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SALUS POPULI SUPREMA LEX ESTO

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



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

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

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

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

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

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

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

**R**ules 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.

**R**ules 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.

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

**EMERGENCY AMENDMENT**

**13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance.** The division is amending subsection (2)(A).

*PURPOSE:* This amendment will establish the Medicaid Managed Care Organizations' Reimbursement Allowance for the six (6)-month period of July 2005 through December 2005 at five and ninety-nine hundredths percent (5.99%) and for the six (6)-month period January 2006 through June 2006 at five percent (5.00%).

*EMERGENCY STATEMENT:* The Division of Medical Services (DMS) finds that this emergency amendment is necessary to establish in regulation the MCORA rate for the six (6)-month period of July 2005 through December 2005 at five and ninety-nine hundredths percent (5.99%) and for the six (6)-month period January 2006 through June 2006 at five percent (5.00%), as required by state statute. The 93rd General Assembly authorized the Medicaid Managed Care Organization Reimbursement Allowance (MCORA) through June 30, 2006 by enacting sections 208.431 through 208.437, RSMo Supp. 2005. The authorization of the MCORA requires each Medicaid

*Managed Care Organization to pay for the privilege of engaging in the business of providing health benefit services in this state. Because of the need to preserve state revenue, House Committee Substitute for Senate Bill 189 was deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and was declared to be an emergency within the meaning of the constitution. Because House Committee Substitute for Senate Bill 189 contained an emergency clause, its provisions became effective once the governor signed the bill on May 13, 2005. The proposed regulation with a rate of five and ninety-nine hundredths percent (5.99%) was effective December 30, 2005. The 93rd General Assembly later authorized reductions in Medicaid eligibility and reductions in services by enacting Senate Committee Substitute for Senate Bill 539. The Division of Medical Services was required to adjust the Medicaid Managed Care Organizations' capitation rates to reflect the legislative changes in Senate Committee Substitute for Senate Bill 539 and House Committee Substitute for Senate Bill 189. DMS received approval from the federal Centers for Medicare and Medicaid Services (CMS) on January 6, 2006 retroactive to July 1, 2005. This emergency amendment is necessary to preserve the intent of House Committee Substitute for Senate Bill 189 of a compelling governmental interest of collecting state revenue to provide health care to individuals eligible for the Medicaid program but to not overtax the Medicaid Managed Care Organizations. The Division of Medical Services also finds an immediate danger to public health and welfare of the approximately three hundred seventy thousand (370,000) Medicaid individuals receiving health care from the Medicaid Managed Care Organization which requires emergency action. If this emergency amendment is not enacted, there would be significant financial instability to the Medicaid Managed Care Organizations which service approximately three hundred seventy thousand (370,000) Medicaid recipients. This financial instability will, in turn, result in an adverse impact on the health and welfare of those Medicaid recipients in need of medical treatment. Without this emergency amendment, the MCORA raises approximately \$50,573,725 on an annual basis. By enacting this emergency amendment, the MCORA will raise approximately \$46,394,427 on an annual basis, resulting in \$4,179,298 decrease due to the MCORA tax adjustment. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Division of Medical Services believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment filed May 5, 2006, effective May 15, 2006, expires November 10, 2006.*

(2) Medicaid MCORA Rates for SFY 2006. The Medicaid MCORA rates for SFY 2006 determined by the division, as set forth in (1)(B) above, are as follows:

(A) The Medicaid MCORA will be five and ninety-nine hundredths percent (5.99%) of the total revenues reported by each Medicaid MCO on the calendar year 2004 NAIC Health Annual Statement Analysis of Operations by Lines of Business, and for the six (6)-month period of July 2005 through December 2005, and five percent (5.00%) of the total revenues reported by each Medicaid MCO on the calendar year 2004 NAIC Health Annual Statement Analysis of Operations by Lines of Business for the six (6)-month period of January 2006 through June 2006. The Medicaid MCORA will be collected over twelve (12) months (July 2005 through June 2006). No Medicaid MCORA shall be collected by the Department of Social Services if the federal Centers for Medicare and Medicaid Services (CMS) determines that such reimbursement allowance is not authorized under Title XIX of the Social Security Act. If CMS approval of the reimbursement allowance occurs after July 2005, the total Medicaid MCORA for SFY 2006

will be collected over the number of months remaining in the fiscal year.

*AUTHORITY: sections 208.201, RSMo 2000, and [House Committee Substitute for Senate Bill 189 as enacted by the 93rd General Assembly, 2005] 208.431 and 208.435, RSMo Supp. 2005. Original rule filed June 1, 2005, effective Dec. 30, 2005. Emergency amendment filed May 5, 2006, effective May 15, 2006, expires Nov. 10, 2006.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 15—Hospital Program**

**EMERGENCY AMENDMENT**

**13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).**  
The division is revising section (13).

*PURPOSE: This amendment revises the Federal Reimbursement Allowance (FRA) assessment for State Fiscal Year 2006 to five and ninety-seven hundredths percent (5.97%).*

*EMERGENCY STATEMENT: The 93rd General Assembly reauthorized the Federal Reimbursement Allowance (FRA) through September 30, 2006 by enacting House Committee Substitute for Senate Bill (HCS SB) 189. The reauthorization of the FRA requires every hospital as defined by section 197.020, RSMo, except public hospitals which are operated primarily for the care and treatment of mental disorders, and any hospital operated by the Department of Health and Senior Services to pay a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. Because of the need to preserve state revenue, HCS SB 189 was deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and was declared to be an emergency within the meaning of the constitution. HCS SB 189 was signed by the governor May 13, 2005. The Division of Medical Services finds that this emergency amendment to revise the FRA assessment rate for State Fiscal Year (SFY) 2006 in regulation, as required by state statute, is necessary to preserve a compelling governmental interest of collecting state revenue to provide health care to individuals eligible for the Medicaid program and the uninsured. This emergency amendment increases the FRA assessment for SFY 2006 from five and fifty-four hundredths (5.54%) percent to five and ninety-seven hundredths percent (5.97%) which changes the cost difference of the FRA assessment for SFY 2006 from \$709,765,443 to \$765,368,660. The \$55,603,217 cost difference will be used to increase disproportionate share payments to recognize increased costs and make trauma payments for inpatient services for high cost Medicaid eligible recipients. An early effective date is required because the emergency amendment revises the Federal Reimbursement Allowance rate for SFY 2006 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on all hospitals which service more than nine hundred thousand (900,000) Medicaid recipients. This financial strain will, in turn, result in an adverse impact on the health and welfare of those Medicaid recipients and the uninsured in need of medical treatment. On an annual basis the amended FRA raises approximately \$765,368,660. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The*

*Division of Medical Services believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed May 10, 2006, effective May 20, 2006, expires November 15, 2006.*

(13) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2006. The FRA assessment for State Fiscal Year (SFY) 2006 shall be determined at the rate of [five and fifty-four hundredths percent (5.54%)] **five and ninety-seven hundredths percent (5.97%)** of the hospital's total operating revenue less tax revenue/other government appropriations plus non-operating gains and losses as published by the Missouri Department of Health and Senior Services, Section of Health Statistics. The base financial data for 2002 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030 Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

*AUTHORITY: sections 208.201, 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed May 10, 2006, effective May 20, 2006, expires Nov. 15, 2006. A proposed amendment covering this same material is published in this issue of the Missouri Register.*