Social Security Unit.

(B) The director of the [state agency] **Division of Accounting of the Office of Administration**, as [defined] set forth in section 105.300(10), RSMo, shall be the official designated to be responsible for **State Social Security [reporting matters pertaining to employees of each state unit] Administration**. All [transactions with the] **communications regarding Social Security [Unit], excluding required federal reporting and payments**, shall be channeled through [the] **this** designated official **or their designee**.

(3) [Annual Wage Report Transmittal by Public Agencies and State Agencies With Local Fund Payrolls.] **All political subdivisions and instrumentalities with coverage agreements shall comply with applicable federal and state withholding laws and regulations related to Social Security and Medicare coverage and exclusions.**

(A) Each public agency covered by the Social Security program by agreement executed under section 105.350 and submitting annual wage and tax information on paper shall file Form W-3SL, *Transmittal of In-come and Tax Statements for State and Local Governmental Employers* (see Exhibit IV) and related Forms W-2, *Wage and Tax Statements*, to the Social Security Administration (SSA) in conformity with federal SSA requirements. Each public agency assigned two (2) or more payroll record unit (PRU) numbers must file a separate W-3SL wage report for each PRU number assigned. Each public agency reporting covered wages under more than one (1) federal employer identification number (EIN) must file a separate Form W-3SL for each federal employer identification number under which covered wages are paid. All substitute wage reporting forms must be those which have been approved by the Social Security Administration.

(B) Each state and local employer authorized to submit W-2 Copy A information on magnetic tape or diskette under the State and Local Annual Magnetic Reporting (SLAMR) plan shall submit tapes and diskettes to the Social Security Administration in accordance with instructions and accompanied by the appropriate transmittal forms provided by the Social Security Administration.

(C) In addition to the requirements of subsections (3)(A) and (B) of this rule, all public agencies covered by the Social Security program by agreement executed under section 105.350 must file AAFO Form 10, *State of Missouri, Governmental Employer Annual Report of Social Security Wages Paid* (see Exhibit V) to the state agency. An original copy of AAFO Form 10 shall be filed to the state Social Security Unit along with copy two (2) of Form(s) W-3SL as defined in subsection (3)(A). State and local governmental employers authorized to submit W-2 Copy A information on magnetic tape or diskette must attach a copy of Form 6560, *Employer Summary of Form W-2 Magnetic Media Wage Information to AAFO Form 10*. Public agencies assigned two (2) or more PRU numbers must file a separate AAFO Form 10 for each PRU.

(D) Each AAFO Form 10 wage report must be properly completed and mailed to the state agency on or before the thirty-first day of the month following the close of each calendar year. If the thirty-first falls on a Saturday, Sunday or holiday, the wage report shall be due on the next working day.

(E) AAFO Form 10 shall include the total of all covered wages paid annually to personnel employed by departments, boards, commissions, etc. reportable under the employer's state SSA number. Governmental employers reporting covered wages under more than one (1) federal employer identification number (EIN) shall report on AAFO Form 10 for each federal employer identification number under which

covered wages are paid.

(4) *Annual Wage Report Transmittal by State Departments not Under the State Payroll System.*

(A) Each state unit shall file annual reports of Social Security wages paid in accordance with the requirements of subsections (3)(A)–(E) of this rule.

(B) Each state unit reporting covered wages which were paid from state appropriations and local nonappropriated funds shall, in addition to the requirements of subsections (3)(A)–(E) of this rule, submit a signed certification of the wage amount paid from state appropriations for section 105.400, RSMo employer contribution fund transfer purposes.

(5) *Semi-monthly Social Security Deposits by Political Subdivisions and Instrumentalities of the State and State Agencies with Local Fund Payrolls.*

(A) Each political subdivision and instrumentality of the state covered under the Social Security program and each state unit making wage payments from nonappropriated local funds shall deposit Social Security contributions due within three (3) calendar days following the close of each semi-monthly period as follows:

1. For covered wages paid during the first fifteen (15) days of a calendar month, semi-monthly deposit reports and remittances are due on or before the eighteenth day of the calendar month; and

2. For covered wages paid during the sixteenth through the last day of each month, semi-monthly deposit reports and remittances are due on or before the third day of the following month. If the due date, third or eighteenth, falls on a Saturday, Sunday or legal holiday observed by the United States Postal Service, the Social Security deposit shall be due on the next working day.

(B) If the employer does not have a payroll within a semi-monthly period, the applicable deposit form for the period should be filed with the next deposit.

(C) If no Social Security wages were paid during either a semi-monthly deposit period within a calendar month, indicate "No Covered Wages" on both semi-monthly deposit forms and mail on or before three (3) calendar days following the end of the month.

(D) Governmental entities with twenty-five dollars (\$25) or less average combined employer/employee Social Security liability per semi-monthly deposit period may be authorized by the state agency to deposit Social Security contributions quarterly. Governmental entities designated as quarterly depositors shall deposit Social Security contributions due and file a Social Security deposit form no less than quarterly and within three (3) calendar days following the close of the third month of each quarter. If the average semi-monthly Social Security contributions (combined employer/employee taxes) exceed twenty-five dollars (\$25), deposits will be required on a semi-monthly deposit schedule in accordance with requirements of subsection (5)(A). Departments or subunits of a governmental entity permitted to file separate Social Security deposits under a PRU number must remit Social Security contributions due in accordance with the requirements of subsection (5)(A) of this rule.

(E) Deposits received postmarked after the due date shall be considered delinquent. Delinquent deposits shall be assessed interest at a rate equal to that charged by the Social Security Administration plus a penalty of five dollars (\$5) for the first day and one dollar (\$1) for each day thereafter or the penalty prescribed by the federal agency, whichever is greater, for the period for which deposits are delinquent. Interest shall not be billed if less than one dollar

(§1). Checks for Social Security deposits shall be made payable to the "OASDHI Trust Account" and shall be accompanied by a signed deposit ticket (see Exhibit VI) and Debit/Credit Notice, if applicable (see Exhibit VII).

(F) Deposits will be considered timely filed if received postmarked on or before the due date and received no later than seven (7) days after the due date. Deposits postmarked on or before the due date and not received within seven (7) days following the due date will be subject to interest and penalty charges from the due date to the date received. NOTE: Postage-metered stamps are not an acceptable substitute for actual post office cancellation marks. Deposits received delinquent and having a postage-metered stamp will be subject to delinquent charges from the due date to the date received.

(6) Transmittal of Initial Reports of Social Security Wages Paid. Initial reports of Social Security wages paid covering the period from the effective date of coverage shall be prepared in accordance with requirements in effect for the period being reported and submitted on or before the due date fixed by the Social Security Unit.

(7) Transmittal of Social Security Adjustment Reports to the State Agency. Social Security adjustment reports shall be completed, dated and submitted to the Social Security Unit on the proper form immediately upon discovery of a wage reporting error. Form W-2C, Statement of Corrected Income and Tax Amounts, (see Exhibit IX) must be used along with Form W-3C, Transmittal of Corrected Income and Tax Statements, (see Exhibit X). In addition to Forms W-2C and W-3C, the Social Security Unit requires that AAFO Form 11, Governmental Employer Report of Social Security Wage Adjustments, (see Exhibit XI) be completed. Where the Social Security Administration or state agency ascertains that an error was made, the necessary adjustment reports must be prepared and submitted in accordance with requirements in effect for the period being corrected and submitted on or before the due date fixed by the Social Security Unit. Adjustments which result in an additional contribution liability must be accompanied by a check(s) made payable to the "OASDHI Trust Account." Adjustments which result in an overpayment of contribution liability must be processed separately and cannot be used to offset the Social Security contribution liability on a current deposit. Only after a credit adjustment has been processed, will credit be issued by the Social Security Unit which may then be used to satisfy future Social Security liability.

(8) Late Reports.

(A) If any wage or adjustment report is not received by the Social Security Unit within the deadlines established by sections (3), (4), (6) and (7) of this rule, penalty will be assessed at five dollars (§5) for the first day and one dollar (§1) for each day thereafter from the due date until the completed report is received. Delinquent wage and adjustment reports which result in additional liability shall also be assessed interest on contributions due at a rate equal to that charged by the Social Security Administration. Interest shall not be billed if less than one dollar (§1).

(B) Covered public entities shall transmit to the Social Security Unit, upon notification, the amount of any federal interest and/or penalty on contributions due on any wage or adjustment report which is determined to be delinquent by the Social Security Administration.

(9) Extension of Time to File Reports. Public agencies may be granted a reasonable extension of time to file wage

reports required by the state agency if a written request stating in sufficient detail the reasons additional filing time is necessary is mailed to the state agency on or before the report due date.

(10) Review by the State Agency. The state agency upon notice may review payroll and disbursement records of any entity covered under a state Social Security Agreement for compliance with federal and state Social Security law.

(A) General Investigative Audits. The state agency upon its initiative may conduct investigative field audits of the books and payroll records of any public entity which has adopted coverage. The audits may be conducted at the business office of any participating entity or at any other site mutually convenient to the state agency and the entity. The state agency may require covered entities to submit reconciliation statements disclosing total wages and compensation disbursed for all personal services performed during a designated period for comparison with wages included upon reports for which contributions were paid in that same period.

(B) Tax Audit for Failure to Pay Contributions and File Reports. Upon failure or refusal of any political subdivision or instrumentality, or unit thereof, covered by agreement pursuant to section 105.350, RSMo to submit Social Security wage reports or adjustment reports and pay timely contributions in accordance with the terms of the agreement or applicable regulations, the state agency after giving notice may order the entity to make its payroll books and related records available at the business office of the entity, and may audit those books and records to determine the liability for reporting wages, the late-filing penalty and the federal interest charge from the date due until paid. Upon completion of the audit, the entity shall be given the opportunity to make payment. In the event of refusal to make payment, the state agency shall then certify the amount to be collected in accordance with section 105.385, RSMo.

(C) The state agency may recover the actual costs and necessary expenses for the preparation of required Social Security wage and adjustment reports not filed with the state agency by a political subdivision or instrumentality.

(11) Any political subdivision or instrumentality of the state covered under the Social Security program and each state unit making wage payments from nonappropriated local funds may request that the state administrator abate any portion or all of a penalty charge which has been assessed in accordance with section 105.380(2). All such requests must be submitted to the state administrator in writing and establish "good cause." This regulation prescribes no specific standard for "good cause." Generally, "good cause" exists when there are—unusual circumstances over which an entity has no control; emergency situations which are not expected to reoccur; or situations which cannot reasonably be anticipated. Generally "good cause" abatements will be granted in the following situations: death or serious illness of the reporting official or an individual having sole authority to execute a report or payment on behalf of the covered entity or agency or destruction by fire or other casualty of the entity's place of business or business records. The following situations are not considered sufficient reason to grant "good cause" abatements: the entity is situated in a place remote from the state agency; delays are due to procedural problems such as slow processing or warrants or vouchers; failure of responsible officials to meet and approve payments; inability of a state agency to obtain cooperation from an official of the political subdivision; a lack of expertise on the part of the official of a local subdivision; a lack of funds; or failure to notify the state agency of the current mailing

information or failure to receive deposit and/or report forms does not relieve the current reporting official of the obligation to file timely Social Security deposits and reports.]

AUTHORITY: section 105.430, RSMo [1986] 2000. Original rule filed Feb. 13, 1980, effective July 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Commissioner of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
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Otherwise Provided For By Law**

PROPOSED AMENDMENT

1 CSR 15-3.200 Subject Matter. The commission is amending the chapter title and the text of the rule.

PURPOSE: This amendment makes the language accommodating exceptions to the standard procedure of the Administrative Hearing Commission more flexible, in order to accommodate grants of jurisdiction that contain different procedural requirements.

This chapter 1 CSR 15-3 contains all procedural regulations for all contested cases assigned to the Administrative Hearing Commission by statute **except as otherwise provided for by law.** [For cases under sections 621.040 and 621.250, RSMo specific statutory provisions may apply in place of these regulations.] This chapter does not apply to cases not assigned to the Administrative Hearing Commission by statute, including cases in which the Administrative Hearing Commission acts as a hearing officer for another agency by interagency agreement.

AUTHORITY: sections 226.008.4 and 621.198, RSMo Supp. [2005] 2013, and sections 536.073.3, 621.035, and 622.027, RSMo 2000. Original rule filed Jan. 11, 2001, effective July 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.210 Definitions. The commission is amending subsections (1)(F) and (1)(K).

PURPOSE: This amendment specifies the commission's new address and clarifies that a limited liability company is a separate legal entity for purposes of the rules of the Administrative Hearing Commission.

(1) As used in this chapter, the following terms mean:

(F) Commission's office—the Administrative Hearing Commission's official residence [in] at **131 West High Street, Third Floor, PO Box 1557**, Jefferson City, MO 65101;

(K) Person—any individual, corporation, **limited liability company**, or other legal entity;

AUTHORITY: section 621.198, RSMo Supp. [2001] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
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PROPOSED AMENDMENT

1 CSR 15-3.250 Practice by a Licensed Attorney; When Required. The commission is amending sections (2) and (3).

PURPOSE: This amendment clarifies that a limited liability company is a legal entity that must be represented by an attorney when appearing before the commission pursuant to section 484.010, RSMo.

(2) Any individual may file a complaint on behalf of another person, including a corporation, **limited liability company**, or other legal entity.

(3) Except as set forth in section (2) of this rule, only a licensed attorney may represent any other person, including a corporation, **limited liability company**, or other legal entity. The filing of any document with the commission by a licensed attorney shall be deemed an entry of appearance. An attorney not authorized to practice in Missouri shall enter an appearance in accordance with Missouri Supreme Court Rules.

AUTHORITY: section 621.198, RSMo Supp. [2001] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.270 Service of Filings Other Than the Original Complaint. The commission is amending sections (1)–(4).

PURPOSE: This amendment permits service on other parties by e-mail and specifies when service is completed.

(1) Unless otherwise provided by these rules or by other law, any party to a proceeding before the commission or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any document or item the party files **with the commission.**

(2) Methods of Service.

(A) A person may serve a document on an attorney by—

1. *[Delivering]* **Hand-delivering** it to the attorney;
2. Leaving it at the attorney's office with a secretary, clerk, or attorney associated with or employed by the attorney served;
3. Mailing it to the attorney's last known address; *[or]*
4. **Sending it to the attorney's last known e-mail address; or**
- [4.]5.* Facsimile transmitting (faxing) it to the attorney's last known fax number.

(B) A person may serve a document on an unrepresented party by—

1. *[Delivering]* **Hand-delivering** it to the party;
2. Mailing it to the party's last known address; *[or]*
3. **Sending it to the party's last known e-mail address; or**
- [3.]4.* Faxing it to the party's last known fax number.

(C) *[Service by mailing is complete upon placing in the mail. Service by fax is complete upon its transmission.]* Personal service on attorneys and self-represented parties and service by leaving a copy at the attorney's office is complete upon delivery. Service by mail is complete upon mailing. Service by fax transmission or e-mail is complete upon transmission, except that a transmission made on a Saturday, Sunday, or legal holiday, or after 5:00 p.m. shall be complete on the next day that is not a Saturday, Sunday, or legal holiday.

(3) Any document or item filed **with the commission** shall contain or be accompanied by a **signed certification of service that indicates** how and when the filing party has met the provisions of section (1) of this rule. **The certification of service shall state the—**

- (A) **Name of the person served;**
- (B) **Date of service;**
- (C) **Method of service; and**
- (D) **Address of service, such as mailing address, fax number, or e-mail address.**

(4) The commission, after due notice **to all parties**, may waive the requirements of section (1) of this rule either on its own motion or on the motion of any party.

AUTHORITY: section 621.198, RSMo [1986] 2000. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.290 Filing of Documents; Fax or Electronic Filing; Posting Bond. The commission is amending the rule title, sections (1)–(2), adding sections (3)–(7), and renumbering section (3).

PURPOSE: This amendment allows for electronic filing with the commission and clarifies when documents are deemed filed with the commission when delivered by various means.

(1) A party may file a document **with the commission** by—

(A) **Hand-delivering the document to the commission. A document filed by hand-delivering a physical copy to the commission is deemed filed on the date the commission receives the document;**

[(A)](B) Registered or Certified Mail. A document filed by registered or certified mail, as defined in section 1.020(1), RSMo, is deemed filed on the date shown on the records of the United States Post Office *[records;]* or other common carrier that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient;

[(B)](C) Electronic *[Facsimile]* Transmission by *[(Fax)]* fax or through an electronic filing system, or its equivalent.

1. A document filed by fax shall follow the procedures set forth in section (2) of this rule.

2. A document filed by electronic filing or its equivalent shall follow the procedures set forth in section (3) of this rule.

3. A document filed by fax or electronic filing is deemed filed at the time the commission receives *[a]* the fax *[of the document.]* or electronic filing, except that *[[i]*if a document arrives by fax or electronic filing after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday, or legal holiday, it is filed on the commission's next business day, unless the commission orders otherwise; or

[(C)](D) Any Other Method. A document filed by any method other than **hand-delivery**, registered mail, certified mail, *[or]* fax, or **electronic filing** is deemed filed on the date the commission receives the document.

(2) A party filing by fax shall—

(A) Fax the document to the commission's dedicated fax number, **(573) 751-5018**;

(3) A party filing by electronic filing shall—

(A) Transmit the document via the commission's dedicated electronic filing system accessible through the commission web site;

(B) E-mail the document, if possible, to all other parties having e-mail capability. If unable to e-mail, a party shall notify all other parties of its intention to file the document by electronic filing. The notice need not be in writing. A good faith attempt at compliance shall satisfy the requirements of this subsection;

(C) If the commission so orders, send the original signed document to the commission;

(D) Certify in the documents the method of notice used to fulfill the requirements of subsection (3)(B) of this rule;

(E) Send a copy of the document to all parties as provided in 1 CSR 15-3.270. The commission may order the party to send a copy of the document to any party by overnight mail; and

(F) E-mail filing outside the commission's electronic filing system is not permitted, except for cases filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA) or as otherwise permitted in writing by the commission.

(4) The provisions of 1 CSR 15-3.350 relating to filing multiple copies of the complaint shall not apply to filings made by fax or electronic filing, unless otherwise required by the commission.

(5) A facsimile or electronic signature shall have the same effect as an original signature. See section 432.230, RSMo.

(6) The commission prefers that any document in excess of fifty (50) pages be filed by electronic filing.

(7) All pleadings and other papers, except exhibits, filed with the commission shall be printed on or formatted to eight and one half by eleven inch (8 ½ x 11") paper and printed on one (1) side only.

[(3)](8) Bonds. A bond is posted when the commission receives the original bond, unless the commission orders otherwise.

AUTHORITY: section 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2010] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

PUBLIC COST: This proposed amendment will cost the Office of Administration – Information Technology Services Division (ITSD) approximately eighteen thousand seven hundred fifty dollars (\$18,750) in programming costs plus minimal ongoing maintenance costs over the life of the rule.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: OFFICE OF ADMINISTRATION
Division Title: Administrative Hearing Commission
Chapter Title: Procedure For All Contested Cases Under Statutory Jurisdiction,
Except Cases Where Procedure Is Otherwise Provided For By Law**

Rule Number and Name:	1 CSR 15-3.290 Filing of Documents; Fax or Electronic Filing; Posting Bond
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of Administration - ITSD	Approximately \$18,750 in programming costs plus minimal ongoing maintenance costs over the life of the rule.

III. WORKSHEET

OA-ITSD has estimated that it will require 5 FTE working a total of approximately 250 hours to implement an Electronic Filing System. For legislative fiscal estimates, OA-ITSD uses a rate of \$75 per hour for programming costs.

$$(250 \text{ hours}) \times (\$75 \text{ per hour}) = \$18,750$$

IV. ASSUMPTIONS

In order to permit parties to file documents electronically with the AHC, a secure and reliable web-based IT solution will be required. OA-ITSD has reviewed commercially available solutions, and determined that in-house programming is the best and lowest cost option. As detailed above, OA-ITSD estimates that it will require 5 FTE working a total of approximately 250 hours to implement an Electronic Filing System. Ongoing maintenance will be minimal. Electronic storage costs will not increase; all documents filed with the AHC are currently being converted and stored in electronic form. AHC staff will operate more efficiently as a result of having to handle and convert fewer paper documents.

The cost described is considered part of the AHC's "allotment" of IT services, so no budgetary request or transfer will be necessary.

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PROPOSED AMENDMENT

1 CSR 15-3.320 Stay of Action under Review. The commission is amending the entire rule and renumbering as needed.

PURPOSE: This amendment recognizes that the name of the Division of Liquor Control has been changed by executive order, clarifies certain requirements for a motion for stay or suspension of an agency's actions, and eliminates the requirement for multiple copies.

(1) Scope and Content. The commission may stay or suspend any action of an administrative agency pending the commission's findings and determination in the cause.

(B) The movant shall include in the motion:

1. The full name, address and telephone number of movant, any attorney representing movant, *[and] the name, address, and telephone number of the respondent and any attorney representing respondent;*

2. Suitable space in the caption for the commission to affix a case number;

3. A clear heading, Motion for Stay;

4. Facts showing why the commission should grant the stay, set forth in numbered paragraphs, each of which shall contain, as far as practical, a single set of circumstances; and

5. A copy of any written notice of the action from which the petitioner is appealing.

[(2) The movant shall file the original and one (1) copy of the motion for stay with the commission.]

[(3)](2) Specific Cases.

(A) International Fuel Tax Agreement (IFTA) Cases. The commission, with or without the filing of a motion, may stay any suspension or revocation of an IFTA license if the licensee files a complaint on that action.

(B) Department of Social Services Cases Under Section 208.156, RSMo. The commission shall not grant a stay until after a full hearing on the motion.

1. The movant must show:

A. That immediate and irreparable injury, loss, or damage will result if such stay order is denied; or

B. That such person has a reasonable likelihood of success upon the merits of the claim; and

2. No stay order shall be issued without the movant posting a bond in such sum as the commission finds sufficient to protect and preserve the interest of the Department of Social Services or its divisions.

3. In no event may the commission grant such stay order where the claim arises under a program or programs funded by federal funds or by any combination of state and federal funds, unless it is specified in writing by the financial section of the appropriate federal agency that federal financial participation will be continued under the stay order and petitioner has met any other statutory conditions.

(C) Franchise Cases *[u]* Under Sections 407.822.1 and 407.1031.1, RSMo. The commission's notice of hearing shall contain a stay of the action from which the petitioner seeks relief. The stay shall dissolve only as set forth in section (7) and not section (8) of this rule.

(D) **Division of Liquor Control Cases, or any successor thereof.** The commission, with or without the filing of a motion, may stay any order of the supervisor of the Division of Liquor Control if the licensee files a complaint.

[(4)](3) The commission, upon either party's request, shall hold or, on its own initiative, may hold an evidentiary hearing on whether to issue a stay order, except as provided in subsections *[(3)](2)(B)* and *[(3)](2)(C)* of this rule.

[(5)](4) The commission may condition its stay order on the posting of a bond or other security, except as provided in subsection [(3)](2)(B) of this rule. A bond or other security is posted when the commission receives it.

[(6)](5) The denial of a motion for stay shall not prejudice the movant's complaint on the merits.

[(7)](6) The commission's stay order shall remain effective until the commission finally disposes of the case unless the commission orders otherwise. The commission shall not order otherwise as to a case under subsection [(3)](2)(C) of this rule.

[(8)](7) The commission, upon either party's request, shall hold or, on its own initiative, may hold an evidentiary hearing on whether to dissolve a stay order, except as provided in subsection *[(3)](2)(C)* of this rule.

AUTHORITY: section 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2007] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.350 Complaints. The commission is amending sections (1), (2), and (4).

PURPOSE: This amendment eliminates the requirement for filing multiple copies of a complaint when it is filed electronically, mirrors statutory language regarding filing fees for franchising cases under Chapter 407, RSMo, and clarifies the requirements for a complaint filed under Chapter 36, 105, or 162, RSMo.

(1) In General. The commission shall construe the provisions of this rule liberally if petitioner has prepared the complaint without legal counsel.

(D) Petitioner shall file the original of the complaint at the commission's office with sufficient copies for all parties, **unless filing the complaint via fax or e-mail in accordance with 1 CSR 15-3.290.**

(2) Specific Cases. In addition to the other requirements of this rule—

(A) An agency's complaint shall set forth—

1. The full name, address, and telephone number of any person whom petitioner names as a respondent;

2. *[Any]* A description of any licenses the licensee holds from the agency and their status;

3. Any fact supporting the relief that the agency seeks, including any conduct that a licensee has committed that is cause for discipline, with sufficient specificity to enable the licensee to address the charge at hearing; and

4. Any provision of law that allows discipline for such facts.

(D) In a case arising pursuant to Chapter 407, RSMo, including cases relating to the protest of an action taken by a motor vehicle, motorcycle, or all-terrain vehicle manufacturer, distributor, or representative pursuant to a franchise agreement, the petition shall include a filing fee in the amount *[of one hundred five dollars (\$105)]* equal to the filing fee of the circuit court of Cole County pursuant to section 621.053, RSMo.

(E) In a case arising pursuant to section 105.055, 36.280, 36.370, 36.380, or 36.390, RSMo, the petition shall include a copy of any notice of the action of which the employee seeks review and shall state—

1. The action being appealed; and

2. In the case of a dismissal, suspension for greater than five (5) days, or demotion, the reason the employee alleges that the dismissal, suspension, or demotion was—

A. For political reasons;

B. For religious reasons;

C. For racial reasons; *[or]*

D. Not *[for]* in the interest of efficient administration and that the good of the service~~./~~ was not served; or

E. For reasons prohibited by section 105.055, RSMo. The petitioner may, but is not required to, utilize a form provided by the commission on its website for purposes of appeals covered by this subsection.

(4) Amended Complaint

(A) Petitioner may amend the complaint without the commission's leave any time before the respondent serves a responsive pleading. After the respondent serves a responsive pleading, petitioner shall amend the complaint only with the commission's leave. The motion shall include the amended complaint proposed to be filed. *[Petitioner shall not amend the complaint less than twenty (20) days before the hearing without respondent's consent.]*

(B) For cases filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA), a party may amend its due process complaint only if—

1. The other party consents in writing to the amendment and the other party is given the opportunity to resolve the due process complaint through a meeting held pursuant to 34 CFR 300.510; or

2. The commission grants permission. Pursuant to 34 CFR 300.508(d)(3)(ii), no leave to amend shall be granted by the commission less than five (5) days before the due process hearing is scheduled to begin.

AUTHORITY: section 621.035, RSMo 2000, and sections 621.053 and 621.198, RSMo Supp. [2010] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.380 Answers and Other Responsive Pleadings. The commission is amending sections (3), (5), and (7).

PURPOSE: This amendment clarifies that an answer in a case filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA) is due within ten (10) days after receipt of the complaint.

(3) The respondent shall file any responsive pleading within the following times—

(D) For cases filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA), except as provided in 34 CFR 300.508(e), within ten (10) days of receiving the due process complaint.

(5) Except by leave of the commission, *[T]*the respondent shall file an answer to an amended complaint within the latest of:*]*—

(7) Failure to File.

(B) Except in cases under section 36.280, 36.370, 36.380, 36.390, 407.822.1, or 407.1031.1, RSMo, petitioner shall file the motion not fewer than thirty (30) days before the hearing on the complaint or the motion shall be waived. In cases under section 407.822.1 or 407.1031.1, RSMo, petitioner shall file a motion for a remedy only with the *[commissioner's]* commission's leave and pursuant to a schedule ordered by the commission.

(E) In cases in which a default decision has been entered under section 621.045.6, RSMo, the commission may set aside the default when respondent files a motion to set aside the default decision within thirty (30) days after entry of the default, stating facts constituting a meritorious defense and good cause for not having filed an answer or other responsive pleading.

AUTHORITY: section 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2010] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.390 Intervention. The commission is amending section (2) and is creating new section (4) out of the text that was section (3).

PURPOSE: This amendment makes the commission's filing requirements for intervention more consistent with procedure in the circuit courts.

(2) A motion to intervene shall—

(B) Be served on all the parties;

[(B)](C) Set forth facts showing that the person is entitled, or should be permitted, to intervene;

[(C)](D) Be signed by the person or the person's attorney;

[(D)](E) Be accompanied by a pleading that sets forth the relief, claim, or defense for which intervention is sought.

(3) The commission's order, ruling on the motion to intervene, shall set the date on which intervenor's pleading is filed.

(4) When the commission grants a motion to intervene as petitioner, a responsive pleading to the intervenor-petitioner's complaint shall be due thirty (30) days after the date on which such intervenor-petitioner's complaint is filed, as set by the commission's order. A responsive pleading to the intervenor-petitioner's complaint shall be otherwise governed by rule 1 CSR 15-3.380.

AUTHORITY: section 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2007] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested Cases Under
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Otherwise Provided For By Law

PROPOSED AMENDMENT

1 CSR 15-3.410 Closing of Case Records and Hearings. The commission is amending the purpose and the rule, creating new sections (1) and (2).

PURPOSE: This amendment clarifies that parties seeking to close records or portions of records filed with the commission are responsible for identifying and redacting information that may be closed.

PURPOSE: This rule describes the procedure for closing records or a hearing in a particular case, and redaction of personal information from documents filed with the Administrative Hearing Commission, but does not constitute legal authority for closing a record or hearing.

(1) Any party to a case may move to close any record or hearing, or any portion thereof, in that case. The motion shall be in writing. The party shall file it no fewer than fourteen (14) days before the date the party wants the matter closed. The motion shall cite the legal authority under which the commission may close the record or hearing.

(2) The responsibility for redacting information that may be closed pursuant to Missouri's Open Record Laws, Chapter 610 including records protected from disclosure by other laws pursuant to section 610.021(14), RSMo, from a document rests solely with counsel, the parties, or any other person preparing or filing that document. The commission's staff will not review each document for compliance with this regulation. Information that may be closed includes, but is not limited to:

(A) Social Security numbers;

(B) Testing and examination material used by an agency;

(C) Software codes for electronic data processing;

(D) Financial institution account numbers, credit card numbers, personal identification numbers, or passwords used to secure accounts; and

(E) Personal health information.

AUTHORITY: section 621.198, RSMo Supp. [2001] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.420 Discovery. The commission is amending section (2).

PURPOSE: This amendment makes commission requirements for filing a certificate of service for discovery requests more consistent with procedure in the circuit courts.

(2) Service and Responses.

(A) A party serving written interrogatories; requests for admissions, production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations, shall include a certificate of service in substantially the following form:

I served the original and *(number of)* copies of these *(written interrogatories/production of documents or things or permission to enter upon land or other property, for inspection and other purposes/physical and mental examinations/requests for admission) on (name and address of parties or attorneys)* this _____ day of _____, 20_____.

(Signature) _____

The party shall file a copy of the certificate with the commission. The party shall serve the original discovery on the party to whom it is directed.

1. The party shall not file written interrogatories; requests for production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations with the commission unless the commission so orders.

2. The party may file requests for admissions with the commission.

(C) The party responding to requests for admissions or interrogatories shall complete them by *[typewriting or]* printing the answer or objection to each question in the space provided. If the space is insufficient, the party shall reply by affidavit, clearly indicate so in the space provided, and attach the affidavit to the interrogatories or requests for admissions. Each response shall include a certificate of service in substantially the following form:

I served the original of these completed *(written interrogatories/requests for admission)* on *(name of party)* and sent *(number of)* copies to *(name and address of parties or attorneys)* this _____ day of _____, 20_____.

(Signature) _____

The responding party shall file the certificate of service with the commission and shall not file the response unless the commission so orders. The responding party shall serve the original completed response on the interrogating party and copies on all other parties.

AUTHORITY: sections 536.073 and 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2005] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
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PROPOSED AMENDMENT

1 CSR 15-3.425 Sanctions. The commission is amending section (2).

PURPOSE: This amendment permits the commission to dismiss a case under certain circumstances.

- (2) Sanctions available under this rule include without limitation:
- (B) Deeming all or any part of an opposing party's pleading admitted; *[or]*
 - (C) Barring or striking all or any evidence on any issue*[.];* or
 - (D) **Dismissing the case.**

AUTHORITY: section 621.198, RSMo Supp. [2001] 2013. Original rule filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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PROPOSED AMENDMENT

1 CSR 15-3.431 Voluntary Dismissal, Settlement, and Consent Orders. The commission is amending section (3).

PURPOSE: This amendment accommodates the repeal and reenactment of section 620.149 as section 324.038, RSMo, in S.B. 788 (2008).

(3) Consent Orders.

(A) Generally. A consent order is the commission's dismissal, or recommended dismissal, and memorialization that all parties have agreed to dispose of the case without the commission's decision or recommended decision, except in cases under section *[620.149] 324.038*, RSMo, or contested cases under section 621.045, RSMo.

(B) Cases Under Section *[620.149] 324.038*, RSMo, and Contested Cases Under Section 621.045, RSMo. A consent order in a case under section *[620.149] 324.038*, RSMo, or a contested case under section 621.045, RSMo, requires a decision by the commission. A motion for consent order in such a case is subject to rule 1 CSR 15-3.446.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2010] 2013. Original rule filed July 2, 2008, effective Jan. 1, 2009. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
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PROPOSED AMENDMENT

1 CSR 15-3.446 Decision on the Complaint without a Hearing.
The commission is amending sections (5) and (6).

PURPOSE: This amendment states the commission's preference that motions for summary decision be drafted as required by the circuit courts.

(5) Consent Orders in Cases Under Section [620.149] **324.038**, RSMo, and Contested Cases Under Section 621.045, RSMo. A motion for a consent order shall contain stipulated facts necessary to support the relief sought under the cited legal authority. Parties seeking a consent order under this section shall jointly file a motion that includes substantially the following language:

The parties stipulate that (party) committed the following conduct:
(Conduct).

(Party) admits that such conduct is cause for (the relief sought) under the following legal authority:

(Legal Authority).

Therefore, the parties agree to (the relief sought).

(6) Summary Decision. Summary decision is a motion for decision without hearing that relies on matters outside the pleadings and is not filed jointly by all parties.

(D) With regard to motions for summary decision, the commission prefers that—

1. A motion for summary decision summarily state the legal basis for the motion and have a statement of uncontroverted material facts attached to the motion. The statement should state with particularity in separately numbered paragraphs each material fact as to which the party filing the motion claims there is no genuine issue, with specific reference to the pleadings, discovery, exhibits, or affidavits that demonstrate the lack of a genuine issue as to such facts. Attached to the statement should be a copy of all discovery, exhibits, or affidavits on which the motion relies. The party filing the motion should also file a separate legal memorandum explaining why summary decision should be granted; and

2. The adverse party may file a response to the motion for summary decision within the time ordered by the commission and shall serve the response on all parties. To the extent possible, the response should admit or deny each enumerated statement of fact set forth in the motion, and each denial should be supported with specific references to the discovery, exhibits, or affidavits that demonstrate specific facts showing that there is a genuine issue of fact. The response may also set forth additional material facts that remain in dispute, with supporting documentation.

AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000, and section 621.198, RSMo Supp. [2010] 2013. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested Cases Under
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PROPOSED AMENDMENT

1 CSR 15-3.560 Fees and Expenses. The commission is amending the rule.

PURPOSE: This amendment specifies the procedure to be followed by a party seeking attorneys' fees in certain tax cases and cases filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA).

A party may file a complaint for litigation fees and expenses as authorized by law. Such complaint shall be a separate contested case. The complaint for fees and expenses shall be governed by [Chapter 536/ section 536.087, RSMo[.], or, in certain tax cases by section 136.315, RSMo. For cases filed under section 162.961, RSMo, Individuals with Disabilities Education Act (IDEA), the complaint for fees and expenses shall be filed in the appropriate court as authorized by 34 CFR 300.517.

AUTHORITY: section 621.198, RSMo Supp. [2010] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested Cases Under
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Otherwise Provided For By Law

PROPOSED AMENDMENT

1 CSR 15-3.580 Certifications of Records. The commission is amending the entire rule.

PURPOSE: This amendment makes commission procedure more consistent with procedure in the circuit courts regarding the content of the record on appeal and the procedure by which the commission shall cause the record to be certified to a court or agency.

(1) Record Defined.

(A) As used in this rule, the term record has the meaning set forth in section 536.130.1[~~(3)~~], RSMo [1986, unless the parties agree otherwise as provided by section 536.130.1(1) or (2), RSMo].

[(B) Unless a party specifically and in writing requests otherwise before the commission has certified the record, the record shall not include:

1. Briefs;
2. Proposed findings of fact; and
3. Proposed conclusions of law.]

(B) Such record shall consist of any one (1) of the following:

1. Such parts of the record, proceedings and evidence before the commission as the parties by written stipulation filed with the commission may agree upon before the commission has certified the record;

2. Any agreed statement of the case that is agreed to by all the parties and approved as correct by the commission; or

3. A complete transcript of the entire record, proceedings and evidence before the commission, but any matter not essential to the decision of the questions presented by the complaint may be omitted, but the commission's decision, order and findings of fact and conclusions of law shall be included in every case. Documents may be abridged by the omission of irrelevant and formal parts thereof, including, but not limited to, briefs, proposed findings of fact and proposed conclusions of law, hearing notices, miscellaneous correspondence, motions, objections and responses, or commission orders not material to the decision.

(2) The commission shall certify and transmit the record as follows.

(A) Agency. In any case under section 621.110, RSMo [2000], in which the commission finds that there is cause for discipline, the commission shall cause the record to be certified[,] and transmitted[,] to the agency.

(B) Circuit Court. The commission shall cause the record to be certified to, and filed with, a circuit court as provided in Supreme Court Rule 100.01 within thirty (30) days of the date on which it receives a copy of the petition for judicial review as set forth in section 536.110, RSMo [2000].

(C) Appellate Court. The commission shall cause the record to be certified to, and filed with, an appellate court of original jurisdiction as provided in Supreme Court Rule 100.02 within *[ninety (90)]* **thirty (30)** days of the date on which it receives a copy of the petition for judicial review or notice of appeal as set forth *[at]* in Supreme Court Rule 100.02(d).

(3) Any party may file a motion with the commission for an amended certification. The commission may file an amended certification to include specified matters omitted from the **original** certification. The

commission shall not file an amended certification deleting matters included in the **original** certification.

AUTHORITY: section 621.198, RSMo Supp. [2001] 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 29, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557 Jefferson City, MO 65102-1557. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

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

PROPOSED AMENDMENT

1 CSR 20-5.015 Definition of Terms. The Personnel Advisory Board is amending subsection (1)(C).

PURPOSE: This amendment updates the definition of sick leave.

(1) The following words and terms, used with specific intent throughout this rule and 1 CSR 20-5.020 or in their administration, are defined for clarity:

(C) Sick leave is a benefit granted by the state to the employee in the form of paid time off from work due to illness **or for other circumstances**, under the conditions set forth in 1 CSR 20-5.020(2) or for Personal Wellness Leave as set forth in 1 CSR 20-5.020(2);

AUTHORITY: section 36.060, RSMo Supp. 2013, and section 36.070, RSMo 2000. Original rule filed July 21, 1994, effective Feb. 26, 1995. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2013, effective March 30, 2014. Amended: Filed Sept. 27, 2016.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Nancy Johnston, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 9:30 a.m., December 13, 2016, in the board room, Room 430 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.

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

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The Personnel Advisory Board is amending sections (2) and (7).

PURPOSE: This amendment updates the permitted uses for sick leave, clarifies provisions regarding adoption leave, and modifies requirements regarding Family Medical Leave Act (FMLA) eligibility.

(2) Sick leave shall be governed by the following provisions:

(A) Except to the extent restricted below, sick leave under these rules is defined to mean a period in which the employee is incapacitated for the performance of assigned duties by sickness or injury, or by pregnancy, childbirth, and recovery from them, **or for bonding time with a child within twelve (12) months of the birth or adoption placement of the employee's child**, or periods of time required for medical, surgical, dental, or optical examination or treatment, or where through exposure to contagious disease the presence of the employee on duty would jeopardize the health of others, and shall also include leave requested and approved for the specific purpose of Personal Wellness Leave under specific conditions set forth in 1 CSR 20-5.020(2)(0);

(M) When an employee's personal care and attention is required in connection with the adoption of a child, loss of time that is supported by appropriate documentation will be referred to as adoption leave. **An employee's opportunity to use adoption leave expires at the end of the twelve- (12-) month period beginning on the date of placement of the child.** Such leave will be charged against the employee's accumulated sick leave unless the employee elects to use annual leave or compensatory time. The final decision concerning the granting of leave under this section shall rest with the appointing authority and shall be based upon the degree to which the employee is responsible for providing personal care and attention;

(7) Leaves of absences without pay shall be governed by the following provisions:

(B) **Except to the extent modified in these rules, [L]leaves of absence without pay for family and medical care shall be granted in accordance with the provisions of the federal Family and Medical Leave Act of 1993.**

1. For the purposes of family and medical care leave, the following words and terms, unless the content clearly requires otherwise, shall have the meaning indicated as follows:

A. Child means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in *loco parentis*, who is under eighteen (18) years of age or eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability;

B. Eligible employee means an employee who has been employed for at least *[twelve (12)] six (6)* months and who has worked at least *[one thousand two hundred and fifty (1,250)] six hundred and twenty-five (625)* hours within that time is eligible for a maximum of twelve (12) work weeks of unpaid leave during the year;

C. Employer, for the purposes of the Family and Medical Leave Act of 1993 and this section, the state of Missouri constitutes a single public employer;

D. Parent means the biological parent of an employee or an individual who stands or stood in *loco parentis* to an employee when the employee was a child. This term does not include parents-in-law;

E. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves—

(I) Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;

(II) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three (3) calendar days, that also involves continuing treatment by, or under the supervision of, a health care provider; or

(III) Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or for prenatal care;

F. Spouse means a husband or wife as defined or recognized under state law for purposes of marriage;

G. Substantially equivalent position means a position that has the same pay, benefits, and working conditions, including privileges, prerequisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority; and

H. Year means the current month and preceding eleven (11) months;

2. An eligible employee shall be granted leave without pay for the following causes and under the following conditions:

A. The birth or adoption of a child in accordance with the following provisions:

(I) Entitlement to leave for the purpose of adoption or for the birth of a child is limited to twelve (12) calendar months from the date of the birth or adoption of the child; and

(II) The employee shall request leave in writing at least thirty (30) days prior to the commencement of leave or in the event of an emergency as soon as reasonably practical; also

(III) In the event that both parents are employees of Missouri, leaves for the birth or adoption of a child shall **not** be limited *[to a period of twelve (12) weeks between parents/employees;] only because both parents are employees of Missouri. Each parent/employee may take FMLA leave, in accordance with the FMLA and these rules, up to the maximum FMLA entitlement under the law and these rules;*

B. To provide care for a child, spouse, or parent with a serious health condition; and

C. For treatment of the employee's serious health condition;

3. The following regulations shall apply to any of the family or medical leave requests:

A. The employee may take leave on an intermittent basis with prior approval of the appointing authority;

B. Employees shall be required to provide medical certification as to the need for leave of absence to obtain treatment for themselves or to care for a child, spouse, or parent when requested;

C. At the appointing authority's discretion, employees may be required to transfer to another position to better accommodate an intermittent leave schedule;

D. The appointing authority may require accumulated sick leave or annual leave to be utilized prior to granting leave without pay;

E. Sick leave or annual leave utilized for the purposes of family or medical leave, whether at the employee's option or at the appointing authority's direction, shall be considered part of the twelve- (12-)/- week leave obligation;

F. The employee is entitled to be returned to the position from which leave was granted or to a position that is substantially equivalent;

G. The employee shall suffer no loss in benefits accrued prior to the commencement of the leave of absence without pay;

H. Except as provided in Missouri statute or rules, the employee shall not be eligible to accrue benefits during the period of leave of absence without pay; and

I. The employer shall continue to provide what is currently paid toward the employee's same medical insurance coverage during

the period of leave not to exceed twelve (12) weeks.

AUTHORITY: section 36.070, RSMo 2000. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 27, 2016.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Nancy Johnston, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 9:30 a.m., December 13, 2016, in the board room, Room 430 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 400—Office of Educator Quality**

PROPOSED AMENDMENT

5 CSR 20-400.640 Certification Requirements for Initial Student Services Certificate. The State Board of Education is proposing to amend section (1) and delete subsection (1)(F).

PURPOSE: This amendment removes the issuance of an Initial Student Services Certificate for the area of Speech-Language Pathologist.

(1) An applicant for a Missouri Initial Student Services Certificate, valid for a period of four (4) years, may be granted an Initial Student Services Certificate subject to the certification requirements found in 5 CSR 20-400.500 and the following additional requirements:

(B) The Initial Student Services Certificate for Elementary Counselor (Grades K-8), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Recommendation for certification from the designated official of a counselor preparation program approved by the department;

2. Completion of a course in Psychology/Education of the Exceptional Child; and

3. The applicant must possess either—

A. Completion of a master's degree with a major emphasis in guidance and counseling from a college or university meeting approval of the department based upon the completion of a planned program of at least forty-two (42) semester hours of approved graduate credit in courses in guidance and counseling with at least twelve (12) semester hours focused upon guidance in the elementary schools—

(I) Knowledge and/or competency in each of the following areas:

- (a) Student Development—
- I. Human Growth and Development;
 - II. Counseling Theories and Interventions;
 - III. Helping Relationships;
 - IV. Social and Cultural Diversity;
 - V. Appraisal of Student Growth and Achievement;

and

- VI. Career Development and Planning;
- (b) Program Implementation—
- I. Structural Components;
 - II. Program Components;
 - III. Technology; and
 - IV. Program, Personnel, and Results Evaluation;
- (c) Professional Relationships—
- I. Interpersonal Skills;
 - II. Collaboration;
 - III. Consultation Theories and Strategies; and
 - IV. School and Community Involvement;
- (d) Leadership and Advocacy—
- I. Personal Well-Being;
 - II. Leadership and Professionalism;
 - III. Student Advocacy;
 - IV. Program Leadership; and
 - V. School Climate and Culture;
- (e) Ethical and Professional Conduct—
- I. Ethical Standards;
 - II. Professional Standards;
 - III. District and School Policies; and
 - IV. Legal Requirements; and

(II) Field and Clinical Experience (three (3) semester hours minimum of three hundred (300) clock hours)—

(a) Culminating Clinical Experience. This refers to an elementary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning;

B. A master's degree or higher degree in education, school counseling, counseling, counseling psychology, rehabilitation counseling, or a closely-related mental health discipline; and completed additional graduate coursework specific to school counseling, as designated by the recommending certification official approved by the department; along with the following:

(I) Possess a bachelor's degree in education from [a] an educator preparation program approved by the department; or

(II) Complete a curriculum in teaching methods and practices, classroom management, and the psychology of the exceptional child, as specified by the recommending certification officer of a program approved by the department; and

(III) Field and Clinical Experience (minimum of three hundred (300) clock hours)—

(a) Culminating Clinical Experience. This refers to an elementary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning; and

4. Must achieve a score equal to or in excess of the qualifying score of any assessment(s) required by the State Board of Education (board). The official score report shall be submitted to the department;

(C) The Initial Student Services Certificate for Secondary Counselor (Grades 7-12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Recommendation for certification from the designated official of an approved counselor preparation program;

2. Completion of a course in Psychology/Education of the Exceptional Child; and

3. The applicant must possess either—

A. A master's degree with a major emphasis in guidance and

counseling from a college or university meeting approval of the department based upon the completion of a planned program of at least forty-two (42) semester hours of approved graduate credit in courses in guidance and counseling with at least twelve (12) semester hours focused upon guidance in secondary schools—

(I) Knowledge and/or competency in each of the following areas:

- (a) Student Development—
 - I. Human Growth and Development;
 - II. Counseling Theories and Interventions;
 - III. Helping Relationships;
 - IV. Social and Cultural Diversity;
 - V. Appraisal of Student Growth and Achievement;

and

- VI. Career Development and Planning;
- (b) Program Implementation—
 - I. Structural Components;
 - II. Program Components;
 - III. Technology; and
 - IV. Program, Personnel, and Results Evaluation;
- (c) Professional Relationships—
 - I. Interpersonal Skills;
 - II. Collaboration;
 - III. Consultation Theories and Strategies; and
 - IV. School and Community Involvement;
- (d) Leadership and Advocacy—
 - I. Personal Well-Being;
 - II. Leadership and Professionalism;
 - III. Student Advocacy;
 - IV. Program Leadership; and
 - V. School Climate and Culture; and
- (e) Ethical and Professional Conduct—
 - I. Ethical Standards;
 - II. Professional Standards;
 - III. District and School Policies; and
 - IV. Legal Requirements; and

(II) Field and Clinical Experience (minimum of three hundred (300) clock hours—

(a) Culminating Clinical Experience. This refers to a secondary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning.

B. A master's degree or higher degree in education, school counseling, counseling psychology, rehabilitation counseling, or a closely-related mental health discipline; and completed additional graduate coursework specific to school counseling, as designated by the recommending certification official approved by the department; along with the following:

- (I) Possess a bachelor's degree in education from *[a]* an educator preparation program approved by the department; or
- (II) Complete a curriculum in teaching methods and practices, classroom management, and the psychology of the exceptional child, as specified by the recommending certification officer of a program approved by the department; and
- (III) Field and Clinical Experience (minimum of three hundred (300) clock hours)—

(a) Culminating Clinical Experience. This refers to an elementary school placement(s) in which candidates actively participate and complete class assignments and work with students as requested while under the supervision of a counselor. The candidate should experience a wide range of class settings and have opportunities to collaborate with the supervising counselor, preparation program supervisors, and/or other stakeholders working to improve student learning;

4. Must achieve a score equal to or in excess of the qualifying score of any assessment(s) required by the board. The official score report shall be submitted to the department;

(D) The Initial Student Services Certificate for School Psychological Examiner (Kindergarten – Grade 12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. The applicant shall hold a valid Missouri professional teaching certificate or student services certificate of license to teach as an elementary or secondary school counselor;

- A. Counseling Psychology;
- B. Educational Psychology;
- C. School Counseling; and
- D. Education;

2. Recommendation for certification from the designated official of an approved Psychological Examiner preparation program;

3. Completion of a course in Psychology/Education of the Exceptional Child; and

4. A minimum of twenty-four (24) semester hours of professional preparation at the graduate level with competencies demonstrated in all areas listed to the satisfaction of an approved preparation program—

A. Course/s/ Areas—

(I) Psychological Development: Child, Adolescent, or Developmental Psychology;

(II) Psychology of Education;

(III) Statistical Methods;

(IV) Mental Hygiene or Psychology of Personality;

(V) Psychological Tests and Measures for the Analysis of Student Performance;

(VI) Individual Intelligence Tests; and

(VII) Individual Diagnostic Assessment (other than the Wechsler Intelligence Scale for Children and the Stanford-Binet Intelligence Scale);

B. Competencies—

(I) Methods and/or Techniques of Interpretation of Tests;

(II) Analysis and Diagnosis of Learning Problems, including special consideration of low-incidence populations;

(III) Interpretation of Formal and Informal Diagnostic Assessments and their Application for Prescriptive Instruction;

(IV) Utilization of Knowledge of Classroom Environment, Psychological Principles, and Test Date to Plan for Management of Special Needs Children;

(V) Diagnostic Interviewing Techniques;

(VI) Process of Staffing with Other Professionals to Develop Instructional Strategies; and

(VII) Administration and Interpretation of the Wechsler Intelligence Scale for Children and the Stanford-Binet Intelligence Scale; and

C. Field and Clinical Experiences (minimum of one hundred fifty (150) clock hours)—

(I) Culminating Clinical Experience. This culminating clinical experience must be in an educational or clinical setting with children and youth of school and the administration and interpretation of individual intelligence tests, formal and informal diagnostic procedures, and the application of the information to develop instructional strategies; **and**

(E) The Initial Student Services Certificate for School Psychologist, valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Completion of a specialist or higher degree with a major emphasis in school psychology from an approved School Psychologist preparation program;

2. Recommendation for certification from the designated official of a School Psychologist preparation program approved by the department;

3. A minimum of sixty (60) semester hours of professional

preparation at the graduate level with competencies demonstrated in all areas listed to the satisfaction of an approved School Psychologist preparation program—

- A. Psychological Foundations—
 - (I) Biological Bases of Behavior;
 - (II) Human Learning;
 - (III) Social and Cultural Bases of Behavior;
 - (IV) Child and Adolescent Development;
 - (V) Individual Differences, including human exceptionalities; and
 - (VI) Developmental Psychology;
 - B. Educational Foundations—
 - (I) Instructional Design; and
 - (II) Organization and Operations of Schools;
 - C. Interventions/Problem Solving—
 - (I) Diverse Methods and Models of Assessment;
 - (II) Linked to Direct Interventions; and
 - (III) Linked to Indirect Interventions;
 - D. Statistics and Research Methodologies—
 - (I) Statistics;
 - (II) Research and Evaluation Methods; and
 - (III) Measurement; and
 - E. Professional School Psychology—
 - (I) History and Foundations of School Psychology;
 - (II) Legal and Ethical Issues;
 - (III) Professional Issues and Standards;
 - (IV) Alternative Models for Delivery of School Psychological Services;
 - (V) Emergent Technologies; and
 - (VI) Roles and Functions of the School Psychologist;
4. Competencies—

A. Data-Based Decision Making and Accountability. School psychologists have knowledge of varied models and methods of assessment and data collection methods for identifying strengths and needs, developing effective services and programs, and measuring progress and outcomes. As part of a systematic and comprehensive process of effective decision making and problem solving that permeates all aspects of service delivery, school psychologists demonstrate skills to use psychological and educational assessment, data collection strategies, and technology resources and apply results to design, implement, and evaluate response to services and programs;

B. Consultation and Collaboration. School psychologists have knowledge of varied models and strategies of consultation, collaboration, and communication applicable to individuals, families, groups, and systems and methods to promote effective implementation of services. As part of a systematic and comprehensive process of effective decision making and problem solving that permeates all aspects of service delivery, school psychologists demonstrate skills to consult, collaborate, and communicate effectively with others;

C. Interventions and Instructional Support to Develop Academic Skills. School psychologists have knowledge of biological, cultural, and social influences on academic skills; human learning, cognitive, and developmental processes; and evidence-based curricula and instructional strategies. School psychologists, in collaboration with others, demonstrate skills to use assessment and data collection methods and to implement and evaluate services that support cognitive and academic skills;

D. Interventions and Mental Health Services to Develop Social and Life Skills. School psychologists have knowledge of biological, cultural, developmental, and social influences on behavior and mental health, behavioral and emotional impacts on learning and life skills, and evidence-based strategies to promote social-emotional functioning and mental health. School psychologists, in collaboration with others, demonstrate skills to use assessment and data-collection methods and to implement and evaluate services that support socialization, learning, and mental health;

E. School-Wide Practices to Promote Learning. School psychologists have knowledge of school and systems structure, organization, and theory; general and special education; technology

resources; and evidence based school practices that promote learning and mental health. School psychologists, in collaboration with others, demonstrate skills to develop and implement practices and strategies to create and maintain effective and supportive learning environments for children and others;

F. Preventive and Responsive Services. School psychologists have knowledge of principles and research related to resilience and risk factors in learning and mental health, services in schools and communities to support multi-tiered prevention, and evidence-based strategies for effective crisis response. School psychologists, in collaboration with others, demonstrate skills to promote services that enhance learning, mental health, safety, and physical well-being through protective and adaptive factors and to implement effective crisis preparation, response, and recovery;

G. Family-School Collaboration Services. School psychologists have knowledge of principles and research related to family systems, strengths, needs, and culture; evidence-based strategies to support family influences on children's learning and mental health; and strategies to develop collaboration between families and schools. School psychologists, in collaboration with others, demonstrate skills to design, implement, and evaluate services that respond to culture and context and facilitate family and school partnerships and interactions with community agencies for enhancement of academic and social-behavioral outcomes for children;

H. Diversity in Development and Learning. School psychologists have knowledge of individual diversity factors for children, families, and schools, including factors related to culture, context, and individual and role differences; and evidence-based strategies to enhance services and address potential influences related to diversity. School psychologists demonstrate skills to provide effective professional services that promote effective functioning for individuals, families, and schools with diverse characteristics, cultures, and backgrounds and across multiple contexts, with recognition that an understanding and respect for diversity in development and learning and advocacy for social justice are foundations for all aspects of service delivery;

I. Research and Program Evaluation. School psychologists have knowledge of research design, statistics, measurement, varied data collection and analysis techniques, and program evaluation sufficient for understanding research and interpreting data in applied settings. School psychologists demonstrate skills to evaluate and apply research as a foundation for service delivery and, in collaboration with others, use various techniques and technology resources for data collection, measurement, and analysis to support effective practices at the individual, group, and/or systems levels;

J. Legal, Ethical, and Professional Practice. School psychologists have knowledge of the history and foundations of school psychology; multiple service models and methods; ethical, legal, and professional standards; and other factors related to professional identity and effective practice as school psychologists. School psychologists demonstrate skills to provide services consistent with ethical, legal, and professional standards; engage in responsive ethical and professional decision-making; collaborate with other professionals; and apply professional work characteristics needed for effective practice as school psychologists, including respect for human diversity and social justice, communication skills, effective interpersonal skills, responsibility, adaptability, initiative, dependability, and technology skills; and

K. Information and Technology. Demonstrate an understanding of information sources and technology relevant to their work;

5. The applicant must achieve a score equal to or in excess of the qualifying score on the required exit assessment(s) as defined in 5 CSR 20-400.310 and 5 CSR 20-400.440. The official score shall be submitted to the department; and

6. Field and Clinical Experiences (minimum of one (1) year or one thousand two hundred (1,200) clock hours)—

A. Culminating Clinical Experience. This culminating clinical experience must be a planned program of experiences and supervised internship designed to achieve these competencies as part of an

approved graduate degree program in school psychology. At least half of the internship **must be** completed in an educational setting. This internship experience will include opportunities to demonstrate skills learned in all coursework[; and].

[(F) The Initial Student Services Certificate for Speech-Language Pathologist (Birth - Grade 12), valid for a period of four (4) years from the effective date of the certificate, will be issued to those persons meeting the following requirements:

1. Professional Requirements—

A. Possession of a master's or higher degree in Speech-Language Pathology from an accredited college or university; and

B. Possession of a valid, unencumbered, undisciplined Missouri license in Speech-Language Pathology from the Missouri Board of Registration for the Healing Arts.]

AUTHORITY: sections 168.011, 168.405, and 168.409, RSMo 2000, and sections 161.092, 168.021, 168.071, and 168.081, RSMo Supp. 2014, and section 168.400, RSMo Supp. 2013. Original rule filed Oct. 29, 2013, effective May 30, 2014. Amended: Filed Sept. 21, 2016.

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

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

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

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses**

PROPOSED AMENDMENT

11 CSR 45-4.020 Licenses, Restrictions on Licenses, Licensing Authority of the Executive Director, and Other Definitions. The commission is amending section (6).

PURPOSE: The purpose of this amendment is to eliminate potential conflicts with 11 CSR 45-9.020(1)(B)5. C.

(6) In the event that one (1) of the positions[, other than the surveillance manager/director,] required by section (5) becomes vacant, an interim replacement licensee shall be immediately appointed to serve. [The] **Except for the surveillance manager/director position, the** interim appointee may be one (1) of the current Level I licensees required by section (5). The permanent position shall be staffed within one hundred eighty (180) days, unless otherwise approved by the commission.

AUTHORITY: section 313.004, RSMo [Supp. 2014] 2000, and section 313.807, RSMo Supp. 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Tuesday, December 6, 2016, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.053 Policies. The commission is deleting subsection (3)(E) and renumbering subsections thereafter.

PURPOSE: The purpose of this amendment is to eliminate a conflict with 313.812(8) RSMo.

(3) The holder of a Class A or B license is expressly prohibited from the following activities:

[(E) Catering to, assisting, employing or associating with, either socially or in business affairs, persons of notorious or unsavory reputation or who have felony police records, or the employing either directly through a contract or other means, of any firm or individual in any capacity where the repute of the state of Missouri or the gaming industry is liable to be damaged because of the unsuitability of the firm or the individual;]

[(F)](E) Permitting to remain in, or upon any licensed premises, any associated gambling equipment (primarily, but not limited to, cards or dice), which may have in any manner been marked, tampered with, or otherwise placed in a condition or operated in a manner which might affect the game and its payouts;

[(G)](F) Permitting, if the licensee was aware or should have been aware of, any cheating whatsoever;

[(H)](G) Permitting to remain in or upon any licensed premises, any cheating device whatsoever; or conducting, carrying on, operating or dealing any cheating or thieving game or device on the premises;

[(I)](H) Permitting to remain in or upon any licensed premises, if the licensee was aware, or should have been aware of, any gambling device which tends to alter the normal random selection of criteria which determines the results of the game or deceives the public in any way;

[(J)](I) Failing to conduct gaming operations in accordance with proper standards of custom, decorum, and decency; or to permit any type of conduct on the riverboat which reflects negatively on the repute of the state of Missouri or acts as a detriment to the gaming industry;

[(K)](J) Denying a commissioner or commission agent, access to, for inspection purposes, any portion or aspect of the riverboat or attendant shore facilities;

[(L)](K) Denying a commissioner or commission agent, information concerning any aspect of the riverboat operation; and

[(M)](L) Failing to report to the commission known or suspected violations of commission rules and applicable law.

AUTHORITY: section 313.004, RSMo 2000, sections 313.805[,], and 313.807, RSMo Supp. 2013, and sections 313.800, 313.812, 313.817, and 313.830, RSMo Supp. 2014. Original rule filed Feb. 19, 1998, effective Aug. 30, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 29, 2016.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Tuesday, December 6, 2016, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

PROPOSED AMENDMENT

11 CSR 45-9.120 Minimum Internal Control Standards (MICS)—Chapter T. The commission is amending section (1)

PURPOSE: This amendment changes the minimum internal control standards for tips.

(1) The commission shall adopt and publish minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS) Chapter T—Tips*, which has been incorporated by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102. Chapter T does not incorporate any subsequent amendments or additions as adopted by the commission on *[October 24, 2012] September 28, 2016*.

AUTHORITY: section 313.004, RSMo 2000, and section[s] 313.800, RSMo Supp. 2014, and section 313.805, RSMo Supp. [2012] 2013. Original rule filed Jan. 26, 2012, effective Aug. 30, 2012. Amended: Filed Oct. 25, 2012, effective June 30, 2013. Amended: Filed Sept. 29, 2016

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Tuesday, December 6, 2016, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 1—Organization**

PROPOSED RESCISSION

13 CSR 30-1.010 Organization and Operation. This rule described the function and general organization of the Division of Child Support Enforcement.

PURPOSE: This rule is being rescinded because the Division of Child Support Enforcement no longer exists. Child support services are now provided by the Family Support Division of the Department of Social Services.

AUTHORITY: section 454.400, RSMo 1994. Original rule filed Feb. 16, 1988, effective April 11, 1988. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Family Support Division, Julie Gibson, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 2—Performance Measures**

PROPOSED RESCISSION

13 CSR 30-2.020 Financial Performance Measures for Counties Under Contract With the Missouri Division of Child Support Enforcement for the Provision of Total Child Support Services in Local Jurisdictions (Level A Counties). This rule established minimum financial performance measures under which Level A counties would be evaluated to determine the level of incentives each county would receive, under certain conditions, established the basis for termination of county cooperative agreements for the provision of child support services.

PURPOSE: This rule is being rescinded because 64 FR 62307-01 removes 45 CFR 305.98 on which this rule was based.

AUTHORITY: section 454.400, RSMo Supp. 1993. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Rescinded: Filed Sept. 21, 2016.

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

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

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

Department of Social Services, Family Support Division, Julie Gibson, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 1—Organization**

PROPOSED AMENDMENT

13 CSR 40-1.010 Organization. The division is deleting the purpose and sections (1)–(13) and adding a new purpose and sections (1)–(5).

PURPOSE: This amendment updates the descriptions for the functions and general organization of the Family Support Division to reflect current Department of Social Services' structure and operations.

[PURPOSE: This rule states the function and general organization of the Division of Family Services to comply with the requirements of section 536.023, RSMo (1986).

(1) The public assistance and social service programs established by state and federal statutes are administered by the Division of Family Services through offices located in each county and the city of St. Louis. Application for services or benefits should be made at the office in the county where the applicant or recipient lives. Information about any of the programs administered by the division can be obtained from the county office or by writing to the state office in Jefferson City. The legal basis for establishing the division—listing its powers and duties, providing for a chief administrative officer, establishing county welfare commissions and authorizing an office in each county—is contained in sections 207.010–207.080, RSMo (1986).

(2) The income maintenance section in the state office supervises the work of the county offices in taking applications, making investigations and determining eligibility for the following programs: Aid to Dependent Children, General Relief, Blind Pensions, Supplemental Aid to the Blind, Medical Assistance, Nursing Care and Supplemental Payments to persons transferred from Old Age Assistance, Aid to the Blind and Permanent and Total Disability Assistance to the Supplementary Security Income program on January 1, 1974. The state statutes providing for these programs are primarily contained in sections 208.010–208.210, RSMo (1986), the statutes for Blind Pension are contained in sections 209.010–209.160, RSMo (1986).

(3) An additional major program in the income maintenance section is food stamps for which the division certifies household eligibility and supervises coupon issuance under authority delegated to the agency by the United States Department of Agriculture. Since the federal government finances one hundred percent (100%) of the bonus coupons used for food stamps, the federal laws are the primary governing factor, state statutes are contained in sections 205.960–205.966, RSMo (1986).

(4) The social service section in the state office supervises the work of the county offices in taking applications, making social studies and providing treatment in protective services, day care, foster care, adoptions and other services for chil-

dren, families and unmarried parents. The primary statute authorizing these services is section 207.020, RSMo (1986), subsections (8)–(17). A separate unit has been established to handle child abuse reports, as provided by section 210.110, RSMo (1986). A separate unit has also been established to negotiate, prepare and monitor contracts for purchase of various kinds of services from both public and private providers, in accordance with the provisions of Title XX of the federal Social Security Act.

(5) The medical services section in the state office handles the negotiations and agreements with the providers of medical services and reviews, processes and prepares for payment the bills received for such services. The federal basis for providing matching funds to the state is contained in Title XIX of the federal Social Security Act. State laws under which this program operates are contained in sections 208.151–208.158, RSMo (1986). Eligibility for these services is determined by the income maintenance staff of the county offices, recipients of any of the state public assistance programs are automatically eligible for Medicaid.

(6) The Bureau for the Blind has a separate staff in state and district offices, responsible for administering vocational rehabilitations for the blind, prevention of blindness, home teaching and other services to the blind, especially blind children. Federal funding is available for the rehabilitation program, the rest are state financed. The primary state statute authorizing these services is section 209.010, RSMo (1986).

(7) The day care licensing unit, operating under the provisions of sections 210.201–210.245, RSMo (1986), licenses or approves family day care homes, group day care homes and day care centers.

(8) The institutional and agency licensing units, also operating under the provisions of sections 210.201–210.245, RSMo (1986), licenses boarding homes for children and child placing agencies.

(9) The support services section is responsible for the supporting administrative services in the state office. There are separate units for personnel, general services, research and statistics and finance.

(10) The quality control unit provides an organized method of reviewing county office eligibility investigations and decisions on the ADC, food stamp and Medicaid programs. Randomly selected cases are reviewed in all areas of the state and the errors found are reported immediately to the county staff and state staff in order that corrective action can be taken.

(11) The legal section is responsible for administering the fair hearing process as provided for by state and federal statutes, provides legal consultation to the director and agency staff and represents the agency in all court proceedings.

(12) The efficiency and effectiveness unit is responsible for monitoring the agency's effective and efficient operation of the food stamp program. This is done by reviewing and auditing the complete certification and issuing process in a county office and reporting the errors and deficiencies so that corrective action can be taken.

(13) The data processing unit is responsible for processing with computer equipment, all financial, statistical and

management reports for all sections of the division and for the preparation of all checks, Medicaid cards and Food Stamp Authorization-to-Purchase cards.]

PURPOSE: *In accordance with requirements in section 536.023, RSMo, this rule describes the functions and general organization of the Family Support Division of the Department of Social Services.*

(1) **General Function.** The Family Support Division, hereinafter referred to as the division, was established by Executive Order 03-02 to administer the income maintenance (IM) programs, the child support (CS) program, and rehabilitation services for the blind (RSB) programs for the state, as established by federal and state laws. The legal basis for establishing the division is provided in sections 207.010 and 454.400, RSMo.

(2) **Central Office.** The division's central office is located at 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102-2320; telephone: (573) 751-3221; TDD telephone: 1-800-735-2966; online: www.dss.mo.gov/fsd. The division director is located at the central office and is responsible for the division's overall organization, management, policy formulation, and delivery of services, as set forth in federal and state laws and regulations.

(3) **IM Programs.** The location of each IM office, descriptions of IM services, and access to on-line services is provided for the public at www.dss.mo.gov and www.dss.mo.gov/fsd. IM services include:

- (A) Programs for food security—
 1. Supplemental Nutrition Assistance Program (SNAP), known in Missouri as the Food Stamp Program; and
 2. Food Distribution programs;
- (B) Programs for children and families—
 1. Temporary Assistance;
 2. MO HealthNet for Kids;
 3. MO HealthNet for Pregnant Women and Newborns;
 4. MO HealthNet for Families;
 5. Uninsured Women's Health Service; and
 6. Child Care Services;
- (C) Programs for the aged, blind, and persons with disabilities—
 1. MO HealthNet;
 2. Nursing Care;
 3. Home and Community-Based Services;
 4. Prevention of Spousal Impoverishment;
 5. Supplemental Aid to the Blind;
 6. Blind Pension;
 7. Adult Supplemental Payments; and
 8. Medicare Cost Savings Programs; and
- (D) Other income maintenance/self-sufficiency programs and services—
 1. Community Services Block Grant (CSBG) Programs;
 2. Low Income Home Energy Assistance Program (LIHEAP);
 3. Emergency Solutions Grant/Homeless Services;
 4. Refugee Resettlement;
 5. Emergency management services; and
 6. Voter registration.

(4) **CS Program.** The location of each CS office, descriptions of CS services, and access to online services is provided for the public at www.dss.mo.gov and www.dss.mo.gov/cse. CS services include:

- (A) Locating parents;
- (B) Paternity establishment for children born to unmarried parents;
- (C) Child and medical support order establishment;
- (D) Support order enforcement;
- (E) Support order review and modification;
- (F) Interstate and international child support services if a par-

ent lives in another state or a reciprocating country; and

(G) Payment processing through operation of Missouri's state disbursement unit, the Family Support Payment Center.

(5) **RSB Programs.** The location of each RSB office, descriptions of RSB services, and information on accessing services is provided for the public at www.dss.mo.gov and www.dss.mo.gov/fsd/rsb. Services include:

- (A) Vocational Rehabilitation;
- (B) Independent Living Rehabilitation;
- (C) Children's Services;
- (D) Older Blind Services;
- (E) Transition Services;
- (F) Business Enterprise Program; and
- (G) Prevention of Blindness.

AUTHORITY: *sections 207.020 and 454.400, RSMo [1986] Supp. 2014. Original rule filed Sept. 2, 1976, effective Dec. 11, 1976. Amended: Filed Sept. 21, 2016.*

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

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

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Family Support Division, Julie Gibson, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 40—Family Support Division Chapter 15—Supplemental Nutrition Assistance Program (Food Stamps)

PROPOSED RULE

13 CSR 40-15.455 Eligibility for Individuals with a Drug Felony Conviction

PURPOSE: *This rule establishes the requirements to determine whether a participant who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance can be eligible for Food Stamp benefits.*

(1) **Scope.** This rule specifies how the division shall implement the authority granted in section 208.247, RSMo, to determine whether a participant is eligible for Food Stamps if he or she has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance.

(2) **Definitions.** For purposes of this rule, the following terms shall mean:

(A) **Participant:** Any individual who is currently eligible for food stamp benefits, who has applied for food stamp benefits, who has received food stamp benefits, or who currently receives food stamp benefits, administered by the division;

(B) **Custody:** A participant is considered in custody when the individual has been remanded to the custody of the Missouri Department of Corrections, United States Bureau of Prisons, or a state penal institution in any other state, to serve a sentence of imprisonment

imposed by a court of one (1) year or more. Custody shall not mean pre-trial detention;

(C) Food Stamp benefits: The Supplemental Nutrition Assistance Program (SNAP) operated by the United States Department of Agriculture (USDA) Food and Nutrition Services, pursuant to 7 U.S.C. chapter 51, and in conjunction with the division to provide benefits to low-income individuals who are in need of aid to purchase food; and

(D) Approved substance abuse treatment program: An alcohol and drug abuse treatment program or provider certified by the Department of Mental Health, Division of Behavioral Health.

(3) Any participant may request a determination of eligibility for the exemption from Food Stamp eligibility disqualification set forth in section 208.247, RSMo. The request for a determination of section 208.247, RSMo, exemption shall be submitted in writing to the division or, if available, electronically through the division's website. The participant shall provide the following information in order to establish eligibility for the exemption:

(A) The participant's name;

(B) A list of the participant's felony crimes involving the use or possession of controlled substances to which the participant has pled guilty or *nolo contendere*, or has been found guilty of committing, the dates of the guilty plea or finding of guilt, and the court involved; and

(C) The participant's certification that the participant, after August 28, 2014—

1. Has not pled guilty or *nolo contendere* to or been found guilty of an additional controlled substance misdemeanor or felony offense within one (1) year after the participant's release from custody; or

2. Has not pled guilty or *nolo contendere* to or been found guilty of an additional controlled substance misdemeanor or felony offense within one (1) year after the date of conviction if the participant was not committed to custody;

(D) A participant who has been released from custody or pled guilty or *nolo contendere* to a controlled substance misdemeanor or felony offense less than three (3) years prior to the request for a determination of section 208.247, RSMo exemption shall provide a statement either on a form provided by the division or on an official document of the Division of Probation and Parole, Division of Behavioral Health, or the court that the participant has complied with all obligations imposed by court, by the Division of Probation and Parole, and by the Division of Behavioral Health. A participant will be considered to have complied with all obligations imposed by a court or the Division of Probation and Parole if the Missouri Board of Probation and Parole has not taken action to revoke the participant's probation or parole;

(E) The participant shall also submit with the request for determination a signed written statement from an approved substance abuse treatment program to establish compliance with the substance abuse treatment requirements set forth in section 208.247.1(1)(a) to (1)(d), RSMo. Directories containing lists of approved substance abuse treatment programs can be found on the Department of Mental Health's website. The statement shall either be on a form provided by the division or shall be on an official document of the approved substance abuse treatment program. The statement shall be accompanied by documentation of the name, mailing address, and telephone number of the approved substance abuse treatment program and the name and telephone number of the person, designee, or agent that is verifying the provider's statements to the division. The statement shall certify that the participant—

1. Is currently successfully participating in a substance abuse treatment program approved by the Division of Behavioral Health; or

2. Is currently enrolled in and accepted for treatment and participation in a substance abuse treatment program approved by the Division of Behavioral Health, but is subject to a waiting list to receive available treatment, and the participant remains enrolled in

the program and will enter the treatment program at the first available opportunity; or

3. Has satisfactorily completed a substance abuse treatment program approved by the Division of Behavioral Health; or

4. Was determined by a Division of Behavioral Health certified treatment provider not to need substance abuse treatment; and

(F) The participant shall attest that s/he has demonstrated sobriety through voluntary urinalysis testing. The participant shall be responsible for any fees incurred for the voluntary urinalysis testing. The participant shall satisfy this requirement by providing the division the written test results of a urinalysis, provided by an official licensed drug testing vendor/facility, which shows the participant tested negative for illegal controlled substances, as defined in 21 USC section 802(6), other than those legally prescribed to the participant, at the time of the test. The test shall be completed following the participant's last plea of guilty or *nolo contendere* to or finding of guilt for a controlled substance misdemeanor or felony offense involving possession or use of a controlled substance. The participant shall not use any self-administered test process to satisfy this requirement.

(4) Any participant who has pled guilty or *nolo contendere* to or been found guilty of two (2) subsequent felony offenses involving possession or use of a controlled substance after the date of the first controlled substance felony conviction shall not be eligible for section 208.247, RSMo exemption.

(5) Any participant who, after August 28, 2014, has pled guilty or *nolo contendere* to or is found guilty under federal or state law of an additional controlled substance misdemeanor or felony offense within one (1) year after release from custody or, if not committed to custody, within one (1) year after the date of conviction shall not be eligible for section 208.247, RSMo exemption.

(6) The participant's request for a determination of a drug conviction exemption submitted by the participant shall be true, accurate, and complete.

(7) Food stamp benefits received by a participant for him or herself during a period in which the participant did not qualify for the exemption shall be a debt due to the state and collected as overpayment.

(8) Any participant aggrieved by a decision of the division under this regulation may request a hearing pursuant to section 208.080, RSMo. The following procedure shall apply to all administrative hearings requested under this section:

(A) Copies or printouts of case.net information, business record affidavits, written reports, letters or documents from the Missouri Board of Probation and Parole, Division of Probation and Parole, Division of Behavioral Health, or any state or federal court or parole or probation office, and the contents of the aforementioned documents submitted by the individual or the division at the hearing are declared to be competent evidence and admissible into evidence at the hearing to be considered by the hearing officer along with any other evidence or testimony submitted;

(B) A business record affidavit that meets the requirements of section 490.692, RSMo shall be *prima facie* evidence of it being properly executed and signed without the need for further proof of identification;

(C) Copies or printouts of case.net information, business record affidavits, written reports, letters, or documents from the Missouri Board of Probation and Parole, Division of Probation and Parole, Division of Behavioral Health, or any state or federal court or parole or probation office and the contents of the aforementioned documents reporting that the participant has failed to meet any of the requirements for the drug conviction exemption as set forth in this regulation shall create a rebuttable presumption that the participant has failed to meet the requirements of this regulation and shall shift the burden of proof to the participant to refute the presumption.

AUTHORITY: sections 207.022 and 208.247, RSMo Supp. 2014. Original rule filed Sept. 21, 2016.

PUBLIC COST: This proposed rule will cost the Family Support Division of the Missouri Department of Social Services eighty-seven thousand seven hundred forty-four dollars (\$87,744) for FY 2017; however, the additional cost can be absorbed with the current core authority.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Department of Social Services, Family Support Division, Julie Gibson, Director, PO Box 2320, Jefferson City, MO, 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

- I. Department Title: Department of Social Services
Division Title: Family Support Division (FSD)
Chapter Title: Income Maintenance (IM) & FAMIS**

Rule Number and Name:	13 CSR 40-15.455 Eligibility for individuals with a drug felony conviction
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$44,765 (\$6,525 EBT + \$38,240 FAMIS for FY15, however the additional cost was absorbed within current core authority
	\$17,006 projected for FY16, however the additional cost is being absorbed within current core authority
	Ongoing costs are expected to increase by \$9,176 each year.

III. WORKSHEET

Eligibility for individuals with a drug felony conviction

Senate Bill 680 from 2014 amended RSMo 208.247 allowing persons who have pled guilty or are found guilty under federal or state law of a felony involving possession or use of a controlled substance to be eligible for the Food Stamp program if they meet certain criterion for eligibility.

FSD implemented this law into policy and procedure effective August 28, 2014, as required by law. In FY 2015 (September 2014-June 2015), there was an increase of 1,106 Food Stamp cases due to persons convicted of a drug felony now meeting the eligibility criteria. To date in FY 2016, there have been an additional 1,052 additional Food Stamp cases added, for a total of 2,158 new cases in the past twenty (20) months. FSD estimates an increase of 1,296 new Food Stamp cases per year ongoing (2,158/20 months=108 per month * 12 months).

FSD EBT Estimated Costs

EBT costs to process each Food Stamp cases are \$0.59 per month. In FY 2015, the increased costs to process new cases due to persons convicted of a drug felony now meeting the eligibility criteria was \$6,525 (1,106 new cases * \$0.59 per case* 10 months (September 2014- June 2015).

The total EBT costs to process additional Food Stamp cases due to persons convicted of a drug felony now meeting the eligibility criteria to date in FY 2016 is \$12,732 (increase of 1,106 cases from FY 2015 + increase of 1,052 to date in FY 2016 = 2,158 new cases * \$0.59 per case * 10 months (July 2015-April 2016). With the increase in new Food Stamp cases estimated to reach 1,296 in FY 2016, the total estimated EBT costs due to new Food Stamp cases from this change is \$17,006 (1,106+1,296 = 2402* \$0.59 per case * 12 months) for FY 2016.

FSD estimates that the number of Food Stamp cases will continue to rise by 1,296 cases per year due to this change. Using the same methodology as above, the total estimated EBT costs for FY 2017- FY 2019 are as follows

FY 2017: 3,698 (2,402+1,296 cases) * \$0.59 per case* 12 months) = \$26,182 (rounded up)

FY 2018: 4,994 cases (3,698+1,296 cases) * \$0.59 per case * 12 months) = \$35,358 (rounded up)

FY 2019: 6,290 cases (4,994 + 1,296 cases) * \$0.59 per month * 12 months) = \$44,533 (rounded down)

This cost can be absorbed within the current EBT core authority.

FSD-FAMIS Costs

The DSS added functionality to The Family Assistance Management Information System (FAMIS) to support SB 680, allowing individuals who have pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance to be eligible for the food stamp program. The FAMIS completed this programming to modify the Food Stamp eligibility determination process, modified the Sanction/Disqualification screen, created a new compliance screen, created new reports, and create new notices to Food Stamp eligibles now meeting eligibility criteria. The total costs for this programming was \$38,240.00 in FY 2015. There is no impact after FY 2015.

This cost was absorbed within the current core authority.

IV. ASSUMPTIONS

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

PROPOSED RESCISSION

13 CSR 40-19.010 Utilicare Program. This rule established the basis upon which financial assistance would be made to qualified individual households for aid in heating or cooling costs.

PURPOSE: This rule is being rescinded because implementation of the Utilicare program is covered entirely in 13 CSR 40-19.020, as well as sections 660.100, 660.105, 660.110, 660.115, 660.122, 660.135, and 660.136, RSMo Supp. 2013, section 660.130, RSMo Supp. 2014, and section 660.125, RSMo 2000.

AUTHORITY: section 207.020, RSMo 1994. Emergency rule filed Nov. 9, 1979, effective Nov. 19, 1979, expired Feb. 10, 1980. Original rule filed Nov. 9, 1979, effective Feb. 11, 1980. For intervening history, please consult the Code of State Regulations. Rescinded: Filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Family Support Division, Julie Gibson, Director, PO Box 2320 Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program (LIHEAP) and Utilicare. The division is amending the purpose and sections (1)–(8) and adding sections (9)–(14).

PURPOSE: The department is amending this regulation by updating the language to ensure consistency with updates in the LIHEAP Policy and Procedures Manual. The amendment adds section (1), defining the scope of the amendment, section (2) adds new terms and definitions to the regulation, and section (3) establishes funding for LIHEAP by adding clarifying language. Section (6) updates the language of the general eligibility requirements for LIHEAP, while the addition of sections (7) and (8) reorganizes and clarifies conditions that will render households ineligible for LIHEAP and individuals ineligible for consideration in a LIHEAP household. The new sections (9), (10), (11), (12), and (13) establish the procedures for how LIHEAP is implemented and clarifies how funds may be used. Section (14) provides the payment amounts for Energy Assistance (EA) as well as a chart for the payment ranges based on household size, income range, and fuel source.

PURPOSE: This rule establishes the basic policies and procedures to determine eligibility and amount of benefits to be paid under Missouri's Utilicare and Low Income Home Energy Assistance Program (collectively known as "LIHEAP"). This program [will] is designed to assist [certain] eligible, low income [households with

partial payment of their winter home heating costs] individuals, particularly those with the lowest income who pay a high proportion of household income for home energy, in meeting their immediate energy needs.

(1) **Scope:** This rule establishes procedures for the implementation of the Low Income Home Energy Assistance Program and Utilicare, collectively referred to in this rule as "LIHEAP". This rule establishes the requirements governing the eligibility of households under the program, pursuant to 42 U.S.C. sections 8621-8630 and sections 660.100-660.136, RSMo.

[(1)](2) Definitions[.]:

[(A)] Available resources will be defined as cash holdings in banks, savings and loan companies, credit unions, mutual funds, stocks and bonds, money market accounts, annuities, individual retirement accounts, Keogh accounts and deferred compensation plans.]

(A) "Applicant" shall be defined as the individual whose signature, or whose signature as written by the individual's guardian/conservator or power of attorney, is on the application.

(B) "Crisis" shall be defined as any of the following:

1. The receipt of a termination or disconnect notice indicating a specific disconnect date;
2. The issuance of a final billing statement advising the account has been terminated;
3. A situation in which a propane tank is filled at less than twenty-percent (20%) capacity;
4. A situation in which the customer is a cash on delivery (COD) customer; or
5. A situation in which a pre-paid electric customer indicates their pre-paid usage is about to run out.

[(B)](C) [Disabled will] "Disabled" shall be defined as an individual who is totally and permanently disabled or blind and is receiving [federal Social Security disability benefits, civil service disability benefits or federal Supplemental Security Income (SSI) benefits based on blindness or disability, Veterans Administration disability benefits, State Blind Pension, State Aid to the Blind (AB), state supplemental payments, based on blindness or disability under the SSI Program or Medical Assistance (MA), based on blindness or disability.] one (1) or more of the following: Civil Service Disability, Medical Assistance, Railroad Retirement Disability Benefits, Social Security Disability Benefits, State Aid to the Blind, State Blind Pension, State Supplemental Payments, Supplemental Security Income Program, or Veterans Administration Disability Benefits.

[(C)] Head of household will be defined as the individual whose name appears on the fuel bill and who is financially responsible for payment of the home heating costs.

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

(D) "Elderly" shall be defined as sixty-five (65) years of age or older to receive the LIHEAP income deduction, as established in section (3) of this rule, and sixty (60) years of age or older for federal reporting purposes, as required under 45 CFR section 96.82.

(E) "Fuel source" shall be defined as the fuel consumed in the operation of an appliance manufactured and used for the purpose of heating or cooling a household.

[(E)](F) [Home energy supplier will] "Home energy supplier" shall be defined as a public or private business [(public or private investor-owned utilities, municipally-owned utilities, rural electric cooperatives and privately-owned distributorships)] engaged [primarily] in the retail sale of home heating and cooling fuel [to the general public within a given geographic area.], including public or private investor owned utilities, municipally owned utilities, rural electric cooperatives, and privately owned distributorships.

[(F)](G) [Household will] **“Household”** shall be defined as an individual(s) living in private living quarters (a space with a private entrance) for which residential heat is purchased in common.

(H) “Income” shall be defined as monthly revenue obtained that is either earned or unearned.

[(G)](I) A **“[L]andlord household”** *[applicant will]* shall be defined as a household *[who rents residential property and who pays a heat bill in addition to rent.]* in which the landlord sends the household a separate bill to cover the heating and cooling costs. Landlord households may receive both Energy Assistance (EA) and Energy Crisis Intervention Program (ECIP) benefits.

(J) “LIHEAP fiscal year” shall be defined as the federal fiscal year, October 1–September 30.

(K) “Live-in-attendant” shall be defined as an individual living in the household who receives wages to provide medical/child care and who is not responsible for any household expenses. A relative, as defined in this rule, cannot be considered a live-in-attendant.

(L) “Roomer/boarder” shall be defined as an individual who pays a household for lodging and/or food expenses only, and who is not responsible for any other household expenses. A relative, as defined in this rule, cannot be considered a roomer/boarder.

[(H)](M) [Renter applicants will] A **“renter household”** shall be defined as a household *[with]* in which heating and/or cooling costs are included in *[their rental charge]* the rent. Renter households may receive EA benefits, but cannot receive ECIP benefits.

(N) “Resources” shall be defined as any assets that are available to an individual, including, but not limited to, annuities, bonds, certificates of deposit, deposits in banks, savings and loan companies, credit unions, and other financial institutions, individual retirement accounts, Keogh’s and deferred compensation plans, money markets, mutual funds, and stocks. Resources will be considered available unless documented by the institution holding the resources that they are restricted or inaccessible.

(O) “Participating home energy suppliers” shall be defined as suppliers that sign an agreement with the department.

(P) “Account” shall be defined as a customer account established with a home energy supplier for residential heating and cooling.

(Q) “Relative” shall be defined as an individual who is related to the household member as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepson, stepdaughter, stepbrother, half-brother, or half-sister.

(R) “Address of record” shall be defined as the most recent mailing address that the applicant/participant provided to the division.

[(2)](3) Federal funds *[will be used for partial payment of winter home heating costs incurred by eligible households during the months of October, November, December, January, February and March of each calendar year beginning in November 1986 and continuing so long as federal funds are available for this purpose.]*, pursuant to 42 U.S.C. sections 8621–8630, and state funds, pursuant to RSMo 660.100–660.136, may be expended for—

(A) Energy Assistance (EA), which provides a direct one (1) time lump sum payment of utility costs incurred for home heating by qualified Missouri residents continuing so long as funds remain available for this purpose. EA may include additional supplemental payments as determined necessary by the department; or

(B) The Energy Crisis Intervention Program (ECIP), which provides direct payment of utility costs incurred for home heating and cooling by qualified Missouri residents experiencing a crisis, as defined in this rule, so long as funds remain available for this purpose.

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

(A) Each household member must be a citizen of the United States or an alien admitted to the United States for permanent resident status and a current resident of Missouri;

(B) Each household’s available resources may not exceed three thousand dollars (\$3,000). Households determined ineligible due to excess resources will remain ineligible for the remainder of that program year;

(C) Each head of household or spouse must establish that s/he has a fuel account in his/her name or meet the definition of a renter or landlord situation and is incurring costs from a home energy heat source; and

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

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

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

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

(A) Individuals residing in adult boarding facilities, intermediate care facilities, residential care facilities or skilled nursing facilities who do not pay a home energy supplier directly for their heating costs;

(B) Individuals residing in hotels, motels, dormitories or temporary shelters who do not pay a home energy supplier directly for their heating costs;

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

(D) Individuals living in government subsidized housing, unless they are paying a home energy supplier directly for their home heating costs or are billed for any out-of-pocket heating costs by the landlord or housing authority;

(E) Individuals that have been approved in a prior energy assistance case or individuals moving into a household that has previously received energy assistance in the current year at the same address;

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

(G) Individuals not living in the home for which they are applying for energy assistance benefits, but do continue to pay a home energy supplier for heating that home, will not be eligible to receive energy assistance benefits on the unoccupied residence;

(H) Individuals that reside outside Missouri. This does not include a household that has a mailing address of a surrounding state but actually resides in Missouri;

(I) Individuals in transitional living situations;

(J) Individuals that are not citizens of the United States or permanent resident aliens; and

(K) Individuals who have a credit balance with their fuel supplier in excess of five hundred dollars (\$500).

(5) LIHEAP payments will be made in either one (1)-time line-of-credit payments to a participating home energy sup-

plier or a one (1)-time direct cash payment to the eligible household based on their household size, income, heat source and geographic location as set forth in the Payment Levels Chart for Northern and Southern Missouri. If the household meets the definition of a renter household, they will receive a one (1)-time direct cash payment equal to eight percent (8%) of their annual rent not to exceed the maximum payment level for their particular heat source, household size and income.

Payment Levels For Northern Missouri
Primary Fuel

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

Payment Levels For Southern Missouri
Primary Fuel

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

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

(7) One (1) energy assistance card will be sent to each household applying for benefits under LIHEAP which will notify the individual of his/her eligibility status and the right to request a fair hearing.

(8) No funds for services included in this program shall be expended until a specific appropriation for this purpose has been made.]

(4) Not more than one (1) LIHEAP qualified EA benefit will be paid for each qualified individual eligible household, with the exception of a possible additional supplemental payment, during any LIHEAP fiscal year.

(A) Only one (1) individual on a multiple named fuel bill account will be eligible to receive LIHEAP benefits.

(B) If the fuel bill account is in the name of an individual under the age of eighteen (18) and there is another household member that is age eighteen (18) or older, the account name must be changed to an adult household member's name. If the oldest individual in the household is under the age of eighteen (18), that individual may be considered the account holder only with division approval.

(5) ECIP benefits must not exceed the amount needed to resolve the energy crisis, up to the maximum amount of eight hundred dollars (\$800) for winter assistance for the months of November through May, and three hundred dollars (\$300) for summer assistance for the months of June through September, so long as funds remain available for this purpose.

(6) LIHEAP qualified households must meet all of the following criteria to be eligible for benefits under the program:

(A) All household members must be a citizen of the United States or be a legal permanent resident admitted to the United States for permanent residence status and a current resident of Missouri;

(B) Each household's resources may not exceed three thousand dollars (\$3,000);

(C) Each household must establish that they have an account in their name or meet the definition of a renter/landlord household, pursuant to this rule, and are incurring heating/cooling costs; and

(D) Each household must meet the specified income guidelines based on their household size, as established in section (14) of this rule.

1. Households with applicants or their spouses who are elderly or disabled shall be entitled to a one hundred dollar-(\$100-) deduction for medical expenses when determining income eligibility;

(E) All ineligible and eligible LIHEAP applicants will receive written notification by mail to the address of record. Applicants may choose to receive notification by electronic mail or text message, if the division has established a policy that gives applicants and/or participants this option. The notification shall advise them of their right to request a fair hearing regarding the decision made on their application. LIHEAP applicants can request a hearing for denial of their application, a lack of timeliness, or as otherwise provided for in section 208.080, RSMo.

(7) A household meeting any of the following conditions will not be eligible to receive LIHEAP benefits:

(A) A household that is located outside the State of Missouri. This does not include a household that has a mailing address of another state, but that is physically located in Missouri;

(B) A household which resides in a professional, practical, or domiciliary nursing or boarding home and does not pay a home energy supplier or landlord directly for heating/cooling costs;

(C) A household which resides in a hotel, motel, dormitory, or

temporary shelter, and does not pay a home energy supplier or landlord directly for heating/cooling costs;

(D) A household which resides in government subsidized housing, unless they are paying a home energy supplier or are billed by the landlord/housing authority for any out-of-pocket heating/cooling costs;

(E) A household in a transitional living situation that has its heating/cooling paid for by the Department of Mental Health;

(F) A household that has a credit balance with its fuel supplier that is in excess of five-hundred dollars (\$500), with the exception of households who pre-pay for their fuel;

(G) A household that cuts its own wood, when wood is the household's primary source of heating; and

(H) A household residing in a recreational vehicle (RV), travel trailer, tent, shed, or other dwelling residing at the same address as, and sharing the same meter or source of power with, a household that has already received EA in the current LIHEAP fiscal year. (One (1) Meter + One (1) Bill = One (1) Household).

(8) Individuals meeting any of the following conditions shall not be included in a LIHEAP household:

(A) Individuals that are not citizens of the United States or a legal permanent resident;

(B) Individuals that are not living in the home at the time of application, unless the individual(s) was temporarily out of their home due to service termination;

(C) Individuals that are incarcerated;

(D) Individuals defined as roomers, boarders, or live-in-attendants;

(E) Deceased individuals, unless determined eligible prior to their date of death, and surviving household members exist; and

(F) Individuals that have been approved in a Missouri EA case or individuals moving into a household that has previously received EA in the current LIHEAP fiscal year at the same address. Eligibility will not be affected for individuals who have received LIHEAP benefits from another state in the same program year. Individuals that have been approved for EA in another household but require a new application due to change in address or supplier, may be eligible for ECIP only benefits as long as all other LIHEAP eligibility requirements have been met.

(9) Applicants shall use form EA-1 to apply for LIHEAP benefits. General application procedures for programs administered by the division are found in 13 CSR 40-2.010. For anything in this rule conflicting with the general application procedures in 13 CSR 40-2.010, this regulation controls for the application procedures for LIHEAP.

(A) The application form for LIHEAP benefits may be obtained by contacting the division or by accessing the department website (www.dss.mo.gov).

(B) The applicant shall provide and attest to the following information when making an application for LIHEAP benefits:

1. Applicant's contact information, including a home address and a mailing address, if different from the home address;

2. Applicant's and all other household member's identifying information, including name, Social Security number, date of birth, relationship to applicant, and citizenship status;

3. Utility and household information, including whether or not the applicant owns or plans on buying his/her home, whether or not the home has been weatherized by the local weatherization program, whether or not the home is all electric, the primary/main form of energy and secondary/other form of energy, if any, used to heat the home, and energy supplier information including supplier name, city, name on the account, and account number;

4. Landlord information, if applicable, including whether the applicant has an account with an energy supplier in his/her

landlord's name and is billed by the landlord, whether or not the applicant lives in subsidized housing and the heating and cooling costs are included in the rent, and the landlord's name, address, and phone number;

5. For each household member that received income from a job in the calendar month preceding the month in which the application is submitted to the division, include the member's name, employer name and address, how often the individual is paid, gross pay, current employment status, and provide all income documentation for that month on everyone in the household that works. This documentation includes, but is not limited to, wages (regular pay), vacation, sick leave, bonuses, and tips;

6. If anyone in the household receives income from self-employment, the applicant must provide a copy of the most recent Federal Income Tax Form 1040, and any accompanying schedules and other relevant forms, for each household member who is self-employed;

7. If anyone in the household pays court ordered Child Support, provide the amount paid in the last month and the eight- (8-) digit Child Support Case Number;

8. Any and all income received by any household member from sources other than a job or business, including the amount received and how often; and

9. Any and all resources, as defined in this rule.

(C) By submitting information to the division, an applicant or household member is certifying that the information is true, accurate, and complete.

(D) Applicants must provide additional application documentation as requested by the division, pursuant to Chapter 208, RSMo.

(E) The division will begin accepting applications on October 1, and processing applications on November 1, for households that include members who are elderly or disabled, as defined in this rule. The division will begin accepting all other household applications on November 1, and will begin processing those applications starting on December 1. If an acceptance or processing date falls on a weekend or holiday, the division will begin accepting/processing applications on the following work day.

(F) The applicant and anyone acting on their behalf have a continuing obligation to notify the division if any information specified in the application changes within ten (10) days of the change. Failure to do so may result in an adverse effect on the account, including, but not limited to, termination of LIHEAP benefits.

(G) Any notices will be sent to the address of record, and service by first class mail to the last known address of record in the department's system shall be good service for all notices for all purposes.

(10) Amounts paid by the department above the amount that the household was eligible to receive shall be an overpayment and may be collected as a debt due the state.

(11) In addition to any remedies authorized by law, the division may recover outstanding EA overpayments made in a prior year's programs by deducting the overpayment from the current year's EA benefit payment.

(12) Any LIHEAP eligible household whose home energy supplier does not participate in the program, or declines to provide service to the household, qualifies for a direct LIHEAP EA payment, to be paid to the applicant in an amount as determined under section (14) of this rule.

(13) A LIHEAP eligible renter household whose home heating costs are included as a part of their regular monthly rental charge will receive a one- (1-) time Energy Assistance (EA) direct cash payment equal to no more than eight percent (8%) of their

annual rental charge not to exceed the maximum EA benefit payment.

(14) EA payments are determined by household size, income range, and fuel source, using metrics established by the division. Monthly Income Federal Poverty ranges are A: 0-25% of the Federal Poverty Level, as set by the U.S. Department of Health and Human Services each year, B: 26-50%, C: 51-75%, D: 76-100%, E: 101-125% and F: 126-135%.

Payment Levels for Missouri Primary Fuel						
Monthly Income Federal Poverty Level						
Fuel Type	A	B	C	D	E	F
Natural Gas	\$296	\$278	\$259	\$240	\$221	\$203
Tank Propane	\$450	\$413	\$375	\$338	\$300	\$263
Electric	\$289	\$270	\$251	\$233	\$214	\$195
Fuel Oil	\$296	\$278	\$259	\$240	\$221	\$203
Wood	\$199	\$180	\$161	\$143	\$124	\$105
Kerosene	\$139	\$120	\$101	\$ 83	\$ 64	\$ 45
Cylinder Propane	\$161	\$143	\$124	\$105	\$ 86	\$ 68

AUTHORITY: section [207.020, RSMo 2000] 207.022, RSMo Supp. 2014. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Family Support Division, Julie Gibson, Director, PO Box 2320 Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED RESCISSION

13 CSR 40-19.030 Summer Electric Utility Service. This rule established the requirements to qualify for a summer energy assistance program in 1981.

PURPOSE: This rule is being rescinded because it applies only to a program that expired in 1981.

AUTHORITY: section 207.020, RSMo 1994. Emergency rule filed Dec. 15, 1980, effective Dec. 15, 1980, expired March 11, 1981. Original rule filed Dec. 5, 1980, effective March 12, 1981. Rescinded: Filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Family Support Division, Julie Gibson, Director, PO Box 2320 Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 65—Missouri Medicaid Audit and Compliance Unit
Chapter 3—Providers and Participants—General Provider and Participant Policies

PROPOSED RULE

13 CSR 65-3.050 Electronic Signatures for Mo HealthNet Program

PURPOSE: This rule establishes the basis on which health care providers and participants under Missouri Medicaid Title XIX Program may utilize electronic signatures when validating services rendered and received.

(1) As used in this rule, the following terms shall mean:

(A) “Electronic Health Record” means an electronic record of health-related information on an individual that may include patient demographic and clinical health information, such as medical histories and problem lists; and has the capacity to provide clinical decision support; to support physician order entry; to capture and query information relevant to health care quality; and to exchange electronic health information with, and integrate such information from, other sources (as defined by American Recovery and Reinvestment Act (ARRA));

(B) “Electronic Service Record” means an electronic record of information on an individual that is required as a component of the service provision including, but not limited to, defined evidence of service, log/observation notes, data collection, periodic reporting, and notification documentation. Information required as a component of service provision may be defined within the State of Missouri Waiver Manuals, the *Code of State Regulations*, *Missouri Revised Statutes*, contracts with individual service providers, and other related documentation utilized to regulate the service;

(C) “Electronic Signature” means a computer data compilation of any symbol or series of symbols executed, adopted, or authorized by an individual with the intent to be the legally binding equivalent of the individual’s handwritten signature. An electronic signature shall not include biometrics such as fingerprinting; however, Missouri Medicaid Audit and Compliance (MMAC) or a provider may allow the use of biometrics, retinal-iris image scan, facial image scan, voice verification or palm or fingerprint verification, and other related technology as part of the electronic signature verification. These biometrics features shall comply with: *The Registry of USG Recommended Biometric Standards* (Registry) supplements the *NSTC Policy for Enabling the Development, Adoption and Use of Biometric Standards*;

(D) “Participant” means any individual that is a current participant under the Missouri Medicaid Title XIX program;

(E) “Provider” means any health care provider currently participating and providing services under Title XIX and under Title XXI of the federal Social Security Act; and

(F) “Signature Stamp” officially deemed impermissible to use for medical review purposes (see CMS Pub 100-08 Transmittal 327).

(2) This rule applies to any electronic health record, electronic service record, or electronic signature, as defined in 13 CSR 65-2.010,

which is created, generated, sent, communicated, received, or stored involving a provider or participant.

(3) If a law or regulation requires a record to be in writing, an electronic health record shall satisfy such law for MO HealthNet purposes. If a law or regulation requires a signature to be in writing, an electronic signature shall satisfy such law for MO HealthNet purposes.

(4) Both the provider and the participant must consent to conduct business electronically. Nothing in this regulation requires parties to conduct business electronically.

(5) If a provider and a participant agree to conduct business electronically, then the following requirements apply to the provider:

(A) Only employees or agents designated by the provider may make entries in the participant’s electronic health record or electronic service record;

(B) All entries in the participant’s electronic health record or electronic service record must be authenticated with a method established to identify the author. The identification may include computer keys/codes, voice authentication systems that utilize a personal identification number (PIN), and voice authentication or other codes;

(C) Providers shall have a process in place to deactivate and disable an employee’s or an agent’s access to medical records upon suspension or termination of employment or agency relationship;

(D) Provider’s electronic health records and/or electronic service record system shall maintain an activity tracking system to monitor and record user activity for all documents in a participant’s record that are viewed, created, updated, or modified. The tracking system must record the following for each activity:

1. User log-in and log-out dates and times;
2. User identification;
3. An IP address; and
4. Dates and times when records are viewed, created, updated, or modified; and

(E) When computer key/code(s), voice authentication systems, or other codes are used, a provider shall have each authorized employee or agent read and sign an attestation documenting that the chosen method is under the sole control of the employee or agent using it. The provider must further demonstrate that a list of computer key/code(s), voice authentication systems, or other codes can be verified and all adequate safeguards are maintained to protect against improper or unauthorized use of computer key/code(s), or other codes for electronic signatures.

(6) During system access of electronic health or service records, the provider and their employees or agents shall review and agree to a statement, with electronic health records and/or health service records for MO HealthNet participants that contain the following:

(A) The documentation made and information provided in each participant’s record accurately reflects the services provided, diagnosis made, treatments provided, and information recorded during that session;

(B) The electronic health record and/or health service record accurately reflects the provider’s or its employee’s or agent’s role, relationship, position, and intent as indicated by his or her name, title and capacity for the participant’s record;

(C) The information provided is true, accurate, and complete to the best of the individual’s knowledge;

(D) The individual understands that any falsification, omission, or concealment of material facts may subject the individual to administrative, civil, or criminal liability; and

(E) The individual understands that an electronic signature has the same legal effect and can be enforced in the same way as a written signature.

(7) Providers’ and participants’ electronic signatures on electronic health records and electronic service records maintained by the

provider shall contain information associated with the signature that clearly indicates all of the following:

(A) The printed complete name of the signer;

(B) If applicable, the professional title of the electronic signer, such as M.D., R.N., P.A., etc.;

(C) The date and time the signature was executed; and

(D) The meaning associated with the signature, such as review, approval, responsibility, submitted by, entered by, updated by, created by, read by, viewed by, or similar authorship. The meaning for applying an electronic signature to a certain record type can be defined by the type of record as long as such meaning is clarified in procedure and is understood by the electronic signer.

(8) A provider's process for using electronic signatures of the provider or its employees or agents shall comply with the following requirements:

(A) Each electronic signature and affiliated initial system shall be unique to one (1) individual and shall not be reused by, or reassigned to, anyone else that is employed by, consultant to, or an agent of the provider;

(B) Before a provider establishes, assigns, certifies, or otherwise approves an individual's electronic signature, controlled system access, or any element of such electronic signature, the provider shall verify the identity of the individual;

(C) Before electronically signing, providers and their employees and agents shall certify to the department that the electronic signatures in their system are intended to be the legally binding equivalent of traditional handwritten signatures as they pertain to the MO HealthNet program;

(D) Upon the department's request, providers and their employees and agents shall provide additional certification that a specific electronic signature is the legally binding equivalent of the signer's handwritten signature;

(E) The electronic signatures of the provider and its employees and agents shall—

1. Include at least two (2) distinct identification components, such as an identification code and password;
2. Be used only by their genuine owners;
3. Not constitute a signature stamp; and
4. Be administered and executed to ensure that attempted use of a provider's and or its employees' or agents' electronic signatures by anyone other than its genuine owner requires collaboration of two (2) or more individuals.

(9) A provider's process for using electronic signatures of MO HealthNet participants shall comply with the following requirements:

(A) A participant's electronic signature shall be verified with photo identification by the attending provider or its employee or agent prior to accepting the participant's signature;

(B) A participant's electronic signature must be available to review by MMAC;

(C) The participant shall execute or attest to the following statement, or a similar statement with comparable intent:

"I, [Participant Full Name], understand that an electronic signature has the same legal effect and can be enforced in the same way as a written signature"; and

(D) The provider shall be responsible for ensuring that the details of the service as defined by the documented evidence of that service, such as the date, time, and services provided shall be clearly identified in connection with the electronic signature.

(10) When a change or error in an electronic health record occurs—

(A) All original records must be maintained once an electronic signature has been applied attesting to the author's ownership of the wording of the record;

(B) Any edits of the records must be saved as an update to the original record with date, time, and information by author, including his or her name and title, if applicable;

(C) The edits are to be credited to the new author and not the orig-

inal author.

(11) Providers shall implement a written internal organizational policy that—

(A) Addresses the issue of protection for the use of electronic signatures by anyone other than that to whom the electronic signer intended;

(B) Includes the following three (3) elements:

1. Nonrepudiation—assurance that the signer cannot deny signing the document in the future;

2. Each entry shall be time and date stamped with the author's name and title, and identify the action of the entry;

3. The user will be responsible for each entry as the original author;

(C) Requires the provider to retain electronic health records for a minimum period of ten (10) years, unless the records are the subject of an audit or litigation. Records that are the subject of an audit or litigation shall be maintained until the conclusion of the audit or litigation. The documents also shall be retained for a longer period of time at the request of MMAC, if a written demand to keep such records is delivered to the provider;

(D) Ensures that all electronic signatures are accurate, legible, and accessible;

(E) Requires the provider to produce a copy of the services rendered for participants to review prior to obtaining participants' electronic signatures verifying receipt of the prescribed services; and

(F) Recognizes the following:

1. The definition of electronic signature;
2. How the provider's system of electronic signature comports with each of the elements of acceptable use specified above;
3. Acknowledgment that the electronic signature is legally enforceable;
4. Retention of an electronic document with an acceptable electronic signature will satisfy record retention requirements; and
5. Failure to comply with the prescribed requirements may subject an individual to prosecution under all applicable federal and state criminal and civil laws.

AUTHORITY: sections 208.159 and 660.017, RSMo 2000. Original rule filed Sept. 21, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Jessica Dresner, Director, Missouri Medicaid Audit and Compliance Unit, PO Box 6500, 205 Jefferson St., 2nd Floor, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO Healthnet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General
Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.030 Sanctions for False or Fraudulent Claims for MO HealthNet Services. The division is amending subsections (5)(C), (6)(A), (6)(B), and (6)(E).

PURPOSE: This amendment to subsections (5)(C), (6)(A), (6)(B), and (6)(E) clarifies that the effective date of agency actions is the day the notice is mailed to the provider and not the day the notice is received.

(5) Imposition of a Sanction.

(C) When a sanction involving the collection, recoupment, or withholding of MO HealthNet payments from a provider is imposed on a provider, it shall become effective ten (10) days from the date *[the provider receives] of mailing or delivery of said notice [established by a signed receipt of delivery of the imposition of the sanction], whichever occurs first.* When any other sanction is imposed on a provider it shall become effective thirty (30) days from the date *[the provider receives notice established by a signed receipt of delivery of the imposition of the sanction] of mailing or delivery of a decision of the Department of Social Services or its designated division, whichever occurs first.* If, in the judgment of the single state agency, the surrounding facts and circumstances clearly show that serious abuse or harm may result from delaying the imposition of a sanction, any sanction may be made effective **three (3) days after mailing of the notice to the provider or** immediately upon receipt of notice by the provider, **whichever occurs first.**

(6) Amounts Due the Department of Social Services From a Provider.

(A) If there exists an amount due the Department of Social Services from a provider, the single state agency shall notify the provider or the provider's representative of the amount of the overpayment. The notice shall be mailed **or delivered** to the address on the provider's enrollment record. If the amount due is not sooner paid to the Department of Social Services by or on behalf of the provider, the single state agency, *forty-five (45) days from the date the provider receives the notice, established by a signed receipt of delivery or receipt of undelivered mail from the United States Post Office using the address on the provider's enrollment record,* may take appropriate action to collect the overpayment **forty-five (45) days from the date of mailing or delivery of said notice, whichever occurs first.** The single state agency may recover the overpayment by withholding from current MO HealthNet reimbursement. The withholding may be taken from one (1) or more payments until the funds withheld in the aggregate equal the amount due as stated in the notice.

(B) When a provider receives notice, *established by a signed receipt of delivery, or receipt of undelivered mail from the United States Post Office using the address on the provider's enrollment record,* of an overpayment and the amount due is in excess of one thousand dollars (\$1,000), the provider, within *[ten (10)] fourteen (14) days of the notice being mailed or delivered to the provider, whichever occurs first,* may submit to the single state agency a plan for repayment of forty percent (40%) of the overpayment amount and request that the plan be adopted and adhered to by the single state agency in collecting the overpayment. No repayment plans will be considered for the first sixty percent (60%) of the overpayment amount. If this repayment plan is timely received from a provider, the single state agency shall consider the proposal, together with all the facts and circumstances of the case and reject, accept, or offer to accept a modified version of the provider's plan for repayment. The single state agency shall notify the provider of its decision within ten (10) days after the proposal is received. If no plan for repayment is agreed upon within thirty (30) days *[after the provider receives] from the date of mailing or delivery of a decision of the notice of the overpayment to the provider, whichever occurs first,* the MO HealthNet agency may take appropriate action to collect the balance of the amount due.

(E) The single state agency may collect provider overpayments from any other enrolled provider when the other enrolled provider has received payment on behalf of the provider who incurred the overpayment (such as when a provider has directed payment to

another enrolled provider). The single state agency may also collect provider overpayments from any enrolled provider with the same federal employer identification number (EIN) as the provider who incurred the overpayment. The state agency shall notify the other enrolled provider(s) forty-five (45) days prior to initiating the overpayment action. The notice shall be mailed to the address on the provider's(s') enrollment record. If the amount due is in excess of one thousand dollars (\$1,000), the other enrolled provider, within *[ten (10)] fourteen (14) days of mailing of the notice,* may submit to the single state agency a plan for repayment of forty percent (40%) of the overpayment amount and request that the plan be adopted and adhered to by the single state agency in collecting the overpayment. No repayment plan will be considered for the first sixty percent (60%) of the overpayment amount. If this repayment plan is timely received from the other enrolled provider, the single state agency shall consider the proposal, together with all the facts and circumstances of the case and reject, accept, or offer to accept a modified version of the other enrolled provider's plan for repayment. The single state agency shall notify the other enrolled provider of its decision within ten (10) days after the proposal is received. If no plan for repayment is agreed upon within thirty (30) days after the other enrolled provider receives notice of the overpayment, the Medicaid agency may take appropriate action to collect the balance of the amount due.

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. 2013. This rule was previously filed as 13 CSR 40-81.160. Original rule filed Sept. 22, 1979, effective Feb. 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 3, 2016.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Jessica Dresner, Director, Missouri Medicaid Audit and Compliance Unit, PO Box 6500, 205 Jefferson St., 2nd Floor, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.240 MO HealthNet Primary Care Health Homes.
The division is revising sections (1), (3), and (4).

PURPOSE: This amendment adds uncontrolled asthma in children and obesity as stand-alone chronic conditions that qualify MO HealthNet participants as Primary Care Health Home patients. The amendment also adds depression, anxiety, and substance use disorder as chronic conditions that, in combination with another qualifying chronic condition, qualify MO HealthNet participants as Primary Care Health Home patients. The amendment adds a performing provider requirement to Primary Care Health Homes with patients receiving services for a substance use disorder chronic condition. The amendment removes the no-longer applicable requirement for Health Home provider participation in learning collaboratives, and

updates the Health Home certification requirements. The amendment revises Health Home team requirements to include a Physician Champion. Finally, the amendment updates the process for alerting Health Homes to potential enrollees, and simplifies how Primary Care Health Homes may share information with area hospitals on Health Home enrollees.

(1) Definitions.

[(C)](C) Learning Collaborative—Group training sessions that primary care providers must attend if they are chosen to participate in the MO HealthNet Health Home program. The training will include meetings with mandatory attendance by certain officers and medical staff of the Health Home site and monthly conference calls.

[(D)](C) Meaningful Use Stage One—The American Recovery and Reinvestment Act (ARRA) of 2009 created the Electronic Health Records (EHR) incentive payments program to provide Medicare or Medicaid incentive payments to eligible professionals in primary care practices. Meaningful use means that the eligible professionals or providers document that they are using certified EHR technology in ways that can be measured significantly in quality and in quantity. Stage one of meaningful use means the eligible professionals meet twenty (20) out of twenty-five (25) meaningful use objectives as specified by the Centers for Medicare and Medicaid Services (CMS).

[(E)](D) MHD—MO HealthNet Division, Department of Social Services.

[(F)](E) NCQA—National Committee of Quality Assurance, [the] an entity chosen by MHD to certify that a primary care practice has obtained a level of Health Home recognition after the practice achieves specified Health Home standards.

[(G)](F) Needy Individuals—Patients whose primary care services are either reimbursed by MHD or the Children’s Health Insurance Program (CHIP), or are provided as uncompensated care by the primary care practice, or are furnished at no cost or at reduced cost to patients without insurance.

[(H)](G) Patient Panel—The list of patients for whom each provider at the practice site serves as the primary care provider.

[(I)](H) CMS—Centers for Medicare and Medicaid Services.

(I) The Joint Commission—An entity chosen by MHD to certify that a primary care practice has obtained a level of Health Home recognition after the practice achieves specified Health Home standards.

(3) Health Home Responsibilities After Selection.

(A) Health Home practice sites will *[be physician- or nurse practitioner-led and] have a physician champion to provide physician leadership and encourage practice transformation to the Health Home model. Health Home practice sites shall form a health team comprised of, at a minimum, a primary care physician (i.e., family practice, internal medicine, or pediatrics) or nurse practitioner, [a licensed nurse or medical assistant,] a behavioral health consultant, and a nurse clinical care manager[, and the practice administrator or office manager].* The team will be supported as needed by the care coordinator, *[and] Health Home Director, and the practice administrator or office manager.* Other team members may include, for example, dietitians, nutritionists, pharmacists, or social workers.

(B) Practice sites selected to be MHD Health Homes shall participate in Health Home *[learning collaboratives. MHD will announce the dates and locations for learning collaborative meetings] webinars, care team forums, and other training opportunities.*

[1. At a minimum, each Health Home practice site shall send to the learning collaborative meetings a team consisting of a senior clinician, another clinician, and a non-clinician member of the practice (site) such as the practice manager or practice administrator.

2. A Health Home will participate in monthly learning

collaborative conference calls or webinars.

3.] A Health Home will participate in topical work groups as requested by MHD.

[4. A practice organization that has more than one (1) of its practice sites recognized by MHD as Health Homes, but not all of its sites selected for learning collaborative participation, shall designate a trainer to participate in a “train the trainer” program. The trainer shall attend the learning collaborative as a member of a practice’s core practice team and then train all of the organization’s other Health Home practice sites that were not selected for learning collaborative participation. MHD or its designee shall identify content that the practice organization trainer will teach to the Health Home practice sites that do not participate in the learning collaborative.]

(F) By the eighteenth month following the receipt of the first MHD Health Home payment, a practice site participating in the Health Home program shall demonstrate to MHD that the practice site has either—

1. Submitted to the National Committee of Quality Assurance (NCQA) an application for Health Home status and has obtained NCQA recognition of Health Home status of at least *[“]Level 1 [Plus.” “Level 1 Plus” recognition is defined for these purposes as meeting 2011 NCQA Level 1 standards, plus recognition for achieving the following 2011 NCQA patient-centered medical home standard at the specified level of performance: Standard 3C at one hundred percent (100%), or at seventy-five percent (75%) with an acceptable plan of correction] under the most recent NCQA standard; or*

2. *[Submitted] Applied to [NCQA an application for Health Home status and has obtained NCQA recognition of Health Home status at “Level 1 Plus,” defined as meeting NCQA 2008 PPC-PCMH Level 1 standards, plus recognition for achieving the following NCQA 2008 PPC-PCMH standards at the specified levels of performance: Standard 3C at seventy-five percent (75%), Standard 3D at one hundred percent (100%), and Standard 4B at fifty percent (50%)] The Joint Commission for certification as a Primary Care Medical Home.*

(G) A Health Home shall submit to MHD or its designee the following information, as further specified by MHD or its designee, within the specified time frames:

1. Monthly narrative practice reports that describe the Health Home’s efforts and progress toward implementing Health Home practices;

2. Monthly clinical quality indicator reports utilizing clinical data obtained from the Health Home’s patient registry or third-party data repository; and

[3. Periodic submission of Medicaid Home Implementation Quotient (MHIQ) survey scores, as specified by MHD; and]

[4.]3. Other reports as specified by MHD.

(I) A Health Home must notify MHD within five (5) working days of the following changes:

1. *[If the employment or contract of a clinical care manager is terminated after the initiation of clinical care management payments;] Changes in the employment or contracting of Health Home team members, or changes in the percentage of full-time equivalent work time devoted to the Health Home by any Health Home team member; or*

2. If the Health Home experiences substantive changes in practice ownership or composition, including:

- A. Acquisition by another practice;
- B. Acquisition of another practice; or
- C. Merger with another practice.

(K) Within three (3) months of selection to be a Health Home, a practice site will develop *[agreements or memorandums of understanding to formalize traditional care planning with*

area hospitals, in which the hospitals agree to—

1. Notify the Health Home when Health Home patients are admitted to inpatient hospital departments;
 2. Identify for the Health Home individuals seeking emergency department services who might benefit from connection with the Health Home;
 3. Notify the Health Home when Health Home patients seek treatment in the hospitals' emergency departments; and
 4. Refer patients to the Health Home for follow-up care.]
- processes with area hospitals to share information on Health Home participants admitted to inpatient departments or seen in the emergency department.

(L) In order to provide Health Home services to a participant with substance use disorder and who is eligible for Health Home services in accordance with subparagraph (4)(A)2.A., a Primary Care Health Home practice must have at least one (1) performing provider who qualifies and applies for a waiver under the Drug Addiction Treatment Act of 2000 (DATA 2000) to provide medication-assisted treatment.

(4) Health Home Patient Requirements.

(A) To become a MO HealthNet Health Home patient, an individual—

1. Must be an MHD participant or a participant enrolled in an MHD managed care health plan; and
2. Must have at least—

A. Two (2) of the following chronic [health] conditions:

- (I) Asthma;
- (II) Diabetes;
- (III) Cardiovascular disease;
- (IV) A developmental disability; [or]
- (V) Be overweight, as evidenced by having a body mass

index (BMI) [over] of at least twenty-five (25) for adults, or being at or above the eighty-fifth (85th) percentile on the standard pediatric growth chart for children; [or]

- (VI) Depression;
- (VII) Anxiety; or
- (VIII) Substance use disorder; or

B. One (1) chronic health condition and be at risk for a second chronic health condition as defined by MHD. In addition to being a chronic health condition, diabetes shall be a condition that places a patient at risk for a second chronic condition. Smoking or regular tobacco use shall be considered at-risk behavior leading to a second chronic health condition.; or

C. One (1) of the following stand-alone chronic conditions:

(I) Uncontrolled pediatric asthma as defined by MO HealthNet; or

(II) Obesity, as evidenced by having a BMI over thirty (30) for adults, or being above the ninety-fifth (95th) percentile on the standard pediatric growth chart for children.

(B) A list of participants eligible for Health Home services and identified by MHD as [an] existing users of services at Health Home [services] practices will be [auto-assigned to a] provided monthly to each Health Home based on qualifying chronic health conditions. [A participant not enrolled in an MHD managed care health plan will be attributed to a Health Home using a standard patient algorithm adopted by MHD. A participant enrolled in an MHD managed care health plan will be attributed to a Health Home practice site that the participant has selected or to which the participant has been assigned by the health plan] Health Home organizations will determine enrollees from the lists provided by MHD as well as practice patients identified through the Health Homes' EMR systems.

(C) After being [assigned to] enrolled in Health Homes, participants will be granted the option at any time to change their Health Homes if desired. [A participant assigned to a Health Home will be notified by MHD of all available Health Home sites

throughout the state. The notice will—

1. Describe the participant's choice in selecting a Health Home;

2. Provide a brief description of Health Home services, including the role of care managers and coordinators; and

3. Describe the process for the participant] **Participants will be given the opportunity** to opt out of receiving services from their [assigned] Health Home providers.

[(D) Participants eligible for Health Home services who receive inpatient hospital or hospital emergency department services will be notified of eligible Health Homes and will be referred to Health Homes based on their choice of providers. Participants who are admitted to a hospital or who receive hospital emergency department services will be identified as eligible for Health Home services through the MHD comprehensive Medicaid electronic health record.

(E) Health Home providers to which patients have been auto-assigned will be notified by MHD of patients' enrollment for Health Home services. The Health Homes will notify their patients' other treatment providers in order to explain Health Home goals and services, and to encourage their patients' other treatment providers to participate in care coordination efforts.]

AUTHORITY: section 208.201, RSMo Supp. [2011] 2013. Original rule filed Dec. 15, 2011, effective July 30, 2012. Amended: Filed Sept. 29, 2016.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$1,844,321 in SFY 2017 and annually thereafter.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Name:	13 CSR 70-3.240 MO HealthNet Primary Care Health Homes
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2017 = \$1.844 million and annually thereafter

III. WORKSHEET

Estimated Cost for SFY 2017:

2,500 additional Primary Care Health Home payments from patients with the additional qualifying chronic conditions, divided by 16,500 current average monthly Primary Care Health Home PMPM payments per month, = 15.15% increase in monthly PMPM payments.

Projected Primary Care Health Home payments of \$12,172,520 in SFY 2016, multiplied by the 15.15% increase in monthly PMPM payments from patients with additional qualifying chronic conditions, = **\$1,844,321** increase in PMPM expenditures from Primary Care Health Home patients with additional chronic conditions.

Blended FMAP of 63.23%, multiplied by \$1,844,321 increase in PMPM expenditures from additional Primary Care Health Home patients, = \$1,166,164 federal share of increase. \$1,844,321 - \$1,166,164 = \$678,157 state share of increase from additional PMPM expenditures attributed to the proposed amendment.

IV. ASSUMPTIONS

The new Primary Care Health Home patients with additional qualifying chronic conditions in the proposed amendment would start receiving services in SFY 2017. The enrollment of the new patients would be staggered throughout SFY 2017. To avoid underestimating the fiscal impact of the new Primary Care Health Home patients, the calculations assume that the new patients are enrolled and receiving Health Home services at the start of SFY 2017.

The current average number of Primary Care Health Home payments per month = 16,500. This number of monthly payments is the base without additional patients from the expansion of qualifying chronic conditions.

The estimated increase in Primary Care Health Home patients with qualifying chronic conditions = 2,500. The calculations assume that all 2,500 of these new patients generate a PMPM payment every month.

Projected Primary Care Health Home PMPM payments in SFY 2016 = \$12,172,520, which reflects a 2% increase in the PMPM rate effective with January 2016 Health Home services.