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

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

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

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

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

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

EMERGENCY RULE

4 CSR 240-32.180 Definitions—Caller Identification Blocking Service

PURPOSE: This rule defines terms used in 4 CSR 240-32.190.

EMERGENCY STATEMENT: This emergency rule is necessary to protect the health, safety and welfare by establishing uniform standards and procedures to be followed by all telecommunications companies statewide in providing caller identification blocking service. Although telecommunications companies currently provide call blocking services to prevent the telephone number and identity of a caller from being displayed on the telephone of the called party, the call blocking procedures are not uniform throughout the state, and the commission recently has received information from individuals representing domestic violence shelters that some calls of a sensitive nature are not being blocked as intended. When such sensitive calls placed by law enforcement agencies or domestic violence intervention agencies to persons in distress or in need of emergency assistance are not blocked as intended, the identity of the caller may be unintentionally revealed to a person who has access to the called party's

telephone and who desires to harm the called party. This creates a danger to the safety of the called parties in such circumstances and impedes the efforts of law enforcement agencies and domestic violence agencies. Because of this situation, the commission finds an immediate danger to the health, safety and welfare and a compelling governmental interest which requires this emergency action. In taking this action, the commission believes that it has used procedures best calculated to provide fairness to all interested persons and parties under the circumstances due to the fact that an essentially similar rule has been circulated for industry review and comment as part of a larger regular rulemaking on company information exchanges. Further, this emergency rule will have no fiscal impact on any state agency, and will have very little or no fiscal impact on any telecommunications company, business or individual. The scope of this emergency rule is limited to the circumstances that created the emergency and that require emergency action, and the rule complies with the protections extended in the *Missouri* and *United States Constitutions*. This emergency rule was filed September 26, 2003, effective October 6, 2003, and expires April 2, 2004.

(1) Caller Identification—A service providing for a caller's originating telephone number to appear through the use of a display box at the called party's location.

(2) Per-Line Blocking—A service providing for an originating telephone number to be blocked from appearing on a display box at the called party's location. Per-line blocking is accomplished without the need of the caller to dial an access code.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 32—Telecommunications Service

EMERGENCY RULE

4 CSR 240-32.190 Standards for Providing Caller Identification Blocking Service

PURPOSE: This rule sets forth standards to be followed for Caller Identification Blocking Service.

EMERGENCY STATEMENT: This emergency rule is necessary to protect the health, safety and welfare by establishing uniform standards and procedures to be followed by all telecommunications companies statewide in providing caller identification blocking service. Although telecommunications companies currently provide call blocking services to prevent the telephone number and identity of a caller from being displayed on the telephone of the called party, the call blocking procedures are not uniform throughout the state, and the commission recently has received information from individuals representing domestic violence shelters that some calls of a sensitive nature are not being blocked as intended. When such sensitive calls placed by law enforcement agencies or domestic violence intervention agencies to persons in distress or in need of emergency assistance are not blocked as intended, the identity of the caller may be unintentionally revealed to a person who has access to the called party's telephone and who desires to harm the called party. This creates a danger to the safety of the called parties in such circumstances and impedes the efforts of law enforcement agencies and domestic violence agencies. Because of this situation, the commission finds an

immediate danger to the health, safety and welfare and a compelling governmental interest which requires this emergency action. In taking this action, the commission believes that it has used procedures best calculated to provide fairness to all interested persons and parties under the circumstances due to the fact that an essentially similar rule has been circulated for industry review and comment as part of a larger regular rulemaking on company information exchanges. Further, this emergency rule will have no fiscal impact on any state agency, and will have very little or no fiscal impact on any telecommunications company, business or individual. The scope of this emergency rule is limited to the circumstances that created the emergency and that require emergency action, and the rule complies with the protections extended in the *Missouri and United States Constitutions*. This emergency rule was filed September 26, 2003, effective October 6, 2003, and expires April 2, 2004.

(1) All telecommunications companies shall provide per-line blocking for federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment. A telecommunications company shall enable per-line blocking within a reasonable time after a request from such an agency. A telecommunications company may determine whether the request has been made by a law enforcement or domestic violence intervention agency.

(2) No telecommunications company shall charge any fee for per-line caller identification blocking for authorized federal, state, and local law enforcement agencies and private, nonprofit, tax-exempt domestic violence intervention agencies, and the employees of these agencies who have a need for such blocking pursuant to their employment.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed Sept. 26, 2003, effective Oct. 6, 2003, expires April 2, 2004.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—[Division of] Family [Services] Support
Division
Chapter 19—Energy Assistance
EMERGENCY AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Family Support Division is amending the monthly income ranges contained in the LIHEAP Income Ranges Chart immediately following subsection (3)(D) of this rule.

PURPOSE: This amendment adjusts the monthly income amounts on the LIHEAP Income Ranges Chart to reflect changes made in the federal poverty guidelines.

*EMERGENCY STATEMENT: The division finds that there exists an immediate danger to the public welfare, which requires emergency action. This emergency amendment follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances, complies with the protections extended by the *Missouri and United States Constitutions* and limits the scope of the emergency amendment to the circumstances creating the emergency and requiring emergency procedure. An emergency amendment is necessary because of the planned implementation of the program in October, 2003. Postponing the date for acceptance of energy assistance applications will result in individuals having their utility service terminated. Termination of utility service can produce a health hazard, particularly to elderly and disabled individuals, since they are more susceptible to hypothermia.*

The rule is necessary to preserve a compelling governmental interest requiring an early effective date in that the rule informs the public regarding income guidelines for receipt of assistance. The eligibility criteria for energy assistance changes each year based on poverty guidelines announced by the federal government. It is essential for persons potentially eligible for low income home energy assistance to have timely information related to the income guidelines prior to the need for assistance. The procedure employed is fair to all interested parties concerned inasmuch as it equitably allocates energy assistance benefits based on household size and available resources. Emergency amendment filed September 19, 2003, effective October 1, 2003, expires March 28, 2004.

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

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

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	\$0-185	\$186-371	\$372-557	\$558-743	\$744-923
2	\$0-249	\$250-499	\$500-749	\$750-999	\$1,000-1,244
3	\$0-288	\$289-577	\$578-866	\$867-1,155	\$1,156-1,439
4	\$0-347	\$348-695	\$696-1,043	\$1,044-1,391	\$1,392-1,735
5	\$0-406	\$407-813	\$814-1,220	\$1,221-1,627	\$1,628-2,030
6	\$0-472	\$473-945	\$946-1,418	\$1,419-1,891	\$1,892-2,359
7	\$0-524	\$525-1,049	\$1,050-1,574	\$1,575-2,099	\$2,100-2,620
8	\$0-583	\$584-1,167	\$1,168-1,751	\$1,752-2,335	\$2,336-2,915
9	\$0-642	\$643-1,285	\$1,286-1,928	\$1,929-2,571	\$2,572-3,210
10	\$0-701	\$702-1,403	\$1,404-2,105	\$2,106-2,807	\$2,808-3,506
11	\$0-760	\$761-1,521	\$1,522-2,282	\$2,283-3,043	\$3,044-3,801
12	\$0-819	\$820-1,639	\$1,640-2,459	\$2,460-3,279	\$3,280-4,096
13	\$0-878	\$879-1,757	\$1,758-2,636	\$2,637-3,515	\$3,516-4,391
14	\$0-937	\$938-1,875	\$1,876-2,813	\$2,814-3,751	\$3,752-4,686
15	\$0-996	\$997-1,993	\$1,994-2,990	\$2,991-3,987	\$3,988-4,981
16	\$0-1,055	\$1,056-2,111	\$2,112-3,167	\$3,168-4,223	\$4,224-5,277
17	\$0-1,114	\$1,115-2,229	\$2,230-3,344	\$3,345-4,459	\$4,460-5,572
18	\$0-1,173	\$1,174-2,347	\$2,348-3,521	\$3,522-4,695	\$4,696-5,867
19	\$0-1,232	\$1,233-2,465	\$2,466-3,698	\$3,699-4,931	\$4,932-6,162
20	\$0-1,291	\$1,292-2,583	\$2,584-3,875	\$3,876-5,167	\$5,168-6,457

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

AUTHORITY: section 207.020, RSMo 2000. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 19, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment provides for a nursing facility operations adjustment, a ninety percent (90%) High Volume Grant and a second tier high volume adjustment for SFY 2004.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement operations adjustments, a ninety percent (90%) High Volume Grant, and a second tier high volume adjustment for providers of nursing facility services for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the twenty-five thousand (25,000) Medicaid patients in nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of 4.6% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of 3.7% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. NFRA. Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total

industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

(B) Special Per Diem Rate Adjustments. Special per diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent (130%) of the

patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per diem adjustment is calculated:

120% of median	\$6.62
90% of median	\$4.97
Difference	\$1.65
1/2 the difference	<u> .83</u>
Per diem adjustment	\$.83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per diem adjustment is calculated:

90% of median	\$4.97
120% of median	\$6.62
Ancillary per diem	\$5.21
Difference	\$1.41
1/2 the difference	<u> .71</u>
Per diem adjustment	\$.71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets the following criteria shall receive a per diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per Diem Rate	Incentive
< 60%	\$0.00
> or = 60% but < 65%	\$1.15
> or = 65% but < 70%	\$1.30
> or = 70% but < 75%	\$1.45
> or = 75% but < or 80% =	\$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	\$0.00
> or = 75% but < 80%	\$0.15
> or = 80% but < 85%	\$0.30
> or = 85% but < 90%	\$0.45
> or = 90% but < 95%	\$0.60
> or = 95%	\$0.75

4. 1967 Life Safety Code (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraphs (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be

supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per diem adjustment of \$3.20. The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing

facilities with collective bargaining agreements shall provide such agreements to the division.

10. High volume adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calendar year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) State owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. Effective July 1, 2002, the adjustment shall not accumulate from year to year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

D. Second tier high volume adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. *[The adjustment for state fiscal year 2003 shall be*

eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.]

(a) [The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.] The adjustment for State Fiscal Year 2003 shall be eighteen dollars and fifty-six cents (\$18.56) per Medicaid day.

(b) [The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.] The adjustment for SFY 2004 shall be nineteen dollars and seventy-one cents (\$19.71) per Medicaid day.

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(IV) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

[(IIII)] (V) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

E. High volume adjustment for nursing facilities without a full twelve (12)-month cost report. Effective for dates of service on or after January 17, 2003, the full twelve (12)-month cost report requirement set forth in (13)(B)10.A.(I) shall include nursing facilities that have on file at the division two (2) partial year cost reports that when combined cover a full twelve (12)-month period.

F. Medicaid hospice days to be included in determination of Medicaid occupancy. Effective for dates of service on or after January 17, 2003, the Medicaid patient days used to determine the Medicaid occupancy requirement set forth in (13)(B)10.A.(II) shall be calculated by adding the days paid for by the Medicaid nursing facility program plus the days paid for by the Medicaid hospice program from the cost report identified in part (13)(B)10.A.(I).

G. State Fiscal Year (SFY) 2004 Ninety Percent (90%) Medicaid High Volume Grant.

(I) Effective for SFY 2004, additional, one (1) time funding shall be provided to nursing facilities that qualify for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., and whose Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety percent (90%) of the total patient days for all nursing facility licensed beds.

(II) The SFY 2004 High Volume Grant will be calculated as a per diem adjustment based upon the funding appropriated by the general assembly and the Medicaid days incurred by the qualifying providers during SFY 2003. The adjustment for State Fiscal Year 2004 shall be two dollars and thirty-six cents (\$2.36) per Medicaid day.

(III) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid days report from Missouri's fiscal agent for pay cycles during State Fiscal Year 2003.

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars (\$85).

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—Division of Medical Services Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is adding paragraph (13)(A)5.

PURPOSE: This amendment provides for a nursing facility operations adjustment for SFY 2004.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement an operations adjustment for HIV nursing facilities for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the Medicaid patients in HIV nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by 8.67% to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator and assistant administrator.

2. FY-98 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of 3.4% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1. and the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of this regulation.

3. FY-99 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of 2.1% of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in paragraph (11)(D)3. of this regulation and the minimum wage adjustment detailed in paragraph (13)(A)1.; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of this regulation.

4. FY-2000 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustment detailed in paragraph (13)(A)1. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

5. FY-2004 nursing facility operations adjustment.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003 through June 30, 2004 of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003 and is effective for payment dates after August 1, 2003.

AUTHORITY: sections 208.153 and 208.201, RSMo [1994] 2000. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 70—Division of Medical Services

Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(I).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance of eight dollars and forty-two cents (\$8.42) per patient occupancy day for nursing facility services, effective July 1, 2003.

EMERGENCY STATEMENT: This emergency amendment is necessary to implement the Nursing Facility Reimbursement Allowance (NFRA) for providers of nursing facility services for State Fiscal Year 2004. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to the twenty-five thousand (25,000) Medicaid patients in nursing facilities. The Division of Medical Services finds an immediate danger to public health which requires emergency action and the amendment is necessary to preserve a compelling governmental interest that requires an early effective date. A proposed amendment, which covers the

same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protection extended by the Missouri and United States Constitutions. Therefore, the division believes this emergency amendment to be fair to all interested persons and parties under the circumstances. Emergency amendment filed September 22, 2003, effective October 1, 2003, expires March 28, 2004.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(G) The NFRA will be seven dollars and fifty cents (\$7.50) per patient occupancy day, effective July 1, 2000. The applicable quarterly survey for this period shall be the Division of Aging's December 1999 quarterly survey; *and*

(H) The NFRA will be seven dollars and thirty cents (\$7.30) per patient occupancy day, effective July 1, 2001. The applicable quarterly survey for this period shall be the Division of Aging's December 2000 quarterly survey; *and*

(I) The NFRA will be eight dollars and forty-two cents (\$8.42) per patient occupancy day, effective July 1, 2003. The applicable quarterly survey for this period shall be the Department of Health and Senior Services' December 2002 quarterly survey.

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436 and 208.201, RSMo 2000, and 198.439, RSMo Supp. 2002. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 22, 2003, effective Oct. 1, 2003, expires March 28, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

EXECUTIVE ORDER 03-17

WHEREAS, the State of Missouri recognizes that every Missouri citizen has the right to live in a safe, decent and affordable home; and

WHEREAS, the number of Missourians experiencing homelessness continues to increase; and

WHEREAS, the State of Missouri recognizes that any Missourian experiencing homelessness is unacceptable; and

WHEREAS, federal McKinney-Vento Act monies to develop housing programs to alleviate homelessness are available contingent upon the development of a State Plan, per 42 USC 11362, which provides: "housing programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals to permanent housing and self-sufficiency, and creating an adequate plan to discharge homeless persons to and from mainstream service systems"; and

WHEREAS, a state plan to address the causes of homelessness in Missouri is needed; and

WHEREAS, all Missourians will benefit from the formulation of a State Plan to End Chronic Homelessness.

NOW, THEREFORE, I, Bob Holden, Governor of the State of Missouri, by the power vested in me by the Laws and Constitution of the State of Missouri, do hereby order and direct the creation of the Governor's Committee to End Chronic Homelessness.

The purpose of the Governor's Committee to End Chronic Homelessness is to develop a plan that will establish strategies to promote public and private coordination and collaboration, evaluate and reallocate resources, remove barriers to access of housing and services, and promote and support activities that prevent homelessness. The Governor's Committee to End Homelessness will work with the other Continuum of Care committees in the state to integrate and coordinate their local plans with the State Plan to End Chronic Homelessness.

The Governor's Committee to End Homelessness shall be composed of no more than 20 members appointed by the Governor. Membership shall include at least two members of the General Assembly, one from each political party, and at least one representative from each of the following state agencies: Department of Elementary and Secondary Education, Department of Corrections, Department of Mental Health, Department of Health and Senior Services, Department of Economic Development, Division of Youth Services, Division of Workforce Development, Missouri Housing Development Commission and Department of Social Services. The committee shall also include other representatives who are familiar with the challenges of the homeless; including representatives of the faith based community, community action agencies, non-profit organizations, and local and/or federal governmental agencies.

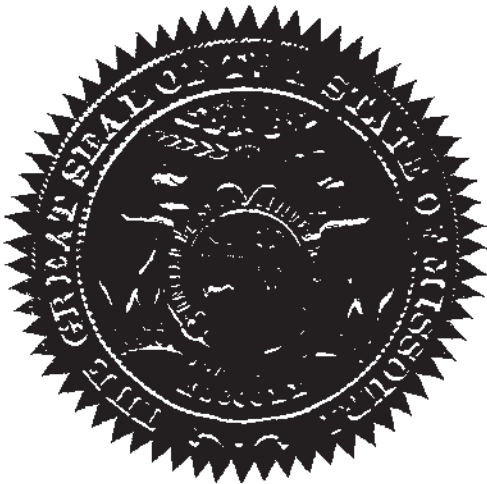
The members of the Governor's Committee to End Chronic Homelessness shall serve at the pleasure of the Governor, and shall serve without compensation, except that members may be reimbursed for reasonable and necessary expenses arising from the Committee's activities or business. Such expenses shall be paid by the Department that incurs the expense.

The Governor's Committee to End Homelessness shall make an annual report of recommendations and strategies for implementing such recommendations to the Governor, the Speaker of the House of Representatives, and the President Pro Tem of the Senate. Such report shall be submitted by November 1st of each year beginning in 2004. The Committee may submit such interim reports as are necessary to keep the public informed of its progress.

The Governor's Committee to End Chronic Homelessness shall convene no later than November 3, 2003.

This Executive Order shall expire on December 31, 2012, unless reauthorized for by a later Executive Order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 8th day of October, 2003.





Bob Holden
Governor

ATTEST:



Matt Blunt
Secretary of State