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MATT BLUNT

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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.state.mo.us/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. 26, *Missouri Register*, page 27. The approved short form of citation is 26 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—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



FROM THIS ANGLE ...

What's New? Executive Orders Now in the *Missouri Register*.

Beginning January 1, 2003, as directed by legislation passed by the General Assembly during the last legislative session, see section 536.035.2, RSMo 2002 (S.B. 812), all Executive Orders issued by the Governor will now be published in the *Missouri Register*. See new section on Executive Orders.

Watch your dates!!!

We are still seeing instances where agencies are missing deadline/cutoff dates insofar as when to file their final order of rulemaking with JCAR and then with our office. Please watch your dates. If you miss the 90th day, we cannot help you! Your rulemaking will lapse and you will need to start over again. It is a difficult task for us to advise an agency that they must begin again when they have missed filing the requisite paperwork by the 90th day. We have suggested in past issues of this column that you consider putting these dates on your Outlook calendar to “flag” your dates for you and send you a gentle reminder!

Survey – your attention, please.

We are putting the finishing touches on our survey. Be watching your mail/interagency mail for our survey to arrive. When you receive the survey, *please* take a few moments to complete the same. We would really appreciate receiving your feedback. In order for us to serve you better, we need your opinion. This is your chance to let us know what we can do to help you.

Remember . . . get text from us!!

Revising your rules? Remember to call us for the text of your rules as they currently exist in the *Code of State Regulations*. We can send you an

c-mail containing the electronic copy of your text. This will save you many keystrokes in revising your rulemakings!

As always, please contact us if we may be of assistance to you.

A handwritten signature in cursive script, appearing to read "Lynne C. Angle".

Lynne C. Angle

Director, Administrative Rules

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 120—New Manufactured Homes

EMERGENCY RULE

4 CSR 240-120.140 New Manufactured Home Manufacturer's Inspection Fee

PURPOSE: This rule provides for payment of an inspection fee by manufacturers of new manufactured homes for each home delivered to dealers in the state of Missouri pursuant to section 700.040, RSMo.

EMERGENCY STATEMENT: Sections 700.010 through 700.115, RSMo establish standards that manufactured housing and modular units must meet, in order to adequately provide for the public health, safety and welfare of the persons who buy or live in such housing. The commission has the statutory obligation to enforce compliance with the standards that are set forth in sections 700.010 through 700.115. Without immediate additional funding for timely inspections and follow-up by staff members with persons who buy and live in manufactured housing and modular units to ensure compliance with safety standards—especially fire and other health standards—thousands of Missourians who live in these facilities and their neighbors will be at risk of imminent injury or death. Additionally, long term

unknown defects left undetected could affect consumer health due to fire or improper ventilation that results in mold, wind damage and/or other unknown and/or unidentified deficiencies. To avoid these negative effects to the public health, safety and welfare, these matters must be corrected in a timely manner by the manufacturers or dealers of these facilities, and timely inspections are critical. In order to discharge its statutory obligation, and to protect the public health, safety and welfare, the commission requires a source of revenue that is sufficient to pay its personnel, office expenses, and other costs of administering this program. The only funds that are available to cover the costs of enforcing compliance with the statutes are the funds in the Manufactured Housing and Modular Unit Program, Fund #0582. The balance of the funds available in Fund #0582 has rapidly declined in the last year, primarily because the Fund no longer receives revenues related to the regulation of recreational vehicles, and the balance in the fund is not now sufficient to ensure the viability and integrity of the Manufactured Housing and Modular Unit Program. If actions to generate additional revenues are not taken immediately, the Fund will be completely depleted before a new, permanent rule can be implemented. In that event, there will be an immediate danger to the public health, safety, and welfare. The imposition of this fee on all new manufactured homes is reasonably related to the commission's obligation to enforce compliance with the provisions of sections 700.010 through 700.115. The commission must have this fee in effect on February 3, 2003, and continuously thereafter, in order to maintain the solvency of Fund #0582. The adoption of this rule follows statutory procedures that are limited in scope to those circumstances creating this emergency and requiring emergency action, relating to the enforcement of the provisions of sections 700.010 through 700.115; and the adoption of this rule provides regulatory procedures best calculated to assure fairness to all interested persons and parties, including modular unit manufacturers and dealers. The adoption of this rule follows procedures that comply with the protections extended to all interested persons and parties by the Missouri and United States Constitutions. Emergency rule filed January 24, 2003, effective February 3, 2003, expires August 1, 2003.

(1) The commission establishes an inspection fee to be assessed on all new manufactured homes delivered or sold to dealers in the state of Missouri which shall be paid by the manufacturer of each home. Said inspection fee shall be thirty dollars (\$30) for each home each manufacturer delivers or sells to a dealer in the state of Missouri.

(2) Manufacturers of new manufactured homes shall remit to the director on a monthly basis an amount that equals the number of new manufactured homes delivered or sold to dealers in the state of Missouri, multiplied by thirty dollars (\$30). Each manufacturer shall submit said fee with any monthly delivery reports, or other filing, or documentation as may be required by the commission. Said fee shall be received no later than the tenth day following the month in which new manufactured homes were delivered or sold to dealers in the state of Missouri.

(3) The following situations shall constitute grounds for the denial, suspension, revocation, or placing on probation of a manufacturer's certificate of registration:

(A) Failure to pay the inspection fee within thirty (30) days of their prescribed due date;

(B) Failure to pay the inspection fee by the prescribed due date for two (2) consecutive months; or

(C) Failure to pay the inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

(4) The director shall deliver copies of the commission's order establishing the new manufactured home manufacturer's inspection fee to

all existing registered manufacturers. The director shall also deliver a copy of the commission's order establishing the fee with each approved certificate of manufacturer registration.

AUTHORITY: sections 700.040 and 700.115, RSMo 2000. Emergency rule filed Jan. 24, 2003, effective Feb. 3, 2003, expires Aug. 1, 2003.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

EMERGENCY AMENDMENT

4 CSR 240-123.030 Seals. The commission is amending subsections (3)(A) and (B) and section (9).

PURPOSE: This emergency amendment increases the fees for seals and replacement seals for modular units.

EMERGENCY STATEMENT: Sections 700.010 through 700.115, RSMo, establish standards that manufactured housing and modular units must meet, in order to adequately provide for the public health, safety and welfare of the persons who buy or live in such housing. The commission has the statutory obligation to enforce compliance with the standards that are set forth in sections 700.010 through 700.115. Without immediate additional funding for timely inspections and follow-up by staff members with persons who buy and live in manufactured housing and modular units to ensure compliance with safety standards—especially fire and other health standards—thousands of Missourians who live in these facilities and their neighbors will be at risk of imminent injury or death. Additionally, long term unknown defects left undetected could affect consumer health due to fire or improper ventilation that results in mold, wind damage and/or other unknown and/or unidentified deficiencies. To avoid these negative effects to the public health, safety and welfare, these matters must be corrected in a timely manner by the manufacturers or dealers of these facilities, and timely inspections are critical. In order to discharge its statutory obligation, and to protect the public health, safety and welfare, the commission requires a source of revenue that is sufficient to pay its personnel, office expenses, and other costs of administering this program. The only funds that are available to cover the costs of enforcing compliance with the statutes are the funds in the Manufactured Housing and Modular Unit Program, Fund #0582. The balance of the funds available in Fund #0582 has rapidly declined in the last year, primarily because the fund no longer receives revenues related to the regulation of recreational vehicles, and the balance in the fund is not now sufficient to ensure the viability and integrity of the Manufactured Housing and Modular Unit Program. If actions to generate additional revenues are not taken immediately, the fund will be completely depleted before a new, permanent rule can be implemented. In that event, there will be an immediate danger to the public health, safety, and welfare. The imposition of an increased fee for seals is reasonably related to the commission's obligation to enforce compliance with the provisions of sections 700.010 through 700.115. The commission must have this increased fee in effect on February 3, 2003, and continuously thereafter, in order to maintain the solvency of Fund #0582. The adoption of this rule follows statutory procedures that are limited in scope to those circumstances creating this emergency and requiring emergency action, relating to the enforcement of the provisions of sections 700.010 through 700.115; and the adoption of this rule provides regulatory procedures best calculated to assure fairness to all interested persons and parties, including modular unit manufacturers and dealers. The adoption of this rule follows procedures that comply with the protections extended to all interested persons and parties by the

Missouri and United States Constitutions. Emergency amendment filed January 24, 2003, effective February 3, 2003, expires August 1, 2003.

(3) To be complete, an application for seals to be affixed to modular units manufactured or to be manufactured under an approved manufacturing program shall be executed by the manufacturer (or the manufacturer's authorized representative if the manufacturer is a corporation) of the modular unit to which the requested seals will be affixed and shall include:

(A) An affidavit of the applicant or the applicant's authorized representative if the applicant is a corporation, certifying that each requested seal will be affixed only to modular units manufactured under an approved manufacturing program and that each modular unit to which a requested seal will be affixed will comply with the code at the time it is rented, leased, sold or offered for rent, lease, or sale by the applicant; *and*. **Each new modular unit sold or placed in the state must contain the applicable seal as specified in this section; and**

(B) A nonrefundable fee of *[eighty dollars (\$80)] one hundred ten dollars (\$110)* for each seal requested. **Any seals attached to new modular units after the effective date of this subsection shall include either markings that reflect payment of the full one hundred ten dollar (\$110)-fee or a seal purchased prior to the effective date of this subsection plus tabs or other markings that reflect payment of an additional fee of thirty dollars (\$30).** Seals issued for less than the full one hundred ten dollar (\$110)-fee prior to the effective date of this subsection that do not comply with the requirements of the preceding sentence may not be attached to new modular units after the effective date of this subsection. **The commission will provide the appropriate tabs or other markings to the applicant upon payment of the applicable fee. The applicable fee is to be paid at the time of application.**

(9) Any person to whom a seal has been issued or who owns a modular unit to which a seal or approved insignia has been affixed may apply for the replacement of such seal or approved insignia if it becomes lost, mutilated or otherwise unserviceable. Applications for replacement seals shall be made on the same forms and in the same manner as applications for seals are made under this rule. A fee of *[twenty dollars (\$20)] forty dollars (\$40)* shall be charged for a replacement seal.

AUTHORITY: section 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. Amended: Filed Oct. 12, 1982, effective Jan. 13, 1983. Amended: Filed June 12, 2001, effective Jan. 30, 2002. Emergency amendment filed Jan. 24, 2003, effective Feb. 3, 2003, expires Aug. 1, 2003.

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

EMERGENCY RULE

13 CSR 70-3.065 Medicaid Program Payment of Claims for Medicare Part B Services

PURPOSE: This rule establishes the regulatory basis for the administration of payment of claims for Medicare Part B services. The Division of Medical Services will limit reimbursement of deductible and coinsurance under Medicare Part B for dually-entitled individuals to only those covered services for which benefits are also allowable under the Medicaid program. This rule also limits Medicaid reimbursement to the lesser of such deductible and coinsurance amounts as are determined by Medicare for a given service or the

amount by which the Medicaid maximum allowable amount for the same service exceeds the Medicare Part B payment made to the provider of physician or clinic services. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.

EMERGENCY STATEMENT: The Division of Medical Services has determined that the Missouri Medicaid program would suffer irreparable harm if the Division of Medical Services does not reduce Medicaid payment of claims for Medicare Part B Services to the lesser of the deductible and coinsurance due on the services or the amount remaining, if any, after subtracting the Medicare Part B payment made for the service from the maximum amount which Medicaid alone would be reimbursed for that same service beginning March 1, 2003. The Missouri Medicaid program pays for the health care of more than eight hundred thousand (800,000) of Missouri's most vulnerable citizens. Missouri's economic status requires emergency measures to contain cost wherever feasible. For State Fiscal Year (SFY) 2003, the state projected general revenue to be fifty-six (56) million dollars less than actual net collections in SFY 2001. Assuming the projection is accurate, the state will have less money to operate than two (2) years ago. This does not take into account the impact of caseload growth. In order to utilize the limited SFY 2003 projected revenues, cost reductions must be made to Medicaid programs totaling at least \$332,900,000. This emergency rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Medicaid services currently assist in protecting health, safety, and welfare of Missouri's Medicaid eligible population. The Division of Medical Services does not anticipate that currently enrolled providers will leave the Medicaid physician program in numbers that would impact recipient access to services because of this reduction. An emergency rule is necessary to preserve a compelling governmental interest. The Department of Social Services (DSS), Division of Medical Services must reduce spending in certain Medicaid programs to assure that money is available to pay for some portion of all medically necessary services during SFY 2003 because Missouri's constitution does not allow for spending more money than is available to the state. The necessary expenditure savings cannot be achieved in SFY 2003 through the regular rulemaking process, thus requiring emergency rulemaking. This emergency rule must be implemented on a timely basis to ensure that quality Medicaid services continue to be provided to eligible Medicaid recipients. The Division of Medical Services has weighed the compelling governmental interest against the due process rights of the public to notice and comment. A proposed rule, which covers this same material, is published in the February 18, 2003 issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Division of Medical Services believes this emergency rule is fair to all interested persons and parties, under the circumstances. This emergency rule was filed February 7, 2003, effective March 1, 2003, and expires August 27, 2003.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by

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

(1) Title XIX Medicaid benefits for individuals dually entitled to Missouri Medicaid and Title XVIII Medicare Part B Supplementary Medical Insurance (SMI) shall be limited as follows:

(A) For services provided by an enrolled Medicaid provider to a recipient who is dually entitled to Title XIX Medicaid and Title XVIII Medicare Part B SMI, Medicaid vendor reimbursement shall be limited to payment of deductible and coinsurance amounts, as determined due under the applicable provisions of federal regulations pertaining to Medicare Part B, for only those goods and services which are covered by the state Medicaid program for those individuals who are Medicaid eligible; and

(B) Medicaid payment of such deductible and coinsurance amounts shall be limited to the lesser of—

1. The deductible and coinsurance due on the service; or
2. The amount remaining, if any, after subtracting the Medicare Part B payment made for the service from the maximum amount which Medicaid alone would have reimbursed for that same service.

(2) Provider, as used in this regulation, shall include the following Medicaid provider types:

20 and 24	Physicians
25	Nurse midwife
30	Podiatrist
36	Podiatry clinic
42	Nurse practitioner
49	Psychologist
50	Independent clinic (except federally qualified health clinic, ambulatory surgical center, and renal dialysis center)
51	Public health department clinic
52	Family planning clinic
54	Teaching institution department
55	Teaching institution
56	Community mental health center
75	Qualified Medicare beneficiary (QMB) only
91	Certified registered nurse anesthetist (CRNA)

(3) The provider of service which is covered under both Medicare Part B SMI and Medicaid must accept assignment of the Medicare benefits available for the service before Medicaid may consider a claim for payment of deductible and coinsurance subject to the limitations of this rule.

(4) If the service is a Medicaid covered service, amounts not reimbursed by Medicaid for crossover claims may not be billed to the Medicaid recipient.

(5) If the service is a non-covered Medicaid service, then no payment will be made. The recipient will be responsible for the coinsurance and deductible for any non-covered Medicaid service.

(6) The services and items covered and not covered and the program limitations shall be determined by the Department of Social Services, Division of Medical Services and shall be included in the physician provider manual and special bulletins, which are incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms.

(7) The limitations on Medicaid reimbursement provided in this rule shall be effective based on the date of service.

(8) There will be a processing charge for any Medicare Part B claim that does not automatically cross over or is not submitted to Department of Social Services, Division of Medical Services electronically via the Internet. In order to submit paper claims for reimbursement, Medicaid providers must agree that the cost of processing the paper claim of two dollars and ninety-one cents (\$2.91) will be deducted from Medicaid payment due the provider. Paper claims that cannot be filed electronically due to Medicaid policy are exempt from the processing charge.

AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Original rule filed Jan. 10, 2003. Emergency rule filed Feb. 7, 2003, effective March 1, 2003, expires Aug. 27, 2003. A proposed rule 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 60—Durable Medical Equipment Program**

EMERGENCY RULE

13 CSR 70-60.010 Durable Medical Equipment Program

PURPOSE: This rule establishes the regulatory basis for the administration of the Medicaid durable medical equipment program, designation of professional persons who may dispense durable medical equipment and the method of reimbursement for durable medical equipment. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of the conditions for provider participation, criteria and methodology of provider reimbursement, recipient eligibility and amount, duration and scope of services covered are included in the durable medical equipment provider manual which is incorporated by reference in this rule and available at the website www.dss.state.mo.us/dms.

EMERGENCY STATEMENT: The Division of Medical Services has determined that the Missouri Medicaid program would suffer irreparable harm if the Division of Medical Services does not reduce the reimbursement rates for power and custom wheelchairs and augmentative communication devices by five percent (5%), for oxygen by five percent (5%), from cost plus twenty-five percent (25%) for Healthy Children and Youth (HCY) supplies and cost plus thirty-five percent (35%) for ostomy supplies to cost plus twenty percent (20%), total parental nutrition and other equipment and related supplies is reduced to equal the Medicare fee schedule, and event recorders, pneumograms, and apnea monitors will be combined into a single rate beginning March 1, 2003. The Missouri Medicaid program pays for the health care of more than eight hundred thousand (800,000) of Missouri's most vulnerable citizens. Missouri's economic status requires emergency measures to contain cost wherever feasible. For State Fiscal Year (SFY) 2003, the state projected general revenue to be fifty-six (\$56) million dollars less than actual net collections in SFY 2001. Assuming the projection is accurate, the state will have less money to operate than two (2) years ago. This does not take into account the impact of caseload growth. In order to utilize the limited SFY 2003 projected revenues, core reductions must be made to Medicaid programs totaling at least \$332,900,000. This emergency

rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Medicaid services currently assist in protecting health, safety, and welfare of Missouri's Medicaid eligible population. The Division of Medical Services does not anticipate that currently enrolled providers will leave the Medicaid durable medical equipment program in numbers that would impact recipient access to services because of these reductions. An emergency rule is necessary to preserve a compelling governmental interest. The Department of Social Services (DSS), Division of Medical Services must reduce spending in certain Medicaid programs to assure that money is available to pay for some portion of all medically necessary services during SFY 2003 by more closely aligning expenditures with available revenues for SFY 2003. Without this rule, the Division of Medical Services will be faced with the alternative of not being able to make all payments to Medicaid providers by the end of SFY 2003 because Missouri's constitution does not allow for spending more money than is available to the state. The necessary expenditure savings cannot be achieved in SFY 2003 through the regular rulemaking process, thus requiring emergency rulemaking. This emergency rule must be implemented on a timely basis to ensure that quality Medicaid services continue to be provided to eligible Medicaid recipients. The Division of Medical Services has weighed the compelling governmental interest against the due process rights of the public to notice and comment. A proposed rule, which covers the same material, was published in the December 2, 2002 issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Division of Medical Services believes this emergency rule is fair to all interested persons and parties, under the circumstances. This emergency rule was filed February 7, 2003, effective March 1, 2003, and expires August 27, 2003.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Administration. The Medicaid durable medical equipment (DME) program shall be administered by the Department of Social Services, Division of Medical Services. The services and items covered and not covered, the program limitations and the maximum allowable fees for all covered services shall be determined by the Department of Social Services, Division of Medical Services and shall be included in the DME provider manual, which is incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms. The division reserves the right to affect changes in services, limitations and fees with notification to DME providers.

(2) Persons eligible. Any person who is eligible for Title XIX benefits as determined by the Division of Family Services is eligible for DME when the DME is medically necessary as determined by the treating physician or advanced practice nurse in a collaborative practice arrangement.

(3) Reimbursement. Payment will be made for each unit of service or item provided in accordance with the fee schedule determined by the Division of Medical Services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the Division of Medical Services or the provider's billed charge. Reimbursement for DME services is made on a fee-for-service basis. The Medicaid maximum allowable fee for a unit of service has been determined by the Division of Medical Services to be a reasonable fee, consistent with efficiency, economy, and quality of care. Sales tax is not covered by Medicaid, nor can it be billed to the recipient. Providers must accept the Medicaid payment as the full and complete payment and may not accept additional payment from the recipient. Charges for shipping, freight, COD, handling, delivery and pickup are included in the reimbursement for items covered under the DME program and are not billable to the Medicaid recipient.

(4) Definition for Durable Medical Equipment. DME is equipment that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of an illness or injury, and is appropriate for use in the home. All requirements of the definition must be met in order for the equipment to be covered by Medicaid.

(5) Provider Participation.

(A) The following types of providers may be reimbursed by Medicaid for items covered under the DME program if they are enrolled Medicaid providers: rental and sales providers, prosthetic fabricators, rehabilitation centers, orthotic fabricators, physicians (includes M.D., D.O., podiatrists—may dispense orthotic devices and artificial larynx), advanced practice nurses in a collaborative practice arrangement, pharmacies and hospitals.

(B) The enrolled Medicaid provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

2. On request furnish to the Medicaid agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(6) Covered Services. It is the provider's responsibility to determine the coverage benefits for a Medicaid eligible recipient based on his or her type of assistance as outlined in the DME manual. Reimbursement will be made to qualified participating DME providers only for DME items, determined by the recipient's treating physician or advanced practice nurse in a collaborative practice arrangement to be medically necessary, and shall include but not be limited to: prosthetics; orthotics; oxygen and respiratory care equipment; parenteral nutrition; ostomy supplies; wheelchairs; augmentative communication devices; and hospital beds. Specific procedure codes that are covered under the DME program are listed in Section 19 of the DME provider manual, which is incorporated by reference in this rule. These items must be for use in the recipient's home when ordered in writing by the recipient's physician or advanced practice nurse in a collaborative practice arrangement. Although an item is classified as DME, it may not be covered in every instance. Coverage is based on the fact that the item is reasonable and necessary for treatment of the illness or injury, or to improve the functioning of a malformed or permanently inoperative body part and the equipment meets the definition of DME. Even though a DME item may serve some useful, medical purpose, consideration must be given by the physician or advanced practice nurse in a collaborative practice arrangement and the DME supplier to what extent, if any, it is reasonable for Medicaid to pay for the item as opposed to another realistically feasible alternative pattern of care. Consideration should be given by the physician or advanced practice nurse in a collaborative practice arrangement and the DME supplier as to whether the item serves essentially the same purpose as equipment already available to the recipient. If two (2) different items each meet the need

of the recipient, the less expensive item must be employed, all other conditions being equal.

(7) Documentation. The DME provider and physician or advanced practice nurse in a collaborative practice arrangement shall document how they determined what was the least expensive, feasible alternative for treatment of the illness or injury, or to improve the functioning of a malformed or permanently inoperative body part.

(8) Durable medical equipment for recipients who are in a nursing facility or inpatient hospital. DME is not covered for those recipients residing in a nursing home. DME is included in the nursing home per diem rate and not paid for separately with the exception of augmentative communication devices, custom and power wheelchairs, orthotic and prosthetic devices, total parenteral nutrition, and volume ventilators. DME that is used while the recipient is in inpatient hospital care is not paid for separately under the DME program. These costs are recognized as part of the hospital's inpatient per diem rate.

(9) Non-Covered Items. Missouri Medicaid does not cover items which primarily serve the following purposes: personal comfort, convenience, education, hygiene, safety, cosmetic, new equipment of unproven value, and equipment of questionable current usefulness or therapeutic value. Specific items which are generally not covered can be found in Section 13.32 of the DME manual. Examples of non-covered items are: air conditioners, computers (unless determined to be used for an augmentative communication device), electric bathtub lifts, elevators, furniture, toys, home modifications, refrigerators, seat lift chairs, stair lifts or glides, treadmill, water softening systems, wheelchair lifts, wheelchair ramps, whirlpool tubs or pumps.

(10) Medicare/Medicaid Crossovers. For recipients having both Medicare and Medicaid eligibility, the state Medicaid program pays the lesser of the amounts indicated by Medicare to be deductible and/or coinsurance due on the Medicare allowed amount or the difference between the amount paid by Medicare and the Medicaid allowed amount.

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

AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Original rule filed Nov. 1, 2002. Emergency rule filed Feb. 7, 2003, effective March 1, 2003, expires Aug. 27, 2003. A proposed rule covering this same material was published in the Dec. 2, 2002 issue of the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 65—Rehabilitation Center Program**

EMERGENCY RULE

13 CSR 70-65.010 Rehabilitation Center Program

PURPOSE: This rule establishes the regulatory basis for the administration of the rehabilitation center program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent

with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of provider participation, criteria and methodology for provider reimbursement, recipient eligibility, and amount, duration and scope of services covered are included in the Rehabilitation Center Provider Manual which is incorporated by reference in this rule and available at the website www.dss.state.mo.us/dms.

EMERGENCY STATEMENT: The Division of Medical Services has determined that the Missouri Medicaid program would suffer irreparable harm if the Division of Medical Services does not reduce the reimbursement rates for Medicaid rehabilitation center services by fifty cents (\$.50) per quarter hour beginning March 1, 2003. The Missouri Medicaid program pays for the health care of more than eight hundred thousand (800,000) of Missouri's most vulnerable citizens. Missouri's economic status requires emergency measures to contain cost wherever feasible. For State Fiscal Year (SFY) 2003, the state projected general revenue to be fifty-six (56) million dollars less than actual net collections in SFY 2001. Assuming the projection is accurate, the state will have less money to operate than two (2) years ago. This does not take into account the impact of case load growth. In order to utilize the limited SFY 2003 projected revenues, core reductions must be made to Medicaid programs totaling at least \$332,900,000. This emergency rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Medicaid services currently assist in protecting health, safety and welfare of Missouri's Medicaid eligible population. The Division of Medical Services does not anticipate that the number of currently enrolled providers in the Medicaid rehabilitation center program will be reduced in numbers that would impact recipient access to services over this four and seven-tenths percent (4.7%) decrease from ten dollars and fifty cents (\$10.50) per quarter hour to ten dollars (\$10) per quarter hour. The Division of Medical Services does not anticipate that the number of currently enrolled rehabilitation centers that may provide group speech therapy sessions for children will be reduced in numbers that would impact recipient access to services when the reimbursement rate is reduced from three dollars and fifty cents (\$3.50) per quarter hour to three dollars (\$3) per quarter hour in numbers that would impact recipient access to services. An emergency rule is necessary to preserve a compelling governmental interest. The Department of Social Services (DSS), Division of Medical Services must reduce spending in certain Medicaid programs to assure that money is available to pay for some portion of all medically necessary services during SFY 2003 by more closely aligning expenditures with available revenues for SFY 2003. Without this rule, the Division of Medical Services will be faced with the alternative of not being able to make all payments to Medicaid providers by the end of SFY 2003 because Missouri's constitution does not allow for spending more money than is available to the state. The emergency rule will also allow the Division of Medical Services to assure that only medically necessary services are provided by requiring a referral for speech therapy services from a Medicaid enrolled primary care provider and a prescription for occupational and physical therapy services from a Medicaid enrolled primary care provider. The necessary expenditure savings cannot be achieved in SFY 2003 through the regular rule-making process, thus requiring emergency rulemaking. This emergency rule must be implemented on a timely basis to ensure that quality Medicaid services continue to be provided to eligible Medicaid recipients. The Division of Medical Services has weighed the compelling governmental interest against the due process rights of the

public to notice and comment. A proposed rule, which covers the same material, was published in the December 2, 2002 issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Division of Medical Services believes this emergency rule is fair to all interested persons and parties, under the circumstances. This emergency rule was filed February 7, 2003, effective March 1, 2003, and expires August 27, 2003.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Administration. The Missouri Medicaid rehabilitation center program shall be administered by the Department of Social Services, Division of Medical Services. The rehabilitation center services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the Division of Medical Services and shall be included in the rehabilitation center provider manual, which is incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms. Rehabilitation center services shall include only those that are clearly shown to be medically necessary as determined by the treating physician. The division reserves the right to affect changes in services, limitations and fees with notification to rehabilitation center providers.

(2) Persons eligible. The Missouri Medicaid Rehabilitation Program pays for the adaptive training of Medicaid recipients who receive a prosthetic/orthotic device. In addition, rehabilitation centers may provide physical, occupational, and speech therapy to children under the age of twenty-one (21) when medically necessary as determined by the treating physician. The Omnibus Reconciliation Act of 1989 (OBRA-89) mandated that Medicaid covered services be provided based on medical necessity as determined by the treating physician in a healthy children and youth screening. The recipient must be eligible on the date service is furnished. Recipients may have specific limitations to rehabilitation center program services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a recipient based on his or her type of assistance as outlined in the rehabilitation center provider manual. The provider shall ascertain the patient's Medicaid/MC+ status before any service is performed. The recipient's eligibility shall be verified in accordance with methodology outlined in the rehabilitation center provider manual.

(3) Provider Participation.

(A) To be eligible for participation in the Missouri Medicaid rehabilitation center program, a provider must meet the criteria specified for his or her profession as outlined in the rehabilitation center provider manual and be an enrolled Medicaid provider.

(B) The enrolled Medicaid provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

2. On request furnish to the Medicaid agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Covered Services. The recipient shall have a referral for speech therapy services from a Medicaid enrolled primary care provider. The recipient shall have a prescription for occupational and physical therapy services from a Medicaid enrolled primary care provider.

(5) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by the Division of Medical Services. Providers must bill their usual and customary charge for rehabilitation center services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the Division of Medical Services or the provider's billed charges. Rehabilitation services are only payable to an enrolled, eligible, participating provider.

(6) Documentation. For physical, occupational and speech therapy services, the Division of Medical Services requires that the following documentation be included in the recipient's record:

- (A) Recipient's complete name;
- (B) Date the service was provided;
- (C) Actual treatment provided for the recipient (more than "treatment given") on the specific date of service;
- (D) Individual or group therapy (the provider must document the type of therapy given);
- (E) The time the service was delivered must be clearly documented in the client record (e.g., 4:00-4:15 p.m.); providers cannot bill for charting time, only the time they spend doing the therapy;
- (F) The signature of the therapist who provided the service; and
- (G) The official Individual Education Plan (IEP) or Individual Family Services Plan (IFSP) which must be in the record when billing therapy with a WQ modifier.

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

AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Original rule filed Nov. 1, 2002. Emergency rule filed Feb. 7, 2003, effective March 1, 2003, expires Aug. 27, 2003. A proposed rule covering this same material was published in the Dec. 2, 2002 issue of the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 70—Therapy Program**

EMERGENCY RULE

13 CSR 70-70.010 Therapy Program

PURPOSE: This rule establishes the regulatory basis for the administration of the therapy program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of provider participation, criteria and methodology for provider reimbursement, recipient eligibility, and amount, duration and scope of services covered are included in the therapy provider manual, which

is incorporated by reference in this rule and available at the website www.dss.state.mo.us/dms.

EMERGENCY STATEMENT: The Division of Medical Services has determined that the Missouri Medicaid program would suffer irreparable harm if the Division of Medical Services does not reduce the reimbursement rates for Medicaid independent physical, occupational, and speech therapy services by fifty cents (\$.50) per quarter hour beginning March 1, 2003. The Missouri Medicaid program pays for the health care of more than eight hundred thousand (800,000) of Missouri's most vulnerable citizens. Missouri's economic status requires emergency measures to contain cost wherever feasible. For State Fiscal Year (SFY) 2003, the state projected general revenue to be fifty-six (56) million dollars less than actual net collections in SFY 2001. Assuming the projection is accurate, the state will have less money to operate than two (2) years ago. This does not take into account the impact of caseload growth. In order to utilize the limited SFY 2003 projected revenues, core reductions must be made to Medicaid programs totaling at least \$332,900,000. This emergency rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the Medicaid program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Medicaid services currently assist in protecting health, safety and welfare of Missouri's Medicaid eligible population. The Division of Medical Services does not anticipate that the number of currently enrolled providers in the Medicaid independent physical, occupational, and speech therapy programs will be reduced in numbers that would impact recipient access to services over this four and seven-tenths percent (4.7%) decrease from ten dollars and fifty cents (\$10.50) per quarter hour to ten dollars (\$10) per quarter hour. The Division of Medical Services does not anticipate that the number of currently enrolled independent speech providers who provide group speech therapy sessions will be reduced in numbers that would impact recipient access to services when the reimbursement rate is reduced from three dollars and fifty cents (\$3.50) per quarter hour to three dollars (\$3) per quarter hour. An emergency rule is necessary to preserve a compelling governmental interest. The Department of Social Services (DSS), Division of Medical Services must reduce spending in certain Medicaid programs to assure that money is available to pay for some portion of all medically necessary services during SFY 2003 by more closely aligning expenditures with available revenues for SFY 2003. Without this rule, the Division of Medical Services will be faced with the alternative of not being able to make all payments to Medicaid providers by the end of SFY 2003 because Missouri's constitution does not allow for spending more money than is available to the state. The emergency rule will also allow the Division of Medical Services to assure that only medically necessary services are provided by requiring a referral for speech therapy services from a Medicaid enrolled primary care provider and a prescription for occupational and physical therapy services from a Medicaid enrolled primary care provider. The necessary expenditure savings cannot be achieved in SFY 2003 through the regular rule-making process, thus requiring emergency rulemaking. This emergency rule must be implemented on a timely basis to ensure that quality Medicaid services continue to be provided to eligible Medicaid recipients. The Division of Medical Services has weighed the compelling governmental interest against the due process rights of the public to notice and comment. A proposed rule, which covers the same material, was published in the December 2, 2002 issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Division of Medical Services believes this emergency rule is fair to all

interested persons and parties, under the circumstances. This emergency rule was filed February 7, 2003, effective March 1, 2003, and expires August 27, 2003.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Administration. The Missouri Medicaid therapy program shall be administered by the Department of Social Services, Division of Medical Services. The therapy services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the Division of Medical Services and shall be included in the therapy provider manual, which is incorporated by reference in this rule and available through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms. Therapy services shall include only those which are clearly shown to be medically necessary as determined by the treating physician. The division reserves the right to affect changes in services, limitations and fees with notification to therapy providers.

(2) Persons eligible. Medically necessary therapy services as determined by the treating physician are covered for individuals under the age of twenty-one (21). The Healthy Children and Youth (HCY) Program (also known as Early Periodic Screening, Diagnosis, and Treatment (EPSDT)) ensures a comprehensive, preventive health care program for Medicaid eligible children under the age of twenty-one (21) years. The Omnibus Budget Reconciliation Act of 1989 (OBRA-89) mandated that Medicaid covered services be provided, based on medical necessity as identified in a HCY (EPSDT) screening. These services include physical, occupational, and speech/language therapy services. The recipient must be eligible on the date the service is furnished. Recipients may have specific limitations to therapy program services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a recipient based on their type of assistance as outlined in the therapy provider manual. The provider shall ascertain the patient's Medicaid/MC+ status before any service is performed. The recipient's eligibility shall be verified in accordance with methodology outlined in the therapy provider manual.

(3) Provider Participation.

(A) To be eligible for participation in the Missouri Medicaid therapy program, a provider must meet the criteria specified for his or her profession as outlined in the therapy provider manual and be an enrolled Medicaid provider.

(B) The enrolled Medicaid provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to recipients; and

2. On request furnish to the Medicaid agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Covered Services. The recipient shall have a referral for speech therapy services from a Medicaid enrolled primary care provider. The recipient shall have a prescription for occupational and physical therapy services from a Medicaid enrolled primary care provider.

(5) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by the Division of

Medical Services. Providers must bill their usual and customary charge for therapy services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the Division of Medical Services or the provider's billed charges. Physical, occupational and speech therapy services are only payable to the enrolled, eligible, participating provider. The Medicaid program cannot reimburse for services performed by non-enrolled persons.

(6) Documentation. For physical, occupational and speech therapy services, the Division of Medical Services requires that the following documentation be included in the recipient's record:

(A) Recipient's complete name;

(B) Date the service was provided;

(C) Actual treatment provided for the recipient (more than "treatment given") on the specific date of service;

(D) Individual or group therapy (the provider must document the type of therapy given);

(E) The time the service was delivered must be clearly documented in the client record (e.g., 4:00-4:15 p.m.); providers cannot bill for charting time, only the time they spend doing the therapy;

(F) The signature of the therapist who provided the service; and

(G) The official Individual Education Plan (IEP) or Individual Family Services Plan (IFSP) which must be in the record when billing therapy with a WQ modifier.

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

AUTHORITY: section 208.153 and 208.201, RSMo 2000. Original rule filed Nov. 1, 2002. Emergency rule filed Feb. 7, 2003, effective March 1, 2003, expires Aug. 27, 2003. A proposed rule covering this same material was published in the Dec. 2, 2002 issue of the *Missouri Register*.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 90—Uniform Commercial Code**

EMERGENCY RULE

15 CSR 30-90.090 Refusal to File; Cancellation; Defects in Filing

PURPOSE: This rule provides guidelines for when a filing officer may refuse acceptance of records.

EMERGENCY STATEMENT: This emergency rule informs the public of the reasons for which the filing officer may refuse a filing or cancel a previously filed record under Article 9 of the Uniform Commercial Code. The rule clarifies that the filing officer may refuse filing of a record or cancel a previously filed record when the record is not created pursuant to Chapter 400.9, RSMo, or is otherwise intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. This emergency rule is necessary to protect the public health, safety and welfare because the filing office has received an increased number of records that were not created pursuant to Chapter 400.9, RSMo, or intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with statewide elected officials, judges, prosecuting attorneys, other local elected officials, and other Missouri citizens. The filing office has received more than sixty (60) of these types of filings within the last three (3) months. As a result, the Business Services

Division finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, was published in the November 1, 2002, issue of the Missouri Register, and an order of rulemaking for the proposed rule will be published in the February 18, 2003, issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Business Services Division believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed February 10, 2003, effective February 20, 2003 and expires March 30, 2003.

(1) The filing officer may refuse to accept filing of a Uniform Commercial Code (UCC) record for the reasons specified in section 400.9-516, RSMo.

(2) Defects that do not warrant a filing officer's refusal to accept a record include, but are not limited to, the following:

(A) The UCC record contains or appears to contain a misspelling or other erroneous information;

(B) The UCC record appears to identify a debtor incorrectly;

(C) The UCC record appears to identify a secured party or a secured party of record incorrectly;

(D) The UCC record contains additional or extraneous information of any kind;

(E) The UCC record contains less than the information required by law except for information allowing rejection pursuant to 400.9-516(b), RSMo; and

(F) The UCC record incorrectly identifies collateral, or contains an illegible or unintelligible description of collateral, or appears to contain no such description.

(3) If the record contains more than one (1) debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings. The filing officer may provide a notice to the remitter containing the file number of the record, identification of the debtor name that was indexed, and a statement that any debtors with illegible or missing names or addresses were not indexed.

(4) If the record contains more than one (1) secured party or assignee name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings. The filing officer may provide a notice to the filer containing the file number of the record, identification of the secured party name that was indexed, and a statement that the secured parties with illegible or missing names or addresses were not indexed.

(5) If an amendment requests multiple actions, the filing officer shall file and index the information in accordance with the requested actions as long as adequate information can be indexed with the appropriate finance number.

(6) If, within thirty (30) days of the date that a record is rejected, a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record should not have been refused, the filing officer shall file the UCC record. The record shall be given a filing date and time reflecting the date and time the document would have been filed if it had been accepted when originally tendered for filing.

(7) The secretary of state may refuse to accept filing of a UCC record when the secretary of state determines that the record is not created pursuant to Chapter 400.9, RSMo, or is otherwise intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person.

(8) The secretary of state shall cancel a previously filed record if:

(A) A correction statement alleging that a previously filed record was wrongfully filed and that it should have been rejected under section (7) of this rule;

(B) Such correction statement includes a written certification, under oath, by the person that the contents of the correction statement are true and accurate to the best of the person's knowledge; and

(C) The secretary of state, without undue delay, determines that the contested record was wrongfully filed and should have been rejected. In order to determine whether the record was wrongfully filed, the secretary of state may require the person filing the correction statement and the secured party to provide any additional relevant information requested by the secretary of state, including an original or a copy of any security agreement that is related to the record. If the secretary of state finds that the record was wrongfully filed and should have been rejected under section (7) of this rule, the secretary of state shall cancel the record and it shall be void and of no effect.

(9) If the secretary of state cancels a record under section (8), the secretary shall communicate to the person that presented the record the fact of and reason for the cancellation.

(10) If the secretary of state refuses to accept a record for filing pursuant to section (7) of this rule or cancels a wrongfully filed record pursuant to section (8) of this rule, the secured party may file an appeal within thirty (30) days after the refusal or cancellation in the Circuit Court of Cole County.

(A) Filing a petition requesting to be allowed to file the document commences the appeal. The petition shall be filed with the court and the secretary of state and shall have the record attached to it. Upon the commencement of an appeal, it shall be advanced on the court docket and heard and decided by the court as soon as possible.

(B) Upon consideration of the petition and other appropriate pleadings, the court may order the secretary of state to file the record or take other action the court considers appropriate, including the entry of orders affirming, reversing, or otherwise modifying the decision of the secretary of state. The court may order other relief, including equitable relief, as may be appropriate.

(C) The court's final decision may be appealed as in other civil proceedings.

AUTHORITY: section 400.9-526, RSMo Supp. 2001. Original rule filed Sept. 30, 2002. Emergency rule filed Feb. 10, 2003, effective Feb. 20, 2003, expires March 30, 2003. A proposed rule, which covers the same material, was published in the Nov. 1, 2002, issue of the Missouri Register, and an order of rulemaking to the proposed rule is published in this issue of the Missouri Register.

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

EXECUTIVE ORDER 03-01

WHEREAS, IN 1803, President Thomas Jefferson selected Meriwether Lewis and William Clark to embark on one of the greatest adventures in history – to traverse the continental U.S. by following two rivers, the Missouri and the Columbia; and

WHEREAS, Lewis and Clark commenced their westward journey at the confluence of the nation's two great rivers, the Missouri and the Mississippi; and

WHEREAS, on September 23, 1806, the successful Lewis and Clark returned to St. Louis; and

WHEREAS, in 1813, William Clark was appointed Governor of Missouri, a post which he held until the incorporation of Missouri into statehood in 1820; and

WHEREAS, from 2003 to 2006, we will celebrate the bicentennial of the Lewis and Clark Expedition and the important role of Missouri in one of the greatest adventures in history.

NOW THEREFORE, I, Bob Holden, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby rescind Executive Order 98-06 and establish the Missouri Lewis and Clark Bicentennial Commission whose composition will be as follows:

The Governor or his designee; the Secretary of State or his designee; the directors or their designees of the Department of Conservation, the Department of Natural Resources, the Division of Tourism, the Department of Elementary and Secondary Education, the Department of Transportation, and the Department of Public Safety; the director or his designee of the State Historical Society of Missouri; and eight (8) persons appointed by the Governor and such other members as the Governor may from time-to-time appoint. The Governor will designate two (2) members of the Commission as co-chairs.

The purpose of the commission is to rekindle the spirit of discovery, achievement and wonder fostered by the original exploration.

The Commission will recommend to the Governor and the citizens of Missouri effective means by which to observe the Bicentennial of the Lewis and Clark Expedition.

The Commission will promote public awareness of the important historical significance of the Missouri Territory and the Lewis and Clark Expedition, as well as, cultural tourism in and around the State of Missouri in relation to the Expedition and its legacies.

The Commission will serve as the official liaison between other Lewis and Clark Trail states and other public and private bicentennial committees to coordinate and plan activities that foster recognition of the Missouri Territory in the Lewis and Clark Expedition.

The Commission will report to the Governor in November of each year.

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 3rd day of February 2003.



Bob Holden
Governor

ATTEST:





Matt Blunt
Secretary of State

wji

**EXECUTIVE ORDER
03-02**

WHEREAS, the Department of Social Services is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 660, RSMo; and

WHEREAS, the Division of Family Services is created pursuant to Section 660.010, RSMo, within the Department of Social Services; and

WHEREAS, the Division of Child Support Enforcement is created pursuant to Section 454.400, RSMo, within the Department of Social Services; and

WHEREAS, the Division of Family Services, Income Maintenance Unit serves clients who are also served by the Division of Child Support Enforcement; and

WHEREAS, federal law establishes the child support program and other public assistance programs, separately; and

WHEREAS, by combining the public assistance programs, such as food stamps, temporary assistance, rehabilitation services for the blind, general relief, supplemental nursing care assistance, medical assistance eligibility, and energy assistance, and the child support enforcement program, Missouri could operate more efficiently and effectively; and

WHEREAS, I am committed to integrating executive branch operations to improve the way the state delivers services; and

WHEREAS, the transfer of these functions to a new Family Support Division within the Department of Social Services is a component of the Governor's Reorganization Plan of 2003, which is designed to streamline state government and make it as efficient as possible.

NOW, THEREFORE I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby establish the Family Support Division within the Department of Social Services and order the Department to:

1. Utilize the Family Support Division as the vehicle through which economies and efficiencies of scale are maximized by combining certain child support functions with certain income maintenance functions; and
2. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Family Services into the Family Support Division, except individualized assessment for work readiness, work readiness training, child welfare functions, early childhood, and child care assistance, by Type I transfer, as defined under the Reorganization Act of 1974; and

3. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Child Support Enforcement to the Family Support Division, except the parents' fair share program, by Type I transfer, as defined under the Reorganization Act of 1974; and
4. Take the steps necessary to maintain compliance with federal requirements, such as filing a state plan amendment, so as not to jeopardize federal financial participation.

This Order shall become effective no sooner than August 28, 2003 unless disapproved within sixty days of its submission to the First Regular Session of the 92nd General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 5th day of February, 2003



Bob Holden
Governor

ATTEST:



Matt Blunt
Secretary of State

**EXECUTIVE ORDER
03-03**

WHEREAS, the Department of Social Services is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 660, RSMo; and

WHEREAS, the Division of Family Services is assigned to the Department of Social Services pursuant to Section 660.010, RSMo; and

WHEREAS, a number of efforts are being made to address problems that have been identified with Missouri's current child welfare system; and

WHEREAS, in September 2002, I appointed Richard C. Dunn and Judge Frank Conley to conduct an investigation into the Greene County child welfare system; and

WHEREAS, in November 2002, Mr. Dunn and Judge Conley completed their *Report of the Investigation of the Child Welfare System in Greene County*; and

WHEREAS, the child welfare system in this state requires immediate attention in order to avoid a greater breakdown in services and other serious problems; and

WHEREAS, I recently established the Office of Child Welfare Ombudsman within the Office of Administration by Executive Order 02-22; and

WHEREAS, streamlining children's services, and all of the functions related to them, will increase the focus on child protection; and

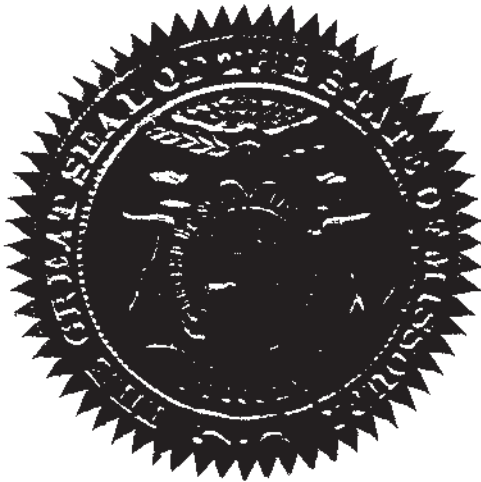
WHEREAS, every child in Missouri is entitled to a safe place to live.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby create and establish the Children's Division within the Department of Social Services and order the Department to:

1. Ensure the Children's Division is focused on protecting children in the state's care and identifying children at risk of abuse or neglect; and
2. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Family Services relating to child welfare, child protection, child care assistance, and early childhood to the Children's Division, by Type I transfer, as defined under the Reorganization Act of 1974; and

3. Implement recommendations found in the *Report of the Investigation of the Child Welfare System in Greene County*; and
4. Take the steps necessary to maintain compliance with federal requirements, such as filing a state plan amendment, so as not to jeopardize federal financial participation.

This Order shall become effective no sooner than August 28, 2003 unless disapproved within sixty days of its submission to the First Regular Session of the 92nd General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 5th day of February, 2003.



Bob Holden
Governor

ATTEST:



Matt Blunt
Secretary of State

**EXECUTIVE ORDER
03-04**

WHEREAS, the Department of Social Services is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 660, RSMo; and

WHEREAS, the Division of Family Services is created and established as a division of the Missouri Department of Social Services, pursuant to Section 660.010, RSMo; and

WHEREAS, the Division of Child Support Enforcement is created pursuant to Section 454.400, RSMo, within the Department of Social Services; and

WHEREAS, the Department of Economic Development is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 620, RSMo; and

WHEREAS, pursuant to Executive Order 99-03 and Chapter 620, RSMo, the Division of Workforce Development within the Missouri Department of Economic Development is the state agency designated to receive federal Wagner-Peyser funds, administer the free public employment offices, administer Workforce Investment Act funds, administer federal Welfare to Work grants, and administer other employment assistance programs for the citizens of Missouri; and

WHEREAS, the Missouri Department of Social Services is the state agency designated to receive Temporary Assistance for Needy Families (TANF) funds and administer programs under Title IV-A of the Social Security Act, as amended; and

WHEREAS, federal law requires adults in families receiving assistance under TANF to engage in work activities to be eligible to continue to receive assistance; and

WHEREAS, federal law requires determination of the skills, prior work experience, and employability of certain TANF recipients; and

WHEREAS, federal law authorizes work activities such as job search and job readiness assistance, on-the-job training, subsidized employment, education and child care services, or other related assistance for certain participants; and

WHEREAS, the Division of Family Services within the Missouri Department of Social Services currently administers the foregoing assessment, employment, training, and placement activities under TANF; and

WHEREAS, the Division of Child Support Enforcement within the Missouri Department of Social Services administers the Parents Fair Share Program, which provides assessment, employment, training, and placement activities for non-custodial parents; and

WHEREAS, the Division of Workforce Development in the Missouri Department of Economic Development and the Division of Child Support Enforcement and Division of Family Services within the Missouri Department of Social Services have worked closely together in the past in providing the foregoing work-related programs and performing the foregoing work-related functions; and

WHEREAS, the merging of workforce functions will create a "no wrong door access" to employment services, making sure that all clients receive the highest quality training, support services, and work activities, thus increasing the number of employed and employable Missourians; and

WHEREAS, I am committed to integrating executive branch operations to improve the way the state delivers services; and

WHEREAS, the transfer of workforce and the Parents' Fair Share functions of the Department of Social Services to the Department of Economic Development is a component of the Governor's Reorganization Plan of 2003, which is designed to streamline state government and make it as efficient as possible.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby order:

1. The transfer of assessment, employment, training, and placement functions under TANF from the Division of Family Services within the Missouri Department of Social Services to the Division of Workforce Development within the Missouri Department of Economic Development;

2. The transfer of all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Family Services within the Department of Social Services related to assessment, employment, training, and placement functions authorized by TANF for custodial parents to the Division of Workforce Development within the Missouri Department of Economic Development, by Type I transfer, as defined under the Reorganization Act of 1974
3. The transfer of assessment, employment, training, and placement functions in the Parent's Fair Share Program from the Division of Child Support Enforcement within the Missouri Department of Social Services to the Division of Workforce Development within the Missouri Department of Economic Development;
4. The transfer of all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Child Support Enforcement within the Department of Social Services related to assessment, employment, training, and placement services performed in the Parents Fair Share Program, authorized by TANF for non-custodial parents, to the Division of Workforce Development within the Missouri Department of Economic Development, by Type I transfer, as defined under the Reorganization Act of 1974;
5. That the Department of Social Services and its divisions shall provide the Division of Workforce Development with access to supportive services as may be necessary to accomplish the assessment, employment, training, and placement services that are transferred herein;
6. That the Department of Social Services and the Department of Economic Development develop the mechanisms and processes necessary to effectuate the transfer of the assessment, employment, training, and placement services as specified herein;
7. The continuation of contractual agreements for the administration of assessment, employment, training, and placement functions under the Missouri Food Stamp Employment and Training Program between the Division of Family Services of the Missouri Department of Social Services (or its successor agency) to the Division of Workforce Development within the Missouri Department of Economic Development;
8. The good faith negotiation of such contractual agreements by the Department of Social Services and the Department of Economic Development with the goal of providing the best services in an efficient manner; and
9. The relevant agency or agencies to ensure the filing of any necessary state plan amendments and other actions necessary to maintain compliance with federal requirements.

This Order shall become effective no sooner than August 28, 2003 unless disapproved within sixty days of its submission to the First Regular Session of the 92nd General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 5th day of February, 2003.

Bob Holden
Governor

ATTEST:

Matt Blunt
Secretary of State

**EXECUTIVE ORDER NO.
03-05**

WHEREAS, the Department of Public Safety is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 650, RSMo; and

WHEREAS, the Division of Highway Safety is assigned to the Department of Public Safety pursuant to Section 650.005, RSMo; and

WHEREAS, the Missouri Department of Transportation is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 226, RSMo; and

WHEREAS, the Division of Highway Safety works to promote the safe operation of vehicles on or about the highways, roads, and streets of this state; and

WHEREAS, the Department of Transportation is tasked with supervision of the construction, maintenance, and operation of the state highway system; and

WHEREAS, the Division of Highway Safety and the Department of Transportation both engage in activities related to the state highway system and its safe operation; and

WHEREAS, the consolidation of these activities would increase efficiencies and eliminate duplication of efforts; and

WHEREAS, I am committed to integrating executive branch operations to improve the way the state delivers services; and

WHEREAS, the transfer of the functions of the Division of Highway Safety to the Department of Transportation is a component of the Governor's Reorganization Plan of 2003, which is designed to streamline state government and make it as efficient as possible.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby order the Missouri Department of Public Safety, the Division of Highway Safety, and the Missouri Department of Transportation to cooperate to:

1. Develop mechanisms and processes necessary to effectively transfer the functions of the Division of Highway Safety to the Department of Transportation;

2. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Highway Safety to the Department of Transportation, by Type I transfer, as defined under the Reorganization Act of 1974; and
3. Take the steps necessary to maintain compliance with federal requirements, such as filing a state plan amendment, so as not to jeopardize federal financial participation with this consolidation.

This Order shall become effective no sooner than August 28, 2003 unless disapproved within sixty days of its submission to the First Regular Session of the 92nd General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 5th day of February, 2003

Bob Holden
Governor

ATTEST:

Matt Blunt
Secretary of State

**EXECUTIVE ORDER
03-06**

WHEREAS, the Missouri Office of Administration is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 37, RSMo; and

WHEREAS, the Missouri Department of Economic Development is created pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 620, RSMo; and

WHEREAS, the State Office of Equal Employment Opportunity is created by Executive Order 94-03 within the Office of Administration to ensure that there are "no vestiges of discrimination against persons on account of race, sex, color, religion, national origin, age, disability, or veteran status in not only employment practices but the provision of services and operation of facilities"; and

WHEREAS, the Minority Business Advocacy Commission is established by Section 33.752, RSMo, to further the interests and assess the needs of minority businesses in Missouri; and

WHEREAS, Section 33.752.6(13), RSMo, states that the Minority Business Advocacy Commission is responsible for receiving complaints and recommendations concerning policies and activities of federal, state, and local governmental agencies that affect minority small businesses, and for developing proposals for changes in policies or activities to alleviate any unnecessary adverse effects to minority small business; and

WHEREAS, Section 33.752.7, RSMo, states that the Department of Economic Development shall furnish administrative support and staff for the effective operation of the Commission; and

WHEREAS, the Office of Administration and Department of Economic Development agree that the Minority Business Advocacy Commission will be enhanced through placement within the Office of Administration; and

WHEREAS, I am committed to integrating executive branch operations to improve the way the state delivers services; and

WHEREAS, the transfer of the Minority Business Advocacy Commission to the Office of Administration is a component of the Governor's Reorganization Plan of 2003, which is designed to streamline state government and make it as efficient as possible.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby order the Department of Economic Development and the Office of Administration to cooperate to:

1. Develop mechanisms and processes necessary to effectively transfer the Minority Business Advocacy Commission from the Department of Economic Development to the Office of Administration.
2. Transfer all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Minority Business Advocacy Commission to the Office of Administration, by Type II transfer, as defined under the Reorganization Act of 1974.

This Order shall become effective no sooner than August 28, 2003 unless disapproved within sixty days of its submission to the First Regular Session of the 92nd General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 5th day of February, 2003.



Bob Holden
Governor

ATTEST:



Matt Blunt
Secretary of State