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SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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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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The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2011), are available in the listed participating libraries, as selected by the Missouri State Library:

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2011.

EXECUTIVE ORDER 11-24

WHEREAS, Section 105.454(5), RSMo, requires the Governor to designate those members of his staff who have supervisory authority over each department, division or agency of the state government.

NOW THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby designate the following members of my staff as having supervisory authority over the following departments, divisions or agencies:

Office of Administration	Kristy Manning
Department of Agriculture	Doug Nelson
Department of Conservation	Jeff Harris
Department of Corrections	Edward R. Ardini, Jr.
Department of Economic Development	Doug Nelson
Department of Elementary and Secondary Education	Mike Nietzel
Department of Health and Senior Services	Gail Vasterling
Department of Higher Education	Mike Nietzel
Department of Insurance, Financial Institutions and Professional Registration	Deborah Price
Department of Labor and Industrial Relations	Jeff Harris
Department of Mental Health	Gail Vasterling
Department of Natural Resources	Doug Nelson
Department of Public Safety	Edward R. Ardini, Jr.
Department of Revenue	Jeff Harris
Department of Social Services	Mike Nietzel
Department of Transportation	Daniel Hall
Missouri Housing Development Commission	Brian May
Boards Assigned to the Governor	Damion Trasada
Unassigned Boards and Commissions	Deborah Price



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 18th day of November, 2011.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Robin Carnahan
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RESCISSION

4 CSR 170-7.010 Introduction. This rule established guidelines to assist the Missouri Housing Development Commission in the implementation of the Missouri Housing Trust Fund and allowed the commission to comply with the provisions of H.B. 1745 (affordable housing). This rule applied solely to the designated funds received from the user fee established in section 59.319, RSMo, or other funds as determined by the commission.

PURPOSE: This rule is being rescinded and replaced with a new rule that establishes guidelines to assist the Missouri Housing

Development Commission in the implementation of the Missouri Housing Trust Fund and allows the commission to comply with the provisions of H.B. 1745 (affordable housing).

AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RESCISSION

4 CSR 170-7.020 Definitions. This rule defined terms used in the implementation of the Missouri Housing Trust Fund.

PURPOSE: This rule is being rescinded and replaced with a new rule that defines terms used in the implementation of the Missouri Housing Trust Fund.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RESCISSION

4 CSR 170-7.030 Preparation of Application. This rule established the procedures for submitting proposals and the criteria and priorities for the approval or disapproval of such proposals.

PURPOSE: This rule is being rescinded and replaced with a new rule that establishes the procedures for submitting proposals, identifies requirements for filing a proposal for Missouri Housing Trust Fund funds, and establishes criteria and priorities for the approval or disapproval of such proposals.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RESCISSION

4 CSR 170-7.040 Application and Notification Process. This rule established procedures and identified requirements for filing an application for the Missouri Housing Trust Fund.

PURPOSE: This rule is being rescinded and replaced with a new rule that establishes processes recipients of Missouri Housing Trust Fund awards must abide by in order to receive and retain Missouri Housing Trust Fund funds.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RESCISSION

4 CSR 170-7.050 Compliance Requirements. This rule established the compliance requirements for the Missouri Housing Trust Fund.

PURPOSE: This rule is being rescinded and replaced with a new rule that establishes the compliance requirements for the Missouri Housing Trust Fund (MHTF) and grounds upon which disbursement of MHTF grant funds may be suspended and when MHTF funds may be recaptured from a grantee.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 1994. Original rule filed Sept. 18, 1995, effective Feb. 25, 1996. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

4 CSR 170-7.100 Introduction

PURPOSE: This rule establishes guidelines to assist the Missouri Housing Development Commission in the implementation of the Missouri Housing Trust Fund and allows the commission to comply with the provisions of H.B. 1745 (1994) (affordable housing). This rule applies solely to the designated funds received from the user fee established in section 59.319, RSMo, or other funds as determined by the commission.

(1) Funds from the Missouri Housing Trust Fund (MHTF) shall be administered by the trust fund department. The trust fund manager shall supervise the day-to-day operations of the trust fund department. The trust fund manager shall report to the director or such other member of the Missouri Housing Development Commission's (commission) senior management as the director may deem appropriate.

(2) The trust fund department shall maintain the advisory committee to aid and enhance the overall mission of the MHTF by providing advice to the trust fund department regarding policies, procedures, and guidelines set by the trust fund department. The advisory committee shall be a public governmental body for purposes of section

610, RSMo, and shall be bound to abide by that and all other applicable state laws.

(A) Meetings of the advisory committee—

1. The advisory committee shall meet on a quarterly basis with the dates of such meetings to be set by the trust fund manager and/or the director;

2. In order for a meeting to be valid, a quorum of the advisory committee must be present. The number of members constituting a quorum shall be as set forth in the advisory committee's by-laws, but in no event may a quorum be less than a majority of the members of the advisory committee; and

3. All meetings of the advisory committee shall be "public meetings," as such term is defined in section 610, RSMo. Notices of all advisory committee meetings shall be provided in a manner consistent with section 610, RSMo.

(B) The following individuals shall be required to attend all advisory committee meetings:

1. Members of the advisory committee;
2. The trust fund manager; and

3. All other members of the trust fund department whom the trust fund manager shall deem appropriate and/or necessary.

(C) Composition of the advisory committee—

1. The advisory committee shall be composed of twenty-five (25) members, consisting of the following:

A. Fifteen (15) of the members shall be representatives of agencies receiving MHTF funds from the commission for the funding year in which they are being appointed;

B. Four (4) of the members shall be representatives of agencies whose applications were not selected to receive MHTF funds from the commission for the funding year in which they are being appointed; and

C. Six (6) of the members shall be representatives from agencies at-large in the state (at least two (2) of which must come from the Missouri Metropolitan Continuum of Care);

2. At the end of each two (2) year term, one third (1/3) of the representatives of the existing Advisory Committee shall be retained. Retention of representatives shall be handled in the same manner as appointment (as set forth in 4 CSR 170-7.100(2)(D)1. below), provided, however, that in no instance may the overall composition of the advisory committee deviate from the requirements set forth in 4 CSR 170-7.100(2)(C)1.; and

3. The advisory committee shall have such officers as may be established by the advisory committee by-laws. The advisory committee by-laws shall set forth the duties of each officer, as well as any rules regarding the officer positions, including, but not limited to, processes for electing and/or replacing officers, processes for removing officers from office, and rules on term limits.

(D) Appointment, resignation, and removal of advisory committee members—

1. Members of the advisory committee shall be appointed by joint decision of the director, the commission's director of operations, and the trust fund manager.

A. Appointments shall be made prior to the second advisory committee meeting every other calendar year.

B. Appointees shall serve terms of two (2) years and may not serve more than three (3) consecutive terms.

C. Members of the advisory committee shall not be reimbursed for their participation on the advisory committee;

2. Any member of the advisory committee may be removed upon an affirmative vote for removal by two thirds (2/3) of the members of the entire advisory committee;

3. Any member of the advisory committee wishing to resign from the advisory committee shall submit a written resignation to the advisory committee chairman or the trust fund manager; and

4. Any member of the advisory committee who fails to attend any two (2) consecutive committee meetings during their term shall be ineligible for retention on or re-appointment to the advisory committee. Failure to attend any subcommittee meeting shall not be

counted toward the two (2) absence rule.

(E) The advisory committee shall adopt by-laws governing its operation and shall keep a current copy of its by-laws on file with the trust fund manager. The by-laws may be amended, repealed, or modified by an affirmative vote of the majority of the advisory committee members at a regularly scheduled meeting, provided that any proposed changes are mailed to all advisory committee members at least two (2) weeks prior to the meeting where such vote is to be held. If any provision in the by-laws of the advisory committee conflicts with any rules established in these regulations or the state housing act, such provision in the by-laws shall be null and void.

(3) The commission staff shall, pursuant to the provisions of this chapter, provide application forms to housing provider organizations wishing to apply for, in whole or in part, grants or loans from the MHTF for the development of housing stock and/or to provide housing assistance to low income persons.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Material in this rule was originally filed as 4 CSR 170-7.010. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

4 CSR 170-7.200 Definitions

PURPOSE: This rule defines terms used in the implementation of the Missouri Housing Trust Fund.

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. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) As used in this chapter, all terms not otherwise defined herein shall have the meanings set forth in the state housing act and, as applicable, in 4 CSR 170-1.100. For purposes of this chapter, the following terms shall have the following meanings:

(A) Adjusted income. An amount equal to adjusted income as such amount is defined under Title 24, *Code of Federal Regulations*, Part 5, published annually in April, herein incorporated by reference and made a part of this rule, as published by the United States

Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov> (This rule does not incorporate any subsequent amendments or additions.);

(B) Advisory committee. The advisory committee shall be the committee established and maintained under 4 CSR 170-7.100(2);

(C) Affordable housing unit. A residential unit generally occupied by persons and families with incomes at or below the levels described in this rule and charging a gross rental rate no greater than the levels set forth in section 215.037.1, RSMo (as the same may be amended from time-to-time), reduced by the utility allowance, if applicable;

(D) Applicant(s). Shall refer to any entity applying for a grant or loan of Missouri Housing Trust Fund (MHTF) funds by submitting a proposal application form to the Missouri Housing Development Commission (commission);

(E) Application proposal guide. The application proposal guide adopted by the trust fund department from time-to-time pursuant to 4 CSR 170-7.300(3);

(F) Commissioners. The appointed and ex officio members of the commission or their lawfully authorized designees;

(G) Committee of directors. The committee of directors shall be a three (3) person committee comprised of the commission's director, director of rental production, and director of finance;

(H) Competent and substantial evidence. Evidence that is reliable and probative and which a reasonable mind could accept as adequate to support a conclusion (i.e., evidence upon which the party rendering a determination could reasonably base its decision);

(I) Compliance period. The compliance period set forth in the applicable land use restriction agreement or regulatory agreement recorded on the MHTF development pursuant to the requirements of this chapter;

(J) Eligible low income persons or families at or below fifty percent (50%) of median income, adjusted for family size. Persons or families whose household combined, adjusted income is equal to or less than the percentages set forth in section 215.036.2, RSMo (as the same may be amended from time-to-time);

(K) Eligible low income persons or families at or below twenty-five percent (25%) of median income, adjusted for family size. Persons or families whose household combined, adjusted income is equal to or less than the percentages set forth in section 215.036.3, RSMo (as the same may be amended from time-to-time);

(L) MHTF development(s)/MHTF activity. Any development or activities eligible for assistance under section 215.038, RSMo (as the same may be amended from time-to-time);

(M) Housing provider organization. Any organization or firm performing housing development activities, community services, or economic activities in Missouri;

(N) Grantee(s). Any entity receiving a grant of MHTF funds under this chapter;

(O) MHTF. The Missouri Housing Trust Fund, as codified in sections 215.034–215.039, RSMo, as may be amended from time-to-time;

(P) MHTF NOFA. A notice of funding availability (NOFA) for MHTF funds as approved from time-to-time by the commission pursuant to 4 CSR 170-7.300(2);

(Q) Missouri Metropolitan Continuum of Care. Collectively, the St. Louis City Continuum of Care (City of St. Louis, Missouri), St. Louis County Continuum of Care (St. Louis County), Kansas City Continuum of Care (Jackson County), St. Joseph Continuum of Care (Andrew County, DeKalb County, and Buchanan County), Joplin Continuum of Care (Jasper County and Newton County), Springfield Continuum of Care (Christian County, Green County, and Webster County) and St. Charles Continuum of Care (Lincoln County, Warren County, and St. Charles County).

(R) Proposal. A written application by one (1) or more housing provider organizations requesting MHTF funds for any MHTF development/MHTF activity in order to provide assistance to eligible per-

sons or families in a manner consistent with the MHTF;

(S) Proposal application form. The application form adopted by the trust fund department from time-to-time pursuant to 4 CSR 170-7.300(1);

(T) Recaptured funds. All MHTF funds recaptured pursuant to 4 CSR 170-7.400(2);

(U) Trust fund manager. The individual hired by the director to manage and supervise the trust fund department;

(V) Trust fund department. The department established by the director to administer all MHTF funds awarded by the commission; and

(W) Utility allowance. The utility allowance for purposes of calculating gross rent under section 215.037.1, RSMo (as the same may be amended from time-to-time), shall be calculated using the method set forth under Treas. Reg. Section 1.42-10(b)(4)(ii)(B) (T.D. 8520, 59 FR 10073, March 3, 1994, as amended by T.D. 9420, 73 FR 43867, July 29, 2008), herein incorporated by reference and made a part of this rule, as published by the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street NW, Suite 700, Washington, DC 20001, phone: (202) 741-6000, website: <http://www.archives.gov/federal-register/> (This rule does not incorporate any subsequent amendments or additions.), unless the local utility company is unable or unwilling to provide estimates necessary for calculating the utility allowance under such section, in which case the method for calculating utility allowances set forth in Treas. Reg. Section 1.42-10(b)(4)(ii)(A) (T.D. 8520, 59 FR 10073, March 3, 1994, as amended by T.D. 9420, 73 FR 43867, July 29, 2008), herein incorporated by reference and made a part of this rule, as published by the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street NW, Suite 700, Washington, DC 20001, phone: (202) 741-6000, website: <http://www.archives.gov/federal-register/> (This rule does not incorporate any subsequent amendments or additions.) shall be used.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Material in this rule originally filed as 4 CSR 170-7.020. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

4 CSR 170-7.300 Proposal Application, Selection, and Notification Processes

PURPOSE: This rule establishes the procedures for submitting proposals, identifies requirements for filing a proposal for Missouri Housing Trust Fund funds, and establishes criteria and priorities for the approval or disapproval of such proposals.

(1) The trust fund department shall, from time-to-time, adopt a proposal application form to be used by all agencies requesting Missouri Housing Trust Fund (MHTF) funds. Any proposal application form so adopted shall meet the following requirements:

(A) The form adopted shall first require the approval of the trust fund manager and the director; and

(B) The form adopted must provide all information necessary to allow the commission to select proposals based on the requirements and criteria the commission may adopt in the allocation plan and notice of funding availability (NOFA) adopted pursuant to 4 CSR 170-7.300(2).

(2) The commission shall, from time-to-time, adopt an allocation plan and MHTF NOFA for the MHTF. After approving drafts of the allocation plan and MHTF NOFA, the commission shall hold public hearings on the same. Once public hearings have been completed, and all comments have been considered, the commission will finalize and approve the allocation plan and MHTF NOFA.

(3) Within thirty (30) days after the commission adopts an allocation plan and MHTF NOFA, the trust fund department will issue an application proposal guide which shall, at a minimum, detail the requirements for the proposal application form, the criteria to be used by the commission in selecting proposals, and a timeline for the proposal review and selection process including all pertinent deadlines related to the application process.

(4) Review and approval of proposals submitted under the MHTF NOFA.

(A) Each proposal application form submitted under the MHTF NOFA shall first be independently reviewed and scored by two (2) separate staff members of the trust fund department selected by the trust fund manager. The two (2) staff members evaluating and scoring the proposals shall evaluate such proposals using the criteria established by the commission in the allocation plan and MHTF NOFA, as well as the criteria set forth in the application proposal guide. Once each staff member has completed independently reviewing and scoring each proposal, the proposals and preliminary scores shall be provided to the trust fund manager for final review. The trust fund manager shall review each proposal and the preliminary scores tabulated by each of the two (2) staff members for completeness and accuracy. In performing this final review, the trust fund manager shall have the ability and discretion to correct errors in preliminary scores, reconcile discrepancies in the preliminary scores and otherwise adjust the results of the preliminary scores in order to ensure that the final score attributed to each proposal fully and accurately reflects its content. Once final scores are assigned to each proposal, the trust fund department will prepare recommendations for funding based on score and the allocation plan, and such recommendations will be presented to the commission, at a time established by the commission, for approval of selected proposals.

1. If any proposal involves an owner who is not in good standing with the commission under any other program administered by the commission, the proposal shall be subject to such penalties as may be set forth in the application proposal guide.

2. No proposal application form submitted after the deadline will be considered for funding.

3. If any proposal involves an owner, sponsor, or partner who is involved in any other property funded in whole or in part by MHTF funds and such property is in a current state of non-compliance with MHTF guidelines based on a determination made pursuant to 4 CSR 170-7.500, the proposal shall be subject to such penalties as may be set forth in the application proposal guide.

4. If, as of the application deadline, any proposal application form submitted to the commission is incomplete, the application shall be considered, but shall be subject to such penalties as may be set forth in the application proposal guide.

(B) The commission may approve or disapprove any proposals

submitted and/or recommended by the trust fund department at its discretion, and all decisions of the commission regarding the disposition of a proposal shall be final.

(C) All applicants shall be notified of the commission's disposition of their proposal by mail or such other means as the commission may deem appropriate provided that the method of notification used is reasonably likely to apprise all applicants as to the disposition of their applications. Successful applicants will receive a written reservation from the commission which shall set forth the covenants, terms, and conditions upon which MHTF funds are being awarded.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Material in this rule originally filed as 4 CSR 170-7.030 and 4 CSR 170-7.040. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

**4 CSR 170-7.400 Missouri Housing Trust Fund Funding Process,
Recapture of Undisbursed Missouri Housing Trust Fund Funds
and Re-Awarding of Undisbursed Recaptured Funds**

PURPOSE: This rule establishes processes recipients of Missouri Housing Trust Fund (MHTF) awards must abide by in order to receive and retain MHTF funds.

(1) Each applicant whose proposal has been selected for funding and who has entered into a reservation agreement for Missouri Housing Trust Fund (MHTF) funds under 4 CSR 170-7.300 must execute a grant agreement, and, where applicable, a land use restriction agreement and/or regulatory agreement with the commission, each on such forms as may be prescribed by the commission, before any MHTF funds may be advanced to the applicant.

(2) All grant funds awarded under the MHTF notice of funding availability (NOFA) must be disbursed by such date as the trust fund department may specify in each individual grant agreement. Any funds remaining undisbursed after that date shall be recaptured by the commission.

(3) All recaptured funds shall be made available to grantees whose proposals were selected for funding under the same MHTF NOFA for which the MHTF funds are being recaptured, but which did not receive the full amount of MHTF funds requested, via a secondary funding round. The allocation of recaptured funds under this secondary funding round shall be determined by the trust fund department, in its sole discretion, taking into account all factors it deems

appropriate. These factors will include, but shall not be limited to, the following:

- (A) The final score on the grantee's original proposal;
- (B) The type of eligible funding use(s) for which the MHTF funds were requested under the grantee's original proposal;
- (C) The total amount of MHTF funds allocated to each type of eligible funding use under the MHTF NOFA for which the recaptured funds are being made available;
- (D) The allocation plan approved by the commission for the MHTF NOFA under which the recaptured funds are being distributed;
- (E) The grantee's continuing need for the remaining MHTF funds sought under its original proposal;
- (F) The grantee's performance and history of compliance under its current grant agreement(s) with the trust fund department; and
- (G) The grantee's standing with all other departments and programs of the commission with which it is involved.

(4) In no event shall the total amount of recaptured funds allocated to any grantee, when combined with the total amount of MHTF funds initially awarded to the grantee under its original proposal, exceed the total amount of MHTF funds requested under the grantee's original proposal.

(5) All recaptured funds awarded under this section shall be disbursed in accordance with such rules and requirements as the commission and its staff may establish.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

4 CSR 170-7.500 Compliance Requirements and Suspension and Recapture of Funds

PURPOSE: This rule establishes the compliance requirements for the Missouri Housing Trust Fund (MHTF) and grounds upon which disbursement of MHTF grant funds may be suspended and when MHTF funds may be recaptured from a grantee.

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. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be

made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) For any grantee receiving Missouri Housing Trust Fund (MHTF) funds for an eligible use set forth in sections 215.038(6)–(11), RSMo (as the same may be amended from time-to-time), prior to receiving any disbursements under a grant agreement for such funds, the grantee shall be required to execute and record a land use restriction agreement binding the use and transfer of the property for a period of eighteen (18) years following the final disbursement of MHTF funds under the grant agreement, or such longer period as the commission may require. The land use restriction agreement shall be in such form as the commission may prescribe.

(2) Any grantee receiving MHTF funds for the payment of rental subsidies as provided for under sections 215.038 (2)–(3), RSMo (as the same may be amended from time-to-time), shall, where such subsidies are awarded to a specific MHTF development owned by the grantee and not to a grantee that is an independent agency providing rental subsidies to qualified applicants, record a land use restriction agreement binding the use and transfer of the property for the duration of the grant agreement. The land use restriction agreement shall be in such form as the commission may prescribe.

(3) For any property benefitting from mortgage assistance payments provided for under sections 215.038(12) or 215.038(14), RSMo (as the same may be amended from time-to-time), if such assistance payments are made for six (6) or more consecutive months, the grantee receiving such assistance or providing assistance to an eligible person shall record a land use restriction agreement binding the use and transfer of the property for the greater of one (1) year or the time period for which such assistance payments are received.

(4) Any individual receiving MHTF funds to finance repairs to their residence as provided for under section 215.038(15), RSMo (as the same may be amended from time-to-time) (which grants shall not exceed the limits set forth in the application proposal guide), shall, prior to the disbursement of any grant funds, be required to record a regulatory agreement in such form as the commission may prescribe, which shall restrict the use and transfer of the property for the period(s) set forth in the applicable application proposal guide.

(5) Maintaining Adequate Housing Conditions for Tenants.

(A) All grantees are encouraged to provide housing of a similar quality and similar in amenities to market rate housing in the same area where the MHTF development is located.

(B) At a minimum, the MHTF development shall comply with the housing quality standards established by Title 24, *Code of Federal Regulations*, Part 982, published annually in April, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov> (This rule does not incorporate any subsequent amendments or additions.).

(C) All MHTF developments must meet local building codes, ordinances, zoning laws, and federal regulations that may be applicable.

(D) If the commission or any of its agents receives any report that a grantee is placing tenants or clients in physical danger due to substandard living conditions, the commission staff shall perform an immediate site visit to inspect the conditions identified in the complaint. If the complaints are confirmed, the commission and its staff shall take appropriate actions necessary up to and including recapture of MHTF fund and/or suspension or debarment of the grantee pursuant to 4 CSR 170-8.

(6) All aspects of each MHTF development must comply with any and all applicable federal, state, and/or local regulations and laws, including any such regulations or laws regarding accessibility of affordable housing units for disabled persons, and existence or storage of hazardous materials on the property where the MHTF development is located.

(7) All rental MHTF developments must comply with all applicable federal, state, and local laws prohibiting discrimination in housing on the grounds of race, color, creed, age, sex, handicap, familial status, or national origin.

(8) Procedures for Monitoring the Compliance of MHTF Developments and/or Agencies Receiving MHTF Funds.

(A) For every year during the compliance period indicated in the land use restriction agreement, any grantee supplying affordable housing units receiving MHTF funding shall certify to the commission and its staff that all tenants of the MHTF development, or all clients receiving rental assistance, as the case may be, are income eligible under the terms of the state housing act and these regulations.

(B) In order to ensure that each recipient of MHTF funds complies with the terms of its grant agreement, the state housing act, and these regulations, and that the certifications required under the preceding paragraph are true and accurate, the commission staff shall regularly monitor compliance of grantees using such policies and procedures as the commission and its staff may deem necessary, including, but not limited to:

1. Performing announced and/or unannounced site visits to audit the grantee's tenant/client files in order to verify the income qualification of the grantee's tenants, as well as to ensure that the MHTF development is being maintained in accordance with the rules and requirements set forth by the MHTF grant agreement, the state housing act, and/or these regulations;

2. Performing announced and/or unannounced site visits to audit tenant/client files of the grantee in order to verify the income qualification of the clients being served by the agencies, as well as to ensure that the agency is generally maintaining compliance with the rules and requirements set forth by the MHTF grant agreement, the state housing act, and/or these regulations; and

3. Performing announced and/or unannounced site visits to construction sites for MHTF developments receiving MHTF funds in order to ensure that the MHTF development is being constructed in accordance with the plans and specifications approved by the commission staff and to ensure that all work for which disbursements have been made has been satisfactorily performed.

(C) If a commission staff member performing a review of tenant/client files during any site visit determines that some of the files reviewed lack the documentation required by the commission to evidence tenant/client eligibility, the staff member performing the review and/or the commission and its staff, as the case may be, shall take the following actions:

1. Recourse for findings of minor non-compliance.

- A. If one (1) or more, but less than one-half (1/2) of the files reviewed are deemed non-compliant, this shall be deemed an event of minor non-compliance.

- B. In the event there is a finding of minor non-compliance, the commission staff shall inform the grantee of the findings and shall document the same in the grantee's file maintained by the trust fund department.

- C. The first time such non-compliance is documented, the grantee shall receive a warning. For each subsequent finding of non-compliance, the trust fund department may take any such action against the grantee that it deems appropriate in its sole discretion. Such actions may include, but are not limited to, suspension of the grantee's funding pursuant to 4 CSR 170-7.500(3)(C) and/or recapture of all or a part of the MHTF funds disbursed to the grantee under its proposal(s) pursuant to the procedures set forth in 4 CSR 170-7.500(11);

2. Recourse for findings of major non-compliance.

- A. If one-half (1/2) or more of the files reviewed are deemed non-compliant, this shall be deemed an event of major non-compliance.

- B. In the event there is a finding of major non-compliance, the commission staff shall inform the grantee of the findings and shall document the same in the grantee's file maintained by the trust fund department.

- C. In addition to the grantee's non-compliance being documented in its file maintained by the trust fund department, the trust fund department may take any such action against the grantee that it deems appropriate in its sole discretion. Such actions may include, but are not limited to, suspension of the grantee's funding pursuant to 4 CSR 170-7.500(3)(C) and/or recapture of all or a part of the MHTF funds disbursed to the grantee under its proposal(s) pursuant to the procedures set forth in 4 CSR 170-7.500(11);

3. If the trust fund department suspends a grantee's funding due to non-compliance violations under 4 CSR 170-7.500(3)(C), such grantee shall not be entitled to any further advances under its grant agreement until the grantee has completed all requirements established by the commission staff to have its funding reinstated. If a grantee has its funding suspended three (3) times pursuant to the provisions contained in 4 CSR 170-7.500(3)(C), then upon the third event of non-compliance necessitating a suspension of funds, the grantee's funding shall be terminated and the grant funds recaptured. The trust fund department shall determine whether the recapture of funds will apply only to those grant funds not yet expended, or whether such recapture shall apply to all funds awarded under the initial grant agreement;

4. Any grantee found out of compliance will be placed on a compliance list that will be monitored and reviewed by the trust fund department until such time as the trust fund department determines the grantee has sufficiently remedied any issues of non-compliance such that it should be removed from the list. As long as a grantee remains on the compliance list, its presence on the list will be noted in, and have a potentially adverse impact on, any subsequent proposals it submits to the trust fund department; and

5. If the trust fund department, in its sole discretion, determines that a grantee's compliance failures are of such a significant nature that they merit the involvement of and/or action from the commissioners, the trust fund department may report the grantee's compliance issues to the commissioners at the next scheduled meeting of the commission, or such earlier time as the trust fund department may deem appropriate. The commissioners may direct the trust fund department to take any such action against the non-compliant grantee as they may deem appropriate.

- (D) If a commission staff member performing an inspection of a construction site determines that any work performed is of unacceptable quality, disbursements of grant funds will be suspended until the work is remediated to a level acceptable to the commission staff. If the grantee fails to remediate the issue within thirty (30) days of the date notice is provided to the grantee of the unacceptable condition, or within such longer time period as the commission staff may allow, all unexpended grant funds shall be subject to recapture.

- (E) If the grantee fails to comply with the availability requirements for scheduling of site visits, which requirements shall be set by the commission staff from time-to-time and shall be stated in the grant agreement, any grant funds awarded under the grant agreement shall be subject to recapture by the commission.

- (9) If at any time during the compliance period the commission staff determines an MHTF development or MHTF activity is not in compliance with the applicable provisions of the grant agreement, land use restriction agreement, state housing act, or these regulations, the commission staff may revoke the assistance provided and recapture all undisbursed grant funds. In addition, the commission staff may, where deemed to be in the best interest of the state, recapture all or a portion of the MHTF funds already disbursed under the grant agreement.

(10) If a grantee providing home repair grants to individuals pursuant to a grant agreement for MHTF funds between the grantee and the commission becomes aware at any time during the compliance period of a regulatory agreement associated with a home repair grant that the home owner is out of compliance with the terms of said regulatory agreement, the agency must immediately notify the trust fund department of the non-compliance issue. In the event of such non-compliance by the home owner, the commission shall have the right to require the home owner to return a pro-rated portion of the home repair funds granted pursuant to the terms of the regulatory agreement governing the use and sale of the home. If the grantee fails to notify the trust fund department of the non-compliance issue within a reasonable amount of time after the non-compliance comes to the attention of the grantee, in addition to any remedies which may be provided to the commission against the grantee in the grant agreement executed between the parties, the commission may hold the grantee liable to the commission for the amount of funds the commission would have been entitled to recapture under the regulatory agreement (provided the commission is no longer able to recapture such funds from the home owner itself). The commission may, in its sole discretion, when it finds extenuating circumstances for which the otherwise due and payable pro-rated portion of the funds used for home repair should be forgiven for an individual home owner, waive its right to recapture of a pro-rated portion of the home repair grant funds from the homeowner.

(11) Process for the Recapture of MHTF Funds.

(A) Before any recapture of MHTF funds is ordered, the trust fund manager must document the cause for which the recapture is recommended by completing and signing a recaptured funds form in the form prescribed by the trust fund department, as the same may be amended from time-to-time, and attaching any supporting documentation.

(B) The trust fund department shall then provide information regarding disbursements made and the amount of funds remaining available for disbursement to the grantee.

(C) The trust fund manager shall then mail a notice to the grantee by certified mail, return receipt requested, notifying the grantee of the commission staff's decision to recapture MHTF funds under the grant agreement. Such notice shall contain the following information:

1. Notice of the commission staff's decision to recapture funds under the grantee's grant agreement;
2. A brief explanation of the grounds upon which such recapture of MHTF funds is based; and
3. Notice of the grantee's rights to contest the commission staff's decision pursuant to the procedures set forth in 4 CSR 170-7.600, as well as notice of the time frame within which such rights must be exercised.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 170—Missouri Housing Development
Commission
Chapter 7—Missouri Housing Trust Fund**

PROPOSED RULE

4 CSR 170-7.600 Procedures for Contesting Decisions by the Commission Regarding the Funding and Recapture of Missouri Housing Trust Fund Funds

PURPOSE: This rule provides the proper procedures to be used by a grantee in order to dispute any decision made by the commission staff to recapture Missouri Housing Trust Fund funds previously awarded to a grantee.

(1) All disputes regarding the recapture of Missouri Housing Trust Fund (MHTF) funds shall be handled as informally as practicable, consistent with the fundamental principles of fairness, using the following procedures:

(A) In the event the commission staff orders a recapture of MHTF funds pursuant to 4 CSR 170-7.500(9), the grantee shall have thirty (30) days from the date on which notice is delivered to it to exercise its rights under this subsection by sending notice to the trust fund manager indicating its intent to dispute the recapture of funds and requesting a hearing with the commission's director of operations;

(B) If the grantee fails to contest the commission staff's decision within thirty (30) days from the date upon which it receives notice of the commission staff's intent to recapture, the opportunity of the grantee to exercise the rights provided for in this section shall be deemed waived and the decision of the commission staff to recapture MHTF funds from the grantee shall be deemed final;

(C) If the grantee provides a timely response to the notice and exercises its right to a hearing with the director of operations, the director of operations shall hold a hearing with the grantee within thirty (30) days of the date on which the request for a hearing is received by the trust fund manager. The deadline for conducting a hearing may be extended for one (1) additional thirty (30) day period upon written request of either the director of operations or the grantee requesting the hearing, provided that notice of the request for extension must be provided to all parties;

(D) The following guidelines shall apply to the hearing held by the director of operations:

1. The hearing shall not be considered a contested case;
2. The hearing shall be informal and no formal rules of evidence or procedure shall apply;
3. The commission may have its counsel present at the hearing;
4. The grantee may be represented by counsel at the hearing and shall have the right to present evidence or arguments relevant to the grounds upon which the recapture action is based. If the grantee elects to be represented by counsel at the hearing, it shall notify the director of operations of this intent at least five (5) days prior to the scheduled hearing; and
5. The director of operations, in reaching his/her decision may consider information from any source which is relevant to the recapture of grant funds and shall consider all facts and circumstances upon which the proposed recapture of funds is based;

(E) Within thirty (30) days of the date on which the hearing is held, the director of operations shall issue a decision in writing to the grantee, which decision shall be mailed to the grantee by certified mail, return receipt requested.

(1) If the director of operations determines that recapture of MHTF funds is not warranted, the decision shall notify the grantee that its MHTF funds will not be recaptured on the grounds for which the hearing was held.

(2) If the director of operations determines that recapture of MHTF funds is warranted, it shall notify the grantee of the grounds

upon which such decision was reached. It shall further notify the grantee of its right to appeal the decision to the committee of directors pursuant to subsection 4 CSR 170.7-600(1)(G), as well as the time within which such request for a hearing with the committee of directors must be provided to the director of operations. The time for the filing of such request shall be thirty (30) days from the date on which the decision of the director of operations is received by the grantee;

(F) If the grantee fails to contest the director of operations' decision within thirty (30) days from the date upon which it receives notice of such decision, the grantee's right to appeal the decision shall be deemed waived and the decision of the director of operations shall be deemed final;

(G) If the grantee provides a timely response to the notice and exercises its right to appeal the decision of the director of operations, the committee of directors shall hold a hearing with the grantee within thirty (30) days of the date on which the request for a hearing is received by the director of operations. The deadline for conducting a hearing may be extended for one (1) additional thirty (30) day period upon written request of either the committee of directors or the grantee requesting the hearing, provided that notice of the request for extension must be provided to all parties;

(H) The following guidelines shall apply to the hearing held by the committee of directors:

1. The hearing shall not be considered a contested case;
2. The hearing shall be informal and no formal rules of evidence or procedure shall apply;
3. The commission may have its counsel present at the hearing;
4. The grantee may be represented by counsel at the hearing and shall have the right to present evidence or arguments relevant to the grounds upon which the recapture action is based. If the grantee elects to be represented by counsel at the hearing, it shall notify the committee of directors of this intent at least five (5) days prior to the scheduled hearing; and
5. The committee of directors, in reaching its decision may only consider items in the record of the hearing held by the director of operations. However, the committee of directors may also consider evidence that was not available at the initial hearing, but only if the party offering the additional evidence can show good cause for why it was not presented at the initial hearing. The committee of directors shall uphold the director of operations' decision unless it determines that the director of operations' decision was not based on competent and substantial evidence. If the committee of directors determines that the decision of the director of operations was not based on competent and substantial evidence, it may either—

A. Overrule the decision of the director of operations and reinstate such amounts of the grantee's funding under its grant agreement as the committee of directors may deem appropriate; or

B. Remand the matter back to the director of operations if it determines that further investigation and fact gathering is necessary before a final conclusion may be reached. If the matter is remanded back to the director of operations, after the necessary additional investigation and/or fact gathering is completed, the director of operations will issue its determination, which shall be subject to appeal using the same procedures as set forth in subsections 4 CSR 170.7.600(1)(E)-(H); and

(I) Within thirty (30) days of the date upon which the appeal hearing is held, the committee of directors shall issue a decision in writing to the grantee, which shall be mailed by certified mail, return receipt requested. This decision shall be considered the final decision of the commission on the matter. However, this decision of the committee of directors shall not be considered final if it finds appropriate grounds to remand the matter back to the director of operations pursuant to subparagraph 4 CSR 170.7.600(1)(H)5.B. If the matter is remanded back to the director of operations, the same procedures spelled out in subsections 4 CSR 170.7.600(1)(C)-(I) shall apply for all further proceedings with the director of operations and/or the committee of directors until a final decision is reached.

AUTHORITY: section 215.030(5), (12), and (19), RSMo 2000. Original rule filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Housing Development Commission, Attn: Weylin Watson, General Counsel, 3435 Broadway, Kansas City, MO 64111. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.030 Certification Standards Definitions. The division is amending section (2).

PURPOSE: This amendment defines additional terms and explains usage for those terms used in certification procedures and standards developed under section 630.655, RSMo, for community psychiatric rehabilitation programs and certain services serving persons with serious mental illnesses and disorders. Additional terms defined are: Certified Missouri Peer Specialist, child and adolescent family assistance, day treatment youth, family support, individual and group professional psychosocial rehabilitation, metabolic syndrome screening, misuse of funds/property, psychosocial rehabilitation illness management and recovery, and psychosocial rehabilitation youth. This amendment also clarifies the term neglect; correctly defines the certifying board for occupational therapists; and removes the terms community support assistant, class I and II neglect, and medication administration support.

(2) As used in 9 CSR 30-4.031-9 CSR 30-4.047, unless the context clearly indicates otherwise, the following terms shall mean:

(H) Certified Missouri Peer Specialist—an individual with at least a high school diploma or equivalent and applicable training and testing as required by the department;

[(H)](I) Chemical restraints—as defined in section 630.005, RSMo, drugs which are prescribed or administered in an emergency to restrain temporarily an individual who presents a likelihood of serious physical harm to him/herself or to others;

[(I) Class I Neglect—failure of an employee to provide reasonable and necessary services to maintain the physical and mental health of any client when the failure presents either imminent danger to the health, safety or welfare of a client or a substantial probability that death or physical injury would result;]

[(J) Class II Neglect—failure of an employee to provide reasonable or necessary services to a client or resident according to the individualized treatment plan or to identified acceptable standards of care;]

(J) Child and Adolescent Family Assistance as defined in 9 CSR 30-4.043 (2)(I);

(O) Community support—as defined in 9 CSR 30-4.043(2)/[(G)](F);

[(P) Community support assistant—an individual with a high school diploma or equivalent and applicable training as

required by the department;]

[(Q)](P) Consultation services—as defined in 9 CSR 30-4.043(2)(C);

[(R)](Q) Crisis intervention and resolution—as defined in 9 CSR 30-4.043(2)(A);

[(S)](R) Critical intervention—actions prescribed by an individual's treatment plan, to intercede on behalf of a client's safety in critical situations or circumstances that pose a risk of serious harm to a client or to a client's ability to live outside of an institution or a more restrictive setting than his/her current residence;

(S) Day Treatment, Youth—as defined in 9 CSR 30-4.043(2)(J);

(X) Family Support—as defined in 9 CSR 30-4.043(2)(H);

[(X)](Y) Facility—the physical plant or site used by a CPR provider to provide mental health services;

[(Y)](Z) Improper clinical practices—a level of performance or behavior which constitutes a repeated pattern of negligence or which constitutes a continuing pattern of violations of laws, rules, or regulations enforced by the appropriate professional licensing, funding, or certifying entity;

(AA) Individual and Group Professional Psychosocial Rehabilitation—as defined in 9 CSR 30-4.043(2)(O) and (P);

[(Z)](BB) Intake/annual evaluation—as defined in 9 CSR 30-4.035(7) and (18);

[(AA)](CC) Intensive community psychiatric rehabilitation (CPR)—as defined in 9 CSR 30-4.045;

[(BB)](DD) Mechanical restraint—any device, instrument, or physical object used to restrict an individual's freedom of movement except when necessary for orthopedic, surgical, and other medical purposes;

[(CC)](EE) Medication administration—as defined in 9 CSR 30-4.043(2)(D);

[(DD) Medication administration support—as defined in 9 CSR 30-4.043(2)(E);]

(FF) Metabolic Syndrome Screening—as defined in 9 CSR 30-4.043(2)(E);

[(EE)](GG) Medication aide—an individual as defined in 13 CSR 15-13.030 who administers medications;

[(FF)](HH) Medication services—as defined in 9 CSR 30-4.043(2)(B);

[(GG)](II) Medical technician—an individual as defined in 13 CSR 15-13.020 who administers medications;

[(HH)](JJ) Mental health professional—any of the following:

1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in treating problems related to mental illness or specialized training;

2. A psychiatrist, a physician licensed under Missouri law who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association, or other training program identified as equivalent by the department;

3. A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

4. A professional counselor licensed under Missouri law to practice counseling and with specialized training in mental health services;

5. A clinical social worker licensed under Missouri law with a master's degree in social work from an accredited program and with specialized training in mental health services;

6. A psychiatric nurse, a registered professional nurse licensed under Chapter 335, RSMo, with at least two (2) years of experience in a psychiatric or substance abuse treatment setting or a master's degree in psychiatric nursing;

7. An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling and guidance, rehabilitation counseling, vocational counseling, psychology, pastoral counseling or family therapy, or related field who has successfully

completed a practicum or has one (1) year of experience under the supervision of a mental health professional;

8. An occupational therapist certified by the [American Occupational Therapy Certification Board] National Board for Certification in Occupational Therapy, registered in Missouri, has a bachelor's degree and has completed a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

9. An advanced practice nurse—as set forth in section 335.016, RSMo, a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing; and

10. A psychiatric pharmacist as defined in 9 CSR 30-4.030;

(KK) Misuse of funds/property—in accordance with 9 CSR 10-5.200;

(LL) Neglect—in accordance with 9 CSR 10-5.200;

[(III)](MM) Psychiatric pharmacist—a registered pharmacist in good standing with the Missouri Board of Pharmacy who is a board-certified psychiatric pharmacist (BCPP) through the Board of Pharmaceutical Specialties or a registered pharmacist currently in a psychopharmacy residency where the service has been supervised by a board-certified psychiatric pharmacist;

[(JJ)](NN) Physical abuse—in accordance with 9 CSR 10-5.200;

[(KK)](OO) Physical restraint—physical holding of a client which restricts a client's freedom of movement to restrain temporarily in an emergency a client who presents a likelihood of serious physical harm to him/herself or to others;

[(LL)](PP) Psychosocial rehabilitation—as defined in 9 CSR 30-4.043(2)[(I)](M);

(QQ) Psychosocial rehabilitation illness management and recovery—as defined in 9 CSR 30-4.043(2)(N);

(RR) Psychosocial rehabilitation youth—as defined in 9 CSR 30-4.043(2)(K);

[(MM)](SS) Research—experiments, including intervention or interaction with clients, whether behavioral, psychological, biomedical, or pharmacological and program evaluation as set out in 9 CSR 60-1.010(1);

[(NN)](TT) Seclusion—placement alone in a locked room for any period of time;

[(OO)](UU) Sexual abuse—in accordance with 9 CSR 10-5.200;

[(PP)](VV) Time-out—temporary exclusion or removal of a client from the treatment or rehabilitation setting, used as a behavior modifying technique as prescribed in the client's individual treatment plan and for periods of time not to exceed fifteen (15) minutes each; and

[(QQ)](WW) Verbal abuse—in accordance with 9 CSR 10-5.200.

AUTHORITY: sections 630.050, 630.055, and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30)

days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs**

PROPOSED AMENDMENT

9 CSR 30-4.034 Personnel and Staff Development. The division is adding a new section (10), amending sections (2), (3), (7)–(9), and renumbering as needed.

PURPOSE: This amendment sets forth personnel eligible to provide the following: metabolic syndrome screening services, psychosocial rehabilitation illness management and recovery services, individual and group professional psychosocial rehabilitation, family support for parents of children and youth, child and adolescent assistance, and psychosocial rehabilitation for youth, day treatment for youth. This amendment also clarifies the terms abuse and neglect; revises the qualifications for a community support worker; revises the definition of community support assistant to Certified Missouri Peer Specialist, and removes the service and personnel required for medication administration support.

(2) Only qualified professionals shall provide community psychiatric rehabilitation (CPR) services. Qualified professionals for each service shall include:

[(G) For medication administration support, a medication technician or medication aide as defined in 9 CSR 30-4.030;]

(G) For metabolic syndrome screening, a registered professional nurse (RN), or licensed practical nurse (LPN);

(H) For psychosocial rehabilitation illness management and recovery, an individual with department approved training;

(I) For individual and group professional psychosocial rehabilitation, a professional counselor licensed or provisionally licensed under Missouri law and with specialized training in mental health services; or a clinical social worker licensed or provisionally licensed under Missouri law and with specialized training in mental health services;

[(H)](J) For community support:—

1. A mental health professional or an individual with a bachelor's degree in social work, psychology, nursing, or a *[related]* human services field, which includes, education, criminal justice, recreational therapy, human development and family studies, counseling, child development, gerontology, and rehabilitation counseling; and supervised by a psychologist, professional counselor, clinical social worker, psychiatric nurse, or individual with an equivalent degree as defined in 9 CSR 30-4.030. *Equivalent experience in psychiatric and/or substance abuse treatment may be substituted on the basis of one (1) year of experience for each year of required educational training];* or

[2. A community support assistant with a high school diploma or equivalent and applicable training required by the department, supervised by a qualified mental health professional as defined in 9 CSR 30-4.030. A community support assistant may receive assignments and direction from a community support worker; and]

2. At least two (2) years of higher education with (2) two years of experience in psychiatric, substance abuse treatment, or developmental disabilities, or any four (4) year degree with two (2) years of experience in psychiatric, substance abuse treatment, or developmental disabilities; or

3. Four (4) years of equivalent experience with consumers

and their families receiving psychiatric, substance abuse treatment, or developmental disabilities services to move towards their personal, social, and vocational competency in order to live successfully in the community;

(K) For peer support services, a Certified Missouri Peer Specialist with at least a high school diploma or equivalent and applicable training and testing as required by the department, supervised by a qualified mental health professional as defined in 9 CSR 30-4.030;

(L) For family support, a family member of a child or youth who had or currently has a behavioral or emotional disorder; has a high school diploma or equivalent and has completed training approved by or provided by the department and supervised by qualified mental health professional as defined in 9 CSR 30-4.030;

(M) For child and adolescent family assistance, an individual with a high school diploma and two (2) years experience working with children who have a severe emotional disorder or have experienced abuse and neglect; has completed training approved by or provided by the department; and shall be supervised by a qualified mental health professional as defined in 9 CSR 30-4.030;

(N) For day treatment for youth, one (1) qualified mental health professional and one (1) appropriately certified, licensed, or credentialed ancillary staff for children ages three (3) to five (5) years of age; and one (1) qualified mental health professional and, at a minimum, two (2) appropriately certified, licensed, or credentialed ancillary staff for school-aged children. Ancillary staff shall meet at least one (1) of the following criteria:

1. Occupational therapist;
2. Physical therapist;
3. Assistant behavior analyst;
4. Individual with a bachelor's degree in child development, psychology, social work, or education;
5. Individual with an associate degree with two (2) years experience in related mental health or child related fields; or
6. Individual with two (2) years of college and two (2) years experience in related mental health or child related fields;

(O) For psychosocial rehabilitation (PSR) for youth, the director shall be a qualified mental health professional with two (2) years experience working with children and youth. One (1) full-time equivalent mental health professional shall be available onsite during the provision of services. The staffing ratios shall be based on the client's age. For those clients between the ages of three (3) and eleven (11), the staffing ratio shall be one (1) staff to four (4) clients. For those clients between the ages of twelve (12) and seventeen (17), the staffing ratio shall be one (1) staff to six (6) clients. Other staff of the PSR team shall be composed the following providers as needed by the children:

1. A registered nurse;
2. An occupational therapist;
3. A recreational therapist;
4. A rehabilitation therapist;
5. A community support worker; or
6. A family assistance worker; and

[(I)](P) For consultation services, a physician, a psychiatric pharmacist, or advanced practice nurse as defined in 9 CSR 30-4.030.

(3) The CPR provider shall ensure that an adequate number of appropriately qualified staff is available to support the functions of the program. The department shall prescribe caseload size and supervisory to staff ratios.

[(B) The supervisory-to-staff ratio in the rehabilitation level of care should not exceed one (1) qualified mental health professional to seven (7) community support workers.

(C) The supervisory-to-staff ratio in the rehabilitation level of care should not exceed one (1) qualified mental health professional to two (2) community support assistants.]

[(D)](B) The supervisory-to-staff ratio in the rehabilitation level of care should not exceed one (1) qualified mental health professional to eight (8) total staff.

(7) The CPR provider shall establish, maintain, and implement a written plan for professional growth and development of personnel.

(A) The CPR provider shall provide orientation within thirty (30) calendar days of employment, documented, for all personnel and affiliates, and shall include, but not be limited to:

1. Client rights and confidentiality policies and procedures, including prohibition and definition of *[verbal/physical abuse]* **abuse, neglect, and misuse of funds as defined in 9 CSR 10-5.200;**

2. Client management, for example, techniques which address verbal and physical management of aggressive, intoxicated, or behaviorally disturbed clients;

3. CPR program emergency policies and procedures;

4. Infection control;

5. Job responsibilities;

6. Philosophy, values, mission, and goals of the CPR provider; and

7. Principles of appropriate treatment, including for staff working with children and youth, principles related to children and youth populations.

(C) The CPR provider shall provide orientation for volunteers and trainees within thirty (30) calendar days of initial attendance or employment that includes, but is not limited to, the following:

1. Client rights and confidentiality policies and procedures, including *[verbal/physical/sexual]* **abuse, neglect, and misuse of funds as defined in 9 CSR 10-5.200;**

2. CPR program emergency policies and procedures;

3. Philosophy, values, mission, and goals of the CPR provider; and

4. Other topics relevant to their assignments.

(8) The CPR provider shall develop and implement a written plan for comprehensive training and continuing education programs for community support workers, *[community support assistants,]* **Certified Missouri Peer Specialists**, and supervisors in addition to those set out in section (7).

(A) Orientation for community support workers, *[community support assistants,]* **Certified Missouri Peer Specialists**, and supervisors shall include, but is not limited to, the following items:

1. Philosophy, values, and objectives of community psychiatric rehabilitation services for individuals with serious and persistent mental illnesses;

2. Behavioral management, crisis intervention techniques, and identification of critical situations;

3. Communication techniques;

4. Health assessment and medication training;

5. Legal issues, including commitment procedures;

6. *[Identification and recognition of critical situations]* **Recovery and wellness practices; [and]**

7. **Resources including treatment alternatives, employment opportunities, health and wellness, and community resources; and**

[7.8. Staff working with children and youth shall receive additional training **approved by the department** in the above areas as it pertains to children and youth.

(B) The curricula for training shall include a minimum set of topics as required by the department *[and through consultation by a psychiatrist].*

(9) Each community support worker, *[community support assistant,]* **Certified Missouri Peer Specialists**, and supervisor shall complete ten (10) hours of initial training before receiving an assigned client caseload or supervisory caseload.

(10) Qualified staff providing individual and group professional

psychosocial rehabilitation, shall complete training as required by the department in addition to training set out in section (7).

[(10)](11) 9 CSR 10-7.110 requires that all staff shall participate in at least thirty-six (36) clock hours of relevant training during a two (2)-year period. All staff working within the CPR program and services shall receive a minimum of twelve (12) clock hours per year of continuing education and relevant training.

[(11)](12) All training activities shall be documented in employee personnel files, to include the training topic, name of instructor, date of activity, duration, skills targeted/objective of skill, certification/continuing education units (if any), and location.

AUTHORITY: section 630.050, RSMo Supp. [2009] 2011 and sections 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.035 Client Records of a Community Psychiatric Rehabilitation Program. The division is amending sections (8) and (9).

PURPOSE: This amendment prescribes the documentation required for metabolic syndrome screening and psychosocial rehabilitation illness management and recovery (PSR-IMR).

(8) Each client's record shall document services, activities, or sessions that involve the client.

(D) For psychosocial rehabilitation illness management and recovery (PSR-IMR), the clinical record shall include:

1. A weekly note that summarizes services rendered, client response to the services, and pertinent information reported by family members or significant others regarding a change in the client's condition or an unusual/unexpected occurrence in the client's life, or both. If a provider is billing both PSR-IMR and PSR, there shall be either a single weekly summary progress note that clearly addresses both the PSR-IMR and PSR sessions and activities during the week, or two (2) separate weekly summary progress notes addressing each type of PSR provided during the week.

2. Daily attendance records or logs that include the actual attendance times, as well as description of the activity or session attended clearly identifying and distinguishing PSR-IMR as the

specific type of psychosocial session and activity. These program attendance records/logs must be available for audit and monitoring purposes, however integration into each clinical record is not required.

[(D)](E) For all other community psychiatric rehabilitation program services, the client record shall include documentation of each session or episode that involves the client.

1. The specific services rendered.
2. The date and actual time the service was rendered.
3. Who rendered the service.
4. The setting in which the services were rendered.
5. The amount of time it took to deliver the services.
6. The relationship of the services to the treatment regimen described in the treatment plan.

7. Updates describing the client's response to prescribed care and treatment.

(9) In addition to documentation required under section (8), the CPR provider shall provide additional documentation for each service episode, unit, or as clinically indicated for each service provided to the client as follows:

(B) Metabolic Syndrome Screening. Completion of a form approved by the department; and a summary progress note verifying the completion of the screening and plans for ongoing monitoring of the individual based on the results of the screening. The form and progress note shall be filed in the client record and available for review and verification by the department and other authorized staff;

[(B)](C) Crisis Intervention and Resolution Services.

1. Description of the precipitating event(s)/situation, when known.
2. Description of the client's mental status.
3. Interventions initiated to resolve the client's crisis state.
4. Client response to intervention.
5. Disposition.
6. Planned follow-up by staff; and

[(C)](D) Community Support Services.

1. Phone contact reports.
2. Pertinent information reported by family members or significant others regarding a change in the client's condition, an unusual or unexpected occurrence in the client's life, or both.

AUTHORITY: section 630.655, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs**

PROPOSED AMENDMENT

9 CSR 30-4.039 Service Provision. The division is amending section (13).

PURPOSE: This amendment sets forth requirements for peer support services provided by Certified Missouri Peer Specialists in a community psychiatric rehabilitation program.

(13) [The CPR provider shall utilize community support assistants as adjuncts to and assistants to the treatment team. Community support assistants may not be assigned an independent client caseload, and may receive assignments and direction from a community support worker.] If the CPR provider employs a Certified Missouri Peer Specialist, the Certified Missouri Peer Specialist shall be considered a member of the treatment team and shall participate in staff meeting discussions regarding the individual care of persons served. Certified Missouri Peer Specialists shall not be assigned an independent client caseload.

(A) The purpose of peer support services is to assist individuals served in their recovery from mental illness. The individualized treatment plan of the person served shall determine the focus of this service.

(B) Peer support services are person-centered with a recovery focus. Services allow individuals the opportunity to direct their own recovery and advocacy processes. Peer support services promote skills for coping with and managing symptoms while facilitating the utilization of natural supports and the preservation and enhancement of community living skills.

(C) Peer support services are defined as helping relationships between individuals and Certified Missouri Peer Specialists that promote respect, trust, and empower individuals to make changes and decisions to enhance their lives. Peer support services are directed toward achievement of specific goals that have been defined by the person serviced and specified in the individualized treatment plan. Activities provided by the Certified Missouri Peer Specialists emphasize the acquisition, development, and expansion of the rehabilitation skills needed to move forward in recovery. Interventions are built on the unique therapeutic relationship between the Certified Missouri Peer Specialists, the individual served, and the individual's family unit.

(D) Certified Missouri Peer Specialists are trained to assist their peers in the process of recovery and the power of resilience and provide hope that recovery is possible.

AUTHORITY: sections 630.050, 630.655, and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs**

PROPOSED AMENDMENT

9 CSR 30-4.042 Admission Criteria. The division is amending subsection (4)(D).

PURPOSE: This amendment specifies eligibility for admission to a CPR program based on functionality.

(4) The criteria for admission to community psychiatric rehabilitation program services shall include:

(D) *[Additional criteria]* A functional assessment may be used to establish eligibility and the need for and amount of services, including results from a standardized assessment prescribed by the department; and

AUTHORITY: section 630.050, RSMo Supp. [2009] 2011, and sections 630.655 and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs**

PROPOSED AMENDMENT

9 CSR 30-4.043 Treatment Provided by Community Psychiatric Rehabilitation Programs. The division is amending section (2).

PURPOSE: This amendment adds metabolic syndrome screening required for individuals receiving antipsychotic medications and other individuals as appropriate, Certified Missouri Peer Specialists, psychosocial rehabilitation illness management and recovery, individual and group professional psychosocial rehabilitation, family support services, child and adolescent family assistance, day treatment for youth, psychosocial rehabilitation for youth, and removes the services medication administration support and psychosocial recovery support that were not previously utilized and community support assistants which will be replaced with Certified Missouri Peer Specialists.

(2) The CPR provider shall provide the following community psychiatric rehabilitation services to eligible clients, as prescribed by individualized treatment plans:

[(E) Medication Administration Support. The coordination

of medication needs with pharmacies, clients and families including the use of indigent drug programs (excluding the routine placing of prescription orders and refills with pharmacies); setting up medication boxes; medication drops to consumer residences; monitoring medication compliance; and monitoring vital signs;]

(E) **Metabolic Syndrome Screening.** Clients who are receiving antipsychotic medications shall be screened annually for the following risk factors: obesity, hypertension, hyperlipidemia, and diabetes.

1. Services shall be provided by a registered nurse or a licensed practical nurse. Key service functions include:

A. Taking and recording of vital signs;

B. Conducting lab tests to assess lipid levels and blood glucose levels and/or HgbA1c;

C. Arranging for and coordinating lab tests to assess lipid levels and blood glucose levels and/or HgbA1c;

D. Obtaining results of lab tests to assess lipid levels and blood glucose levels and/or HgbA1c; and

E. Recording the results of all required vital signs and lab tests on a form approved by the department.

2. If the lab tests are conducted by a registered nurse or a licensed practical nurse onsite, the provider shall use the Cholestech LDX analyzer or other machine approved by the department. Recently completed lipid panel and blood glucose levels and/or HgbA1c from other health care providers may be obtained. When a client is being regularly followed by a health care provider, the results of the most recently completed lipid panel and blood glucose levels and/or HgbA1c may be obtained and used to complete the metabolic syndrome screening process. Metabolic syndrome screening shall be limited to one (1) time annually per individual.

(G) *[Community support assistants]* Certified Missouri Peer Specialists, as defined in 9 CSR 30-4.030 and 9 CSR 30-4.034, may provide the following *[community]* peer support services:

1. *[Providing individual assistance to clients in accessing needed mental health services including accompanying clients to appointment to address medical or other health needs;]* Assisting an individual to recover by—

A. Helping an individual recognize what he or she thinks would improve the quality of his or her life such as setting a recovery goal; and

B. Helping an individual identify and remove the barriers to achieving that life;

2. *[Providing individual assistance to clients in accessing a variety of public services including financial and housing, including assistance on an emergency basis, and directly helping to meet needs for food, shelter, and clothing;]* Certified Missouri Peer Specialists use the power of peers to support, encourage, and model recovery and resilience from mental illness in ways that are specific to the needs of each individual including the following:

A. Peer support services are individual or group services with a rehabilitation and recovery focus;

B. Peer support services promote skills for coping with and managing psychiatric symptoms while encouraging the use of natural supports and enhancing community living;

C. Peer support activities assist in achieving goals and objectives set forth by the individual in their individualized treatment or recovery plan; and

D. Peer support activities emphasize the opportunity for individuals to support each other as they move forward in their recovery;

3. *[Assisting clients to access and utilize a variety of community agencies and resources to provide ongoing social, educational, vocational and recreational supports and activities;]* Certified Missouri Peer Specialists interventions may include, but are not limited to, the following:

A. Sharing lived experiences of recovery and sharing and supporting the use of recovery tools and modeling successful recovery behaviors;

B. Helping individuals recognize their capacity for resilience;

C. Helping individuals connect with other consumers and their communities at large;

D. Helping individuals who have mental illness develop a network for information and support;

E. Assisting individuals who have mental illness to make independent choices and to take a proactive role in their treatment;

F. Assisting individuals with identifying strengths and personal resources to aid in their recovery; and

G. Helping individuals set and achieve recovery goals;

4. *[Training, coaching and supporting in daily living skills, including housekeeping, cooking, personal grooming, accessing transportation, keeping a budget, paying bills and maintaining an independent residence;]* The job description for a Certified Missouri Peer Specialist shall include supportive activities including but not limited to the following:

A. Starting and sustaining mutual support groups;

B. Promoting dialogues on recovery and resilience;

C. Teaching and modeling symptom management skills;

D. Teaching and modeling problem-solving skills;

E. Supporting efforts to find and maintain paid employment;

F. Using the stages in recovery concept to promote self-determination; and

G. Assisting peers in setting goals and following through on wellness and health activities;

5. *[Accompanying clients to activities in the community if appropriate;]* Certified Missouri Peer Specialists shall follow a code of ethics determined by the department;

6. *[Following up with clients regarding appointments, completion of forms, returning forms or receipts and other similar activities;]*

(H) Family Support. Services designed to provide a support system for parents of children up to age twenty-one (21) with serious emotional disorders. Activities are directed and authorized by the child's individualized treatment plan. Key service functions include, but are not limited to the following:

1. Determining level of understanding of the child's diagnosis and special needs;

2. Engaging the parents or guardians to actively participate in the child and family team meetings by helping them predetermine their roles and the roles of natural supports;

3. Assisting the parents or guardians in identifying their natural supports or surrogate supports;

4. Helping the parents or guardians identify the child's strengths and strengths of the family;

5. Supporting the parents or guardians at child and family team meetings and modeling good advocacy skills;

6. Assisting in trouble shooting and problem solving with strategies that are not working;

7. Connecting families to community resources; and

8. Helping the parents or guardians find and empower their own voice to become part of the system of care for their child;

(I) Child and Adolescent Family Assistance. Services designed to focus on the child or adolescent and the development of home and community living skills, communication, socialization, and identifying and arranging for appropriate community services. Key service functions include, but are not limited to the following:

1. Modeling appropriate behaviors and coping skills for the child;

2. Exposing the child to activities that encourage positive choices, promote self-esteem, support academic achievement,

and develop problem solving skills regarding home and school;

3. Teaching appropriate social skills through hands on experiences; and

4. Mentoring appropriate social interactions with the child or adolescent or resolving conflict with peers;

(J) Day Treatment for Youth. An intensive array of services provided in a structured, supervised environment designed to reduce symptoms of a psychiatric disorder and maximize functioning. Services are individualized based on the child's needs and include a multidisciplinary approach of care under the supervision of a physician. The provision of educational services shall be in compliance with Individuals with Disabilities Education Act 2004 and section 167.126, RSMo. Services shall be provided in the following manner:

1. Hours of operation shall be determined by the individual providers based on capacity, staffing availability, and space requirements. The child shall be in attendance for a minimum of three (3) hours per day, four (4) days per week, and no more than seven (7) hours per day;

2. Eligibility criteria shall include the following:

A. For children six (6) years of age and older, the client must be at risk of inpatient or residential placement; and

B. For children five (5) years of age or younger, the child must have been expelled from multiple day care/early learning programs due to emotional or behavioral dysregulation in relation to serious emotional disturbance or Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood Zero to Three, Revised (DC03R) diagnosis and previous services provided in an early childhood program were unsuccessful;

3. Key service functions include, but are not limited to the following:

A. Providing integrated treatment combining education, counseling, and family interventions;

B. Promoting active involvement of parents or guardians in the program;

C. Providing consultation and coordination to establish and maintain continuity of care with the child/family's private service providers;

D. Coordinating and information sharing, consistent with Family Educational Rights and Privacy Act and Health Insurance Portability and Accountability Act, and discharge planning with the school;

E. Requesting screening and assessment reports for special education from the school;

F. Planning with the school how the individualized education needs of each child will be addressed; and

G. Additional core services as prescribed by the department;

(K) Psychosocial rehabilitation for Youth. A combination of goal-oriented and rehabilitative services provided in a group setting to improve or maintain the youth's ability to function as independently as possible within the family or community. Services shall be provided according to the individual treatment plan with an emphasis on community integration, independence, and resiliency;

[(H)](L) Intensive Community Psychiatric Rehabilitation (CPR) as defined in 9 CSR 30-4.045;

[(I)](M) Psychosocial Rehabilitation. Key service functions include, but are not limited to, the following services which must be available within the community psychiatric rehabilitation program as indicated by individual client need:

1. Initial screening to evaluate the appropriateness of the client's participation in the program;

2. Development of individualized program goals and objectives;

3. The provision of rehabilitative services which may occur during the day, evenings, weekends, or a combination of these. Services should be structured, but are not limited to a program site;

4. Services that enhance independent living skills;
5. Services that address basic self-care needs;
6. Services that enhance the use of personal support systems;
7. Transportation to and from community facilities and resources as a part of program strategies;

8. Services shall be provided according to individual need toward goals of community inclusion, integration, and independence; and

9. Services should be available to adults as well as children and youth who need age-appropriate developmental focused rehabilitation; *[and]*

[(J) Psychosocial Rehabilitation-Recovery Support. A program certified by the department. Key service functions include, but are not limited to, the following services as indicated by individual client need:

1. A supervised, low demand environment that permits clients to practice skills and behaviors that will generalize to assist with personal relationships and supports, community integration and other life activities;

2. Support of informal, low demand group activities to engage the client to promote receptiveness to service delivery, cooperation with clinical interventions and medication as well as building trust to promote self-disclosure about symptoms, medication effects and other pertinent information;

3. Participation in support and self-help activities and groups that promote recovery;

4. Participation in informal and organized group activities to help reduce stress and improve coping that are normative to the community such as exercise, self-education, sports, hobbies, supportive social networks, etc.;

5. Provision of a safe environment for adaptive skills development and practice for individuals vulnerable to victimization due to the severity of their symptomatology and for those experiencing acute distress due to their psychiatric illness;

6. Ongoing informal assessment regarding participant mental status and communication of relevant information and behavioral descriptions to the team for follow-up as necessary; and

7. Participation may be scheduled or unscheduled.]

(N) **Psychosocial Rehabilitation Illness Management and Recovery (PSR-IMR).** A Psychosocial Rehabilitation program may offer department-approved psychosocial services provided individually or in a small group setting with a focus on recovery and the management of mental illness. Key service functions include but are not limited to, the following services:

1. Psychoeducation;
2. Relapse prevention; and
3. Coping skills training;

(O) **Individualized Professional Psychosocial Rehabilitation.** Individualized mental health interventions may be offered using a skills based approach to address identified behavioral problems and functional deficits relating to a mental disorder that interferes with an individual's personal, family, or community adjustment. Services must be documented according to the requirements set forth in 9 CSR 30-4.035(8)(E); and

(P) **Group Professional Psychosocial Rehabilitation.** Group mental health interventions may be offered using a skills-based approach to address identified behavioral problems and functional deficits relating to a mental disorder that interferes with an individual's personal, family, or community adjustment. Maximum group size is one professional to eight (8) individuals. Services must be documented according to the requirements set forth in 9 CSR 30-4.035(8)(E).

AUTHORITY: sections 630.050, 630.655, and 632.050, RSMo 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. For intervening history, please consult the Code of State Regulations.

Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 30—Certification Standards Chapter 4—Mental Health Programs

PROPOSED AMENDMENT

9 CSR 30-4.046 Psychosocial Rehabilitation. The division is adding new sections (5)–(8) and renumbering as needed.

PURPOSE: This rule amendment adds psychosocial rehabilitation illness management and recovery (PSR-IMR), individual and group professional psychosocial rehabilitation, and psychosocial rehabilitation for youth as specific services to a psychosocial rehabilitation program.

(5) The psychosocial rehabilitation program may provide illness management and recovery services that promote physical and mental wellness, well-being, self-direction, personal empowerment, respect, and responsibility in individual and group settings. The maximum group size for Psychosocial Rehabilitation Illness Management and Recovery shall not exceed eight (8) participants; however, if there are other curriculum based approaches that suggest different group size guidelines, larger group sizes may be approved by the department. Services shall be person-centered and strength-based and include, but are not limited to, the following:

- (A) Psychoeducation;
- (B) Relapse prevention; and
- (C) Coping skills training.

(6) Individual professional psychosocial rehabilitation may be provided utilizing a skills-based approach to address identified behavioral problems and functional deficits relating to a mental disorder that interferes with an individual's personal, family, or community adjustment.

(7) Group professional psychosocial rehabilitation may be provided utilizing a skills based approach to address identified behavioral problems and functional deficits relating to a mental disorder that interferes with an individual's personal, family, or community adjustment with maximum group size of one (1) professional to eight (8) individuals.

(8) Psychosocial rehabilitation for youth may be provided as a combination of goal-oriented and rehabilitative services provided in a group setting to improve or maintain the youth's ability to function as independently as possible within the family or community.

Services shall be provided according to the individual treatment plan with an emphasis on community integration, independence, and resiliency. Hours of operation shall be determined by the individual providers based on capacity, staffing availability, geography and space requirements but shall be no less than two (2) hours in duration per day and no more than six (6) hours per day.

[(5)](9) The community psychiatric rehabilitation (CPR) provider shall provide or arrange transportation to and from the psychosocial rehabilitation program, as well as to various sites in the community, to provide off-site training/rehabilitation in realistic settings.

[(6)](10) The psychosocial rehabilitation program shall provide regular client access to facilities and equipment necessary to provide opportunities for training and rehabilitation in daily living skills, including at a minimum, those activities associated with meal preparation and laundry.

[(7)](11) The psychosocial rehabilitation program shall provide off-site services on a regular basis as part of the structured plan of activities for training/rehabilitation of community living skills.

[(8)](12) The psychosocial rehabilitation program shall provide or arrange for services on evenings and weekends, as required, to effectively address the rehabilitation needs of the program clients.

[(9)](13) The psychosocial rehabilitation program shall implement policies and procedures to provide for the participation of clients, client family members, and client advocates (with client agreement) in the planning, development, and evaluation of the psychosocial rehabilitation program's activities.

AUTHORITY: section 630.655, RSMo [1994] 2000. Original rule filed Jan. 19, 1989, effective April 15, 1989. Amended: Filed Dec. 13, 1994, effective July 30, 1995. Amended: Filed Dec. 1, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed amendment by writing to Melissa Manda, Deputy General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

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

PROPOSED RULE

13 CSR 70-3.230 Payment Policy for Provider Preventable Conditions

PURPOSE: This rule establishes the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical

centers that result in Provider Preventable Conditions, errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients.

(1) Definitions.

(A) Provider Preventable Conditions (PPC). An umbrella term for hospital and non-hospital acquired conditions identified by the state for nonpayment to ensure the high quality of Medicaid services. PPCs include two (2) distinct categories, Health Care-Acquired Conditions (HCAC) and Other Provider-Preventable Conditions (OPPC).

(B) Health Care-Acquired Conditions (HCAC). Apply to conditions that occurred during a Medicaid inpatient hospital stay. HCACs are defined as the full list of Medicare Hospital Acquired Conditions, with the exception of Deep Vein Thrombosis/Pulmonary Embolism following total knee replacement or hip replacement in pediatric and obstetric patients, as the minimum requirements for states' PPC non-payment program.

(C) Other Provider-Preventable Conditions (OPPC). This includes the list of Serious Reportable Events in Healthcare as published by the National Quality Forum. These conditions apply broadly to Medicaid inpatient and outpatient health care settings where these events may occur.

(D) Adverse event. A discrete, auditable, and clearly defined occurrence as identified by the National Quality Forum in its list of serious adverse events in health care, as of December 15, 2008, (and as further defined by the criteria and implementation guidance of Table 1 of the National Quality Forum's publication "Serious Reportable Events in Healthcare: 2006 Update" which is available at http://www.qualityforum.org/publications/reports/sre_2006.asp) or an event identified by the Centers for Medicare and Medicaid Services, as of December 15, 2008, that leads to a negative consequence of care resulting in an unintended injury or illness which was preventable.

(E) Preventable. An event that reasonably could have been anticipated and avoided by the establishment and implementation of appropriate policies, procedures, and protocols by a hospital or by staff conformance to established hospital policies, procedures, and protocols.

(F) Serious. An adverse event that results in death or loss of a body part, disability, or loss of bodily function lasting more than seven (7) days or, for a hospital patient, the loss of bodily function is still present at the time of discharge from a hospital.

(G) Healthcare facility. For purposes of the regulation shall mean a hospital or ambulatory surgical center.

(2) Payment to hospitals enrolled as MO HealthNet providers for care related only to the treatment of the consequences of a HCAC will be denied or recovered by the MO HealthNet Division when the HCAC is determined to have occurred during an inpatient hospital stay.

(A) HCAC conditions include:

1. Foreign object retained after surgery;
2. Air embolism;
3. Blood incompatibility;
4. Stage III and IV pressure ulcers;
5. Falls and trauma—
 - A. Fractures;
 - B. Dislocations;
 - C. Intracranial Injuries;
 - D. Crushing Injuries;
 - E. Burns; or
 - F. Electric Shock;
6. Catheter-associated Urinary Tract Infection;
7. Vascular catheter-associated infection;
8. Manifestations of poor glycemic control—
 - A. Diabetic Ketoacidosis;
 - B. Nonketotic Hyperosmolar coma;

- C. Hypoglycemic coma;
D. Secondary diabetes with ketoacidosis; or
E. Secondary diabetes with hyperosmolarity;
9. Surgical site infection following:
A. Coronary Artery Bypass Graft (CABG)—Mediastinitis;
B. Bariatric surgery—
(I) Laparoscopic gastric Bypass;
(II) Gastroenterostomy; or
(III) Laparoscopic gastric restrictive surgery; or
C. Orthopedic procedures—
(I) Spine;
(II) Neck;
(III) Shoulder; or
(IV) Elbow; and
10. Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE) excluding those in pediatric and obstetric patients following:
A. Total knee replacement; or
B. Hip replacement.
(B) Hospitals enrolled as MO HealthNet providers shall include the “Present on Admission” (POA) indicator on the CMS 1450 UB-04 or electronic equivalent when submitting inpatient claims for payment beginning July 1, 2010. The POA indicator is to be used according to the Official Coding Guidelines for Coding and Reporting and the CMS guidelines. The POA indicator will prompt review of inpatient hospital claims with an HCAC diagnosis code when appropriate according to the CMS guidelines.
(C) HCACs are based on Medicare inpatient prospective payment system rules effective October 1, 2010 (FY 2011), published in the *Federal Register*, 75:157 (Aug. 16, 2010), pp. 50084-50085, with the inclusion of present on admission (POA) indicators as provided by the final regulation published in the *Federal Register*, 76:108 (June 6, 2011), pp. 32816-32838. Unlike Medicare, all MO HealthNet enrolled hospitals must report the above mentioned HCACs on claims submitted to MO HealthNet for consideration of payment.
- (3) Payment to hospitals or ambulatory surgical centers enrolled as MO HealthNet providers for care related only to the treatment of the consequences of an Other Provider-Preventable Condition such as a serious adverse event will be denied or recovered by the MO HealthNet Division when the serious adverse event is determined to—
(A) Be preventable;
(B) Be within the control of the hospital or ambulatory surgical center;
(C) Have occurred during an inpatient hospital admission, outpatient hospital care, or care in an ambulatory surgical center;
(D) Have resulted in serious harm; and
(E) Be included on the National Quality Forum list of Serious Reportable Events as of December 15, 2008, non-payable by Medicare as of December 15, 2008. The National Quality Forum list of serious reportable events as of December 15, 2008, includes:
1. Surgery performed on the wrong body part;
2. Surgery performed on the wrong patient;
3. Wrong surgical procedure on a patient;
4. Foreign object left in a patient after surgery or other procedure;
5. Intraoperative or immediately post-operative death in a normal health patient;
6. Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the healthcare facility;
7. Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended;
8. Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a healthcare facility;
9. Infant discharged to the wrong person;
10. Patient death or serious disability associated with patient elopement (disappearance) for more than four (4) hours;
11. Patient suicide or attempted suicide resulting in serious disability, while being cared for in a healthcare facility;
12. Patient death or serious disability associated with a medication error (error involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);
13. Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products;
14. Maternal death or serious disability associated with labor or delivery on a low-risk pregnancy while being cared for in a healthcare facility;
15. Patient death or serious disability associated with hypoglycemia, the onset of which occurs while the patient is being cared for in a healthcare facility;
16. Death or serious disability (Kernicterus) associated with failure to identify and treat hyperbilirubinemia in neonates;
17. Stage III or IV pressure ulcers acquired after admission to a healthcare facility;
18. Patient death or serious disability due to spinal manipulative therapy;
19. Patient death or serious disability associated with an electric shock while being cared for in a healthcare facility;
20. Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;
21. Patient death or serious disability associated with a burn incurred from any source while being cared for in a healthcare facility;
22. Patient death associated with a fall while being cared for in a healthcare facility;
23. Patient death or serious disability associated with the use of restraints or bedrails while being cared for in a healthcare facility;
24. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider;
25. Abduction of a patient of any age; or
26. Sexual assault on a patient within or on the grounds of a healthcare facility;
(F) Other Provider-Preventable Conditions (OPPC) or serious adverse events are to be billed as follows:
1. Medical claims using the CMS 1500 claim form, must be billed with the surgical procedure code and modifier which indicates the type of serious adverse event: modifier PA (wrong body part), PB (wrong patient), or PC (wrong surgery), AND/OR at least one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part must be present as one of the first four (4) diagnoses codes on the claim.
2. Outpatient hospital claims using the CMS 1450 UB-04 claim form or its electronic equivalent must be billed with at least one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part within the first five (5) diagnosis codes listed on the claim.
3. Inpatient hospital claims, using the CMS 1450 UB-04 claim form or its electronic equivalent must be billed with a type of bill 0110.
A. If there are covered services or procedures provided during the same stay as the serious adverse event service, then the facility must submit two (2) claims; one (1) claim with covered services unrelated to the OPPC event and the other claim for any and all services related to the OPPC event.
B. The Type of Bill 0110 claim must also contain one (1) of the diagnosis codes indicating wrong surgery, wrong patient, or wrong body part within the first five (5) diagnosis codes listed on the claim.

(4) A MO HealthNet participant shall not be liable for payment for an item or service related to an OPPC or HCAC or the treatment of consequences of an OPPC or HCAC that would have been otherwise payable by the MO HealthNet Division.

(5) MO HealthNet payment denials or recoupments will be calculated by the MO HealthNet Division based on the facts of each OPPC or HCAC. The calculation of the denial of payment or recoupment will be reviewed by the MO HealthNet Division Medical Director and the MO HealthNet Division Director. The final decision of the division regarding the denial of payment or recoupment shall be subject to review by the Administrative Hearing Commission pursuant to the provisions of section 208.156, RSMo. Such payment limitation shall only apply to the hospital or ambulatory surgical center where the OPPC or HCAC occurred and shall not apply to care provided by other hospitals should the patient subsequently be transferred or admitted to another hospital for needed care.

(6) A MO HealthNet participant shall not be liable for payment, and must not be billed, for any item or service related to a PPC.

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. 2011. Material in this rule originally filed as 13 CSR 70-15.200. Original rule filed Nov. 30, 2011.

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

PRIVATE COST: This proposed rule will cost private entities eight hundred six dollars and thirteen cents (\$806.13) per year.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 3 - Condition

Rule Number and Name:	13 CSR 70-3.230 Payment Policy for Provider Preventable Conditions.
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Hospitals and Ambulatory Surgical Centers enrolled in MO HealthNet		\$806.13

III. WORKSHEET

IV. ASSUMPTIONS

The Centers for Medicare and Medicaid Services (CMS) estimated the annual burden associated with annual record keeping and reporting requirements to be \$806.13 per state. CMS also acknowledged that it is difficult to estimate what, if any, the amount which will be withheld from providers under this type regulation, as not all preventable serious adverse events or health care acquired conditions have been billed in the past. Hospitals or ambulatory surgical centers may incur additional costs to reduce preventable serious adverse events or health care-acquired conditions (HCAC's) such as costs for hiring additional nurses to ensure enforcement of the infection prevention policies. In turn, preventing or reducing HCAC's will lead to a reduction in direct health spending, which is a benefit realized by patients, Medicaid, hospitals, ambulatory surgical centers, and other payers.

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

PROPOSED RESCISSION

13 CSR 70-15.200 Payment Policy for a Preventable Serious Adverse Event or Hospital or Ambulatory Surgical Center-Acquired Condition. This rule established the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical centers that result in a preventable serious adverse event or hospital or ambulatory surgical center-acquired condition, errors in medical care that are clearly identifiable, preventable, and serious in their consequences for patients.

PURPOSE: This rule is being rescinded to move the MO HealthNet payment policy for services provided by acute care hospitals or ambulatory surgical centers that result in a preventable serious adverse event or health care acquired condition from Chapter 15, Hospital Program, to 13 CSR 70-3.230 Payment Policy for Provider Preventable Conditions, Chapter 3, Conditions of Provider Participation, Reimbursement And Procedure of General Applicability. A proposed rule which covers the MO HealthNet policy for a preventable adverse event or health care acquired condition is published in this issue of the Missouri Register.

AUTHORITY: section 208.201, RSMo Supp. 2008. Original rule filed Nov. 17, 2008, effective June 30, 2009. Rescinded: Filed Nov. 30, 2011.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this rescission with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES**

**Division 20—Division of Community and Public Health
Chapter 28—Immunization**

PROPOSED AMENDMENT

19 CSR 20-28.010 Immunization Requirements for School Children. The department is amending the purpose statement, sections (1)–(4), and the forms and schedules which follow the rule in the Code of State Regulations.

PURPOSE: This amendment revises the minimum immunization requirements for all students in accordance with current recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Interstate Compact on Educational Opportunity for Military Children.

PURPOSE: This rule establishes minimum immunization requirements for all [school children] students in accordance with recom-

mendations of the Advisory Committee on Immunization Practices (ACIP) [and helps assure that appropriate actions are taken by schools to enforce section 167.181, RSMo] and the Interstate Compact on Educational Opportunity for Military Children.

(1) As mandated by section 167.181, RSMo, each superintendent of a public, private, parochial, or parish school shall have a record prepared showing the immunization status of every child enrolled in or attending a school under the superintendent's jurisdiction. The school superintendent shall make a summary report to the Department of Health and Senior Services no later than October 15 of each school year. This date is necessitated by the law which prohibits the enrollment and attendance of [children] students who are in noncompliance. This report shall include **aggregate** immunization information by grade or age by vaccine antigen [(diphtheria, tetanus, pertussis, polio, measles, rubella, mumps, hepatitis B, and varicella)], number of [children] students enrolled, number of [children adequately immunized] students in compliance with state immunization requirements, number of [children] students in progress, [and] number of [children exempt] students with signed medical exemption, number of students with signed religious exemption, number of students noncompliant with immunization record, and number of students with no immunization record. Each school superintendent or [chief administrator] designee shall submit a summary report for all schools under the administrator's jurisdiction. Separate reports for each school should not be submitted, although separate lists shall be maintained in each school for auditing purposes.

(A) Exclusion of students in noncompliance, section 167.181, RSMo. Students cannot attend school unless they are properly immunized and can provide satisfactory evidence of the immunization or unless they are exempted. **The school administration shall exercise its power of pupil suspension or expulsion under section 167.161, RSMo, and possible summary suspension under section 167.171, RSMo, until the violation is removed.** Transfer students in noncompliance shall not be permitted to enroll or attend school. Students who were enrolled during the previous school year shall be denied attendance for the current school year if not in compliance. [Homeless children] Under section 160.2000, RSMo, children of military families shall be given thirty (30) days from the date of enrollment to obtain any required immunization, or initial vaccination for a required series of immunizations. A student determined to be homeless by school officials may be enrolled in school for no more than [twenty-four (24) hours] thirty (30) days prior to providing satisfactory evidence of immunization. **If the homeless student's immunization record is not obtained within the thirty (30) days and the student is still eligible for services under the homeless education program, the student must begin the immunization series and demonstrate that satisfactory progress has been accomplished within ninety (90) days. If the homeless student is exempted from receiving immunizations, then after the initial thirty (30) day enrollment, the student must provide documentation in accordance with the exemption requirements included herein.** For the purpose of this paragraph, a homeless [child] student shall be defined as a [child] student who lacks a fixed, regular, and adequate nighttime residence; or who has a primary nighttime residence in a supervised publicly or privately operated shelter or in an institution providing temporary residence or in a public or private place not designated for or ordinarily used as a regular sleeping accommodation for human beings. [The school administration should exercise its power of pupil suspension or expulsion under section 167.161, RSMo and possible summary suspension under section 167.171, RSMo until the violation is removed.]

(B) This rule is designed to govern any [child—] student, regardless of age[—], who is attending a public, private, parochial, or parish school. If the specific age or grade recommendations are not

mentioned within this rule, the Missouri Department of Health and Senior Services should be consulted.

(C) It is unlawful for any *[child] student* to attend school unless the *[child] student* has been immunized according to this rule or unless *[the parent or guardian has signed and placed on file]* a **signed** statement of medical or religious exemption is on file with the school administrator. **In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the Department of Health and Senior Services pursuant to 19 CSR 20-20.040.**

1. Medical exemption. A *[child] student* shall be exempted from the immunization requirements of this rule as **provided in section 167.181, RSMo**, upon **signed** certification by a licensed doctor of medicine (MD), *[or]* doctor of osteopathy (DO), or his or her designee **indicating** that either the immunization would seriously endanger the *[child's] student's* health or life or the *[child] student* has documentation of **disease** or laboratory evidence of immunity to the disease. The Department of Health and Senior Services *[F]orm Imm.P.12*, included herein, shall be **placed** on file with the school immunization health record for each *[child] student* with a medical exemption. This need not be renewed annually.

2. Religious exemption. A *[child] student* shall be exempted from the immunization requirements of this rule as provided in section 167.181, RSMo, if one (1) parent or guardian objects in writing to the school administrator that immunization of that *[child] student* violates his/her religious beliefs. This exemption on Department of Health and Senior Services *[F]orm Imm.P.11A*, included herein, shall be **signed by the parent or guardian and** placed on file with the school immunization health record. **This need not be renewed annually.**

3. Immunization in progress. Section 167.181, RSMo, provides that students may continue to attend school as long as they have started an immunization series and **provide** satisfactory **evidence indicating** progress is being accomplished. A Department of Health and Senior Services *[F]orm Imm.P.14*, included herein, shall be **completed and placed** on file with the school immunization health record of each student with immunizations in progress. Failure to meet the next scheduled appointment constitutes noncompliance with the school immunization law and exclusion *[should]* **shall** be initiated immediately. Refer to subsection (1)(A) of this rule regarding exclusion of students in noncompliance.

(2) For school attendance, *[children] students* shall be immunized against vaccine-preventable diseases as established by the Department of Health and Senior Services and provide required documentation of immunization status. Age or grade-appropriate vaccine requirements *[will]* **shall** be according to the attachments listed in section (4), which are included herein. **Review of immunization requirements for school entry shall be conducted annually by each school superintendent or designee. Proposed revisions to the immunization requirements shall be recommended by the State Advisory Committee on Childhood Immunizations and the State Board of Health and be made available by the Department of Health and Senior Services by May 1 of each calendar year. Revisions to school immunization requirements shall be required for school attendance one (1) full year after publication in the Code of State Regulations, beginning with the first day of school of that school year.**

(A) One (1) dose of varicella vaccine shall be required for all *[children] students* starting kindergarten *[or who were five (5) or six (6) years of age]* as of and after the beginning of the 2005–2006 school year through the end of the 2009–2010 school year.

(B) Two (2) doses of varicella vaccine shall be required for all *[children] students* starting kindergarten *[or who were five (5) or six (6) years of age]* as of and after the beginning of the

2010–2011 school year.

(C) **One (1) dose of Tdap (tetanus, diphtheria, and pertussis) vaccine shall be required for all students starting eighth grade as of and after the beginning of the 2010–2011 school year.**

(3) The parent or guardian shall furnish the superintendent or designee satisfactory evidence of immunization or exemption from immunization.

(A) Satisfactory evidence of immunization means a statement, certificate, or record from a physician or his or her designee, other recognized health facility *[or person]*, **immunization registry, school record, or child care record** stating that the required immunizations have been given to the person and verifying the type of vaccine. *[All children shall be required to]* **This statement, certificate, or record shall** provide documentation of the **specific antigen and the month, day, and year of vaccine administration**. However, if a *[child] student starting kindergarten as of and after the beginning of the 2010–2011 school year* has had varicella (chickenpox) disease, a licensed *[doctor of medicine or doctor of osteopathy]* **healthcare provider (e.g., school or occupational clinic nurse, nurse practitioner, physician assistant, physician)** may sign and place on file with the superintendent or designee a written statement documenting previous varicella (chickenpox) disease. **For students starting kindergarten as of and after the beginning of the 2005–2006 school year through the end of the 2009–2010 school year, the parent or guardian or a licensed doctor of medicine (MD) or doctor of osteopathy (DO) or his or her designee may sign and place on file with the superintendent or designee a written statement documenting previous varicella (chickenpox) disease.** The statement may contain wording such as: “This is to verify that (name of *[child] student*) had varicella (chickenpox) disease on or about (date) and does not need varicella vaccine.”

(4) Immunization schedule requirements for *[school age children] students* shall be:—

(A) Missouri School Immunization Schedule Vaccines Received 0–6 Years of Age, included herein;

(B) Missouri School Immunization Schedule Vaccines Received 7–18 Years of Age, included herein; and

(C) Catch-up Immunization Schedule for Persons Aged 4 Months–18 Years Who Start Late or Who Are More Than 1 Month Behind, included herein.



**MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
MEDICAL IMMUNIZATION EXEMPTION**

**FOR LICENSED DOCTOR OF
MEDICINE OR DOCTOR OF
OSTEOPATHY ONLY**

REQUIRED UNDER THE STATE IMMUNIZATION LAWS (Section 167.181 and Section 210.003, RSMo) FOR SCHOOL AND PUBLIC, PRIVATE OR PAROCHIAL PRESCHOOL, DAY CARE CENTER, PRESCHOOL, OR NURSERY SCHOOL CARING FOR TEN OR MORE CHILDREN

Unimmunized children have a greater risk of contracting and spreading vaccine-preventable diseases to babies who are too young to be fully immunized and those who cannot be immunized due to medical conditions. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, children who are not fully immunized or do not have documented laboratory evidence of immunity shall not be allowed to attend school or day care until the local health authority declares the designated outbreak or health emergency has ended.

THIS IS TO CERTIFY THAT	NAME OF CHILD (PRINT OR TYPE)
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IS EXEMPT FROM RECEIVING THE FOLLOWING IMMUNIZATION(S) BECAUSE:

- The child has documentation of disease or laboratory evidence of immunity to the disease. _____ (month/year)
- The physical condition of the above-named child is such that immunization would endanger their life or health or is medically contraindicated due to other medical conditions.
 - DIPHTHERIA HEPATITIS B HIB MMR
 - PERTUSSIS PNEUMOCOCCAL POLIO TETANUS
 - VARICELLA OTHER _____

PHYSICIAN/PHYSICIAN'S DESIGNEE NAME (PRINT OR TYPE)

PHYSICIAN SIGNATURE	DATE
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**MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
RELIGIOUS IMMUNIZATION EXEMPTION**

Required under the Missouri state immunization law (Section 167.181, RSMo) of children attending public, private, and parochial or parish schools.

We strongly encourage you to immunize your child, but ultimately the decision is yours. Please discuss any concerns you have with a trusted healthcare provider or call the immunization coordinator at your local or state health department. Your final decision affects not only the health of your child, but also the rest of your family, the health of your child's friends and their families, classmates, neighbors, and community.

Unimmunized children have a greater risk of contracting and spreading vaccine-preventable diseases to babies who are too young to be fully immunized and those who cannot be immunized due to medical conditions. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, children who are not fully immunized or do not have documented laboratory evidence of immunity shall not be allowed to attend school or day care until the local health authority declares the designated outbreak or health emergency has ended.

THIS IS TO CERTIFY THAT	NAME OF CHILD (PRINT OR TYPE)		
SHOULD BE EXEMPTED FROM RECEIVING THE FOLLOWING CHECKED IMMUNIZATION(S) BECAUSE IMMUNIZATIONS VIOLATE MY RELIGIOUS BELIEFS:			
<input type="checkbox"/> DIPHTHERIA	<input type="checkbox"/> HEPATITIS B	<input type="checkbox"/> MMR	<input type="checkbox"/> PERTUSSIS
<input type="checkbox"/> TETANUS	<input type="checkbox"/> VARICELLA	<input type="checkbox"/> OTHER _____	
PARENT/GUARDIAN NAME (PRINT OR TYPE)	PARENT/GUARDIAN SIGNATURE	DATE	



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
IMMUNIZATIONS IN PROGRESS

REQUIRED UNDER THE STATE IMMUNIZATION LAWS (Section 167.181 and Section 210.003, RSMo) FOR SCHOOL, PRESCHOOL, DAY CARE AND NURSERY SCHOOL ATTENDANCE

In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, children who are not fully immunized or do not have documented laboratory evidence of immunity shall not be allowed to attend school or day care until the local health authority declares the designated outbreak or health emergency has ended.

**THIS IS TO
CERTIFY
THAT**

NAME OF CHILD (PRINT OR TYPE)

received the following immunization(s) on _____ as required by State Immunization Laws

MONTH/DAY/YEAR

- | | | | |
|-------------------------------------|---------------------------------------|--------------------------------|----------------------------------|
| <input type="checkbox"/> DIPHTHERIA | <input type="checkbox"/> HEPATITIS B | <input type="checkbox"/> HIB | <input type="checkbox"/> MMR |
| <input type="checkbox"/> PERTUSSIS | <input type="checkbox"/> PNEUMOCOCCAL | <input type="checkbox"/> POLIO | <input type="checkbox"/> TETANUS |
| <input type="checkbox"/> VARICELLA | <input type="checkbox"/> OTHER _____ | | |

and is scheduled to return on _____

MONTH/DAY/YEAR

NOTE: This child is in compliance with Missouri Immunization Laws as long as he/she continues to receive the appropriate immunization(s) at the correct intervals according to the Advisory Committee on Immunization Practices (ACIP) recommendations.

PHYSICIAN/PUBLIC HEALTH NURSE/DESIGNEE/NAME (PRINT OR TYPE)

PHYSICIAN/PUBLIC HEALTH NURSE/DESIGNEE SIGNATURE

DATE