

Volume 39, Number 15
Pages 1255-1338
August 1, 2014

SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER
SECRETARY OF STATE

MISSOURI
REGISTER

The *Missouri Register* is an official publication of the state of Missouri, under the authority granted to the secretary of state by sections 536.015, RSMo Supp. 2013 and 536.033, RSMo 2000. Reproduction of rules is allowed; however, no reproduction shall bear the name *Missouri Register* or "official" without the express permission of the secretary of state.

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

JASON KANDER

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

MANAGING EDITOR

CURTIS W. TREAT

•

EDITOR

AMANDA MCKAY

•

ASSISTANT EDITOR

VONNE KILBOURN

•

ASSISTANT EDITOR

MARTY SPANN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

ADMINISTRATIVE ASSISTANT

ALISHA DUDENHOEFFER

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

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

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.mo.gov/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.mo.gov/adrules/csr/csr.asp>. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2013. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by email at rules@sos.mo.gov.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



IN THIS ISSUE:

EMERGENCY RULES

Department of Social Services
 MO HealthNet Division1259

EXECUTIVE ORDERS1262

PROPOSED RULES

Department of Conservation
 Conservation Commission1265

Department of Social Services
 MO HealthNet Division1265

Public Defender Commission
 Office of State Public Defender1275

ORDERS OF RULEMAKING

Department of Elementary and Secondary Education
 Missouri Commission for the Deaf and
 Hard of Hearing1277

CONTRACTOR DEBARMENT LIST1324

DISSOLUTIONS1325

SOURCE GUIDES

RULE CHANGES SINCE UPDATE1327
EMERGENCY RULES IN EFFECT1331
EXECUTIVE ORDERS1332
REGISTER INDEX1333

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
April 1, 2014 April 15, 2014	May 1, 2014 May 15, 2014	May 31, 2014 May 31, 2014	June 30, 2014 June 30, 2014
May 1, 2014 May 15, 2014	June 2, 2014 June 16, 2014	June 30, 2014 June 30, 2014	July 30, 2014 July 30, 2014
June 2, 2014 June 16, 2014	July 1, 2014 July 15, 2014	July 31, 2014 July 31, 2014	August 30, 2014 August 30, 2014
July 1, 2014 July 15, 2014	August 1, 2014 August 15, 2014	August 31, 2014 August 31, 2014	September 30, 2014 September 30, 2014
August 1, 2014 August 15, 2014	September 2, 2014 September 15, 2014	September 30, 2014 September 30, 2014	October 30, 2014 October 30, 2014
September 2, 2014 September 15, 2014	October 1, 2014 October 15, 2014	October 31, 2014 October 31, 2014	November 30, 2014 November 30, 2014
October 1, 2014 October 15, 2014	November 3, 2014 November 17, 2014	November 30, 2014 November 30, 2014	December 30, 2014 December 30, 2014
November 3, 2014 November 17, 2014	December 1, 2014 December 15, 2014	December 31, 2014 December 31, 2014	January 30, 2015 January 30, 2015
December 1, 2014 December 15, 2014	January 2, 2015 January 15, 2015	January 29, 2015 January 29, 2015	February 28, 2015 February 28, 2015

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>

Missouri Participating Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2013), are available in the listed participating libraries, as selected by the Missouri State Library:

Jefferson County Library PO Box 1486, 3021 High Ridge High Ridge, MO 63049-1486 (314) 677-8689	Learning Resources Center Mineral Area College PO Box 1000 Park Hills, MO 63601-1000 (573) 431-4593	Hearnes Learning Resources Ctr. Missouri Western State University 4525 Downs Drive St. Joseph, MO 64507-2294 (816) 271-5802	Library Missouri University of Science and Technology 1870 Miner Circle Rolla, MO 65409-0060 (573) 341-4007
Jefferson College Library 1000 Viking Drive Hillsboro, MO 63050-2441 (314) 789-3951 ext. 160	Cape Girardeau Public Library 711 N. Clark Cape Girardeau, MO 63701-4400 (573) 334-5279	Library North Central Missouri College PO Box 111, 1301 Main Street Trenton, MO 64683-0107 (660) 359-3948 ext. 325	Lebanon-Laclede County Library 915 S. Jefferson Ave. Lebanon, MO 65536-3017 (417) 532-2148
St. Louis Public Library 1301 Olive St. St. Louis, MO 63103-2389 (314) 539-0376	Kent Library Southeast Missouri State University One University Plaza Cape Girardeau, MO 63701-4799 (573) 651-2757	Spiva Library Missouri Southern State University 3950 East Newman Road Joplin, MO 64801-1595 (417) 625-9342	University Library Southwest Baptist University 1600 University Ave. Bolivar, MO 65613-2597 (417) 328-1631
St. Louis University Law Library 3700 Lindell Blvd. St. Louis, MO 63108-3478 (314) 977-2742	Riverside Regional Library PO Box 389, 1997 E. Jackson Blvd. Jackson, MO 63755-0389 (573) 243-8141	Missouri State Library 600 West Main, PO Box 387 Jefferson City, MO 65102-0387 (573) 751-3615	Barry-Lawrence Regional Library 213 6th St. Monett, MO 65708-2147 (417) 235-6646
Eden/Webster Library Eden Theological Seminary/ Webster University 475 East Lockwood Ave. St. Louis, MO 63119-3192 (314) 961-2660 ext. 7812	Rutland Library Three Rivers Community College 2080 Three Rivers Blvd. Poplar Bluff, MO 63901-2393 (573) 840-9656	Missouri State Archives 600 West Main, PO Box 778 Jefferson City, MO 65102-0778 (573) 526-6711	Lyons Memorial Library College of the Ozarks General Delivery Point Lookout, MO 65726-9999 (417) 334-6411 ext. 3551
Thomas Jefferson Library University of Missouri-St. Louis 8001 Natural Bridge Road St. Louis, MO 63121-4499 (314) 516-5084	James C. Kirkpatrick Library University of Central Missouri 142 Edwards Library Warrensburg, MO 64093-5020 (660) 543-4149	Elmer Ellis Library University of Missouri-Columbia 106 B Ellis Library Columbia, MO 65211-5149 (573) 882-0748	Garnett Library Missouri State University—West Plains 304 Cleveland West Plains, MO 65775-3414 (417) 255-7945
Washington University Law Library Washington University Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 14 West 10th Street Kansas City, MO 64105 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
St. Louis County Library 1640 S. Lindbergh Blvd. St. Louis, MO 63131-3598 (314) 994-3300 ext. 247	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Daniel Boone Regional Library PO Box 1267, 100 West Broadway Columbia, MO 65205-1267 (573) 443-3161 ext. 359	Meyer Library Missouri State University PO Box 175, 901 S. National Springfield, MO 65804-0095 (417) 836-4533
Library Maryville University 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Miller Nichols Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125	
Pickler Memorial Library Truman State University 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	Smiley Memorial Library Central Methodist University 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6279	
	St. Joseph Public Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

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

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

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

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

EMERGENCY AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology.
The division is adding subparagraph (3)(B)1.V.

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2015 trend factor to be applied in determining Federal Reimbursement Allowance (FRA) funded hospital payments for SFY 2015.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because this emergency amendment establishes the Federal Reimbursement Allowance (FRA) funded hospital payments for dates of service beginning July 1, 2014 in regulation to ensure that quality health care continues to be provided to MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. In order to determine the trends for State Fiscal Year (SFY) 2015, all relevant information from the necessary sources must be available to MHD. The division uses the best information available when it starts

*calculating the payments so it uses the trend published in the **Fourth Quarter Healthcare Cost Review** publication which is generally not available until February. The division must also analyze hospital data, which is not complete until near the end of the state fiscal year, in conjunction with the trend and funding to determine the appropriate level of payments. Without this information, the trends cannot be determined. Therefore, due to timing of the receipt of this information and the necessary July 1, 2014 effective date, an emergency regulation is necessary. As a result, the MHD finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve over eight hundred seventy-nine thousand (879,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. A proposed amendment, which covers the same material, will be published in the **Missouri Register**. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri and United States Constitutions**. The MHD believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 20, 2014, becomes effective July 1, 2014, and expires December 27, 2014.*

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation.

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-) quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

- A. SFY 1994—4.6%
- B. SFY 1995—4.45%
- C. SFY 1996—4.575%
- D. SFY 1997—4.05%
- E. SFY 1998—3.1%
- F. SFY 1999—3.8%
- G. SFY 2000—4.0%
- H. SFY 2001—4.6%
- I. SFY 2002—4.8%
- J. SFY 2003—5.0%
- K. SFY 2004—6.2%
- L. SFY 2005—6.7%
- M. SFY 2006—5.7%
- N. SFY 2007—5.9%
- O. SFY 2008—5.5%
- P. SFY 2009—5.5%
- Q. SFY 2010—3.9%
- R. SFY 2011—3.2%—The 3.2% trend shall not be applied in

determining the per diem rate, Direct Medicaid payments, or uninsured payments.

- S. SFY 2012—4.0%
- T. SFY 2013—4.4%
- U. SFY 2014—3.7%
- V. SFY 2015—4.3%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, shall have its MO HealthNet rate determined in accordance with section (4).

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2013. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2014, effective July 1, 2014, expires Dec. 27, 2014. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is adding part (1)(A)13.G.(IX) and subparts (a) and (b).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2015 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the Federal Reimbursement Allowance (FRA) fiscal year cost report to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because the emergency amendment is necessary to establish the Federal Reimbursement Allowance (FRA) assessment rate effective for dates of service beginning July 1, 2014 in regulation in order to collect the state revenue to ensure access to hospital services for MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The Missouri Partnership Plan between the Centers for Medicare and Medicaid Services (CMS) and the Missouri Department of Social Services (DSS), which establishes a process whereby CMS and DSS determine the permissibility of the funding source used by Missouri to fund its share of the MO HealthNet program, is based on a state fiscal year. In order to determine the trends for State Fiscal Year (SFY) 2015, all relevant information from the necessary sources must be available to MHD. The division uses the best information available when it starts calculating the assessment so it uses the trend published in the **Fourth Quarter Healthcare Cost Review** publication which is generally not available until February. The division must also analyze hospital revenue data, which is not complete until near the end of the state fiscal year, in conjunction with the trend and hospital FRA funded payments to determine the appropriate level of assessment. Without this information, the trends cannot be determined. Therefore, due to timing of the receipt of this information and the necessary July 1, 2014 effective date, an emergency regulation is necessary. The MHD also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve over eight hundred seventy-nine thousand (879,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured indi-*

viduals in need of medical treatment. The FRA will raise approximately \$1.093 billion for SFY 2015 (July 1, 2014–June 30, 2015), of which \$22.0 million is attributable to the trend factor that is the subject of this emergency amendment. A proposed amendment, which covers the same material, will be published in the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The MHD believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 20, 2014, becomes effective July 1, 2014, and expires December 27, 2014.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. The Medicare/Medicaid Cost Report version 2552-96 (CMS 2552-96) shall be used for fiscal years ending on or after September 30, 1996. The Medicare/Medicaid Cost Report version 2552-10 (CMS 2552-10) shall be used for fiscal years beginning on and after May 1, 2010. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-)/- month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-)/- month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-)/- month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-)/- month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals.

The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3 from CMS 2552-96, or Worksheet G-2, Line 28, Column 3 from CMS 2552-10, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6 from CMS 2552-96, or Worksheet C, Part I, Line 45, Column 6 from CMS 2552-10;

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1 from CMS 2552-96, or Worksheet G-2, Line 6, Column 1 from CMS 2552-10;

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.);

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2 from CMS 2552-96, or Worksheet G-2, Line 25, Column 2 from CMS 2552-10;

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7 from CMS 2552-96, or Worksheet C, Part I, Line 95, Column 7 from CMS 2552-10;

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2 from CMS 2552-96, or Worksheet G-2, Line 22, Column 2 from CMS 2552-10;

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50-63.59 from CMS 2552-96, or Worksheet C, Part I, Column 7, Line 88 and subsets from CMS 2552-10; and

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24 from CMS 2552-96, or Worksheet G-2, Lines 5, 7, 9, 21, 24, 26, and 27 from CMS 2552-10;

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology;

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue";

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1 from CMS 2552-96, or Worksheet G-2, Line 28, Column 1 from CMS 2552-10, of the most recent cost report that is available for a hospital;

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2 from CMS 2552-96, or Worksheet G-2, Line 28, Column 2 from CMS 2552-10, of the most recent cost report that is available for a hospital;

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue"; and

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

(VII) SFY 2013 = 4.4%

(VIII) SFY 2014 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—3.70%

(IX) SFY 2015 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—4.30%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

AUTHORITY: sections 208.201 and 208.453, RSMo Supp. 2013, and section 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20 2014, effective July 1, 2014, expires Dec. 27, 2014. A proposed amendment covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2013.

EXECUTIVE ORDER

14-06

WHEREAS, clean, reliable, affordable, and abundant energy is critical to the health and welfare of Missouri citizens and to moving Missouri's economy forward; and

WHEREAS, our Strategic Initiative for Economic Growth identified "Energy Solutions" as one of the seven targeted industries with the greatest potential for creating jobs and spurring economic growth in the State of Missouri; and

WHEREAS, establishing policies to encourage the efficient use of energy in all sectors of the economy will allow Missouri citizens to more effectively manage their household budgets and Missouri businesses to run more profitably; and

WHEREAS, in recognition of energy's unique and growing importance to the state's economy, Executive Order 13-03, transferred the Division of Energy, formerly located within the Missouri Department of Natural Resources, to the Missouri Department of Economic Development, the executive agency charged with promoting economic growth and job creation; and

WHEREAS, the transfer of the Division of Energy to the Missouri Department of Economic Development benefits the State of Missouri through a better alignment of goals to promote the development, security and affordability of diverse energy sources essential to the future of Missouri's economy; and

WHEREAS, Missouri will benefit from a cohesive and comprehensive set of policies designed to guide the development of future energy supply and energy use; and

WHEREAS, meeting our need for clean, affordable, and abundant energy in the future will require a diverse energy portfolio and a strategic approach, requiring engagement of all energy stakeholders in a comprehensive planning process; and

WHEREAS, a comprehensive statewide energy plan will foster the efficient allocation of capital among competing energy resources and spur job creation and economic growth; and

WHEREAS, a comprehensive statewide energy plan will provide a framework to ensure stable and predictable electricity prices.

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 order that:

The Division of Energy shall lead a statewide initiative to develop a comprehensive State Energy Plan to chart a course toward a sustainable and prosperous energy future that will create jobs and improve Missourians' quality of life.

The State Energy Plan shall include analyses and recommendations to guide the State of Missouri and its stakeholders in reliably meeting future energy needs, while fostering energy-related economic development. The State Energy Plan shall include an inventory and assessment of current and future energy supply and demand, examine existing energy policies, and identify emerging challenges and opportunities.

The Division of Energy shall solicit input from the public and energy stakeholders, including consumers, businesses, utilities, energy companies, academicians, political subdivisions and environmental advocates. The Division of Energy shall conduct public meetings around the state.

The Plan shall identify policies to meet Missouri's short-term and long-term needs for clean, reliable, affordable and abundant energy.

The Plan shall guide the development of Missouri's energy infrastructure to further the State's economic development, while ensuring access to affordable energy resources for all Missouri citizens and businesses.

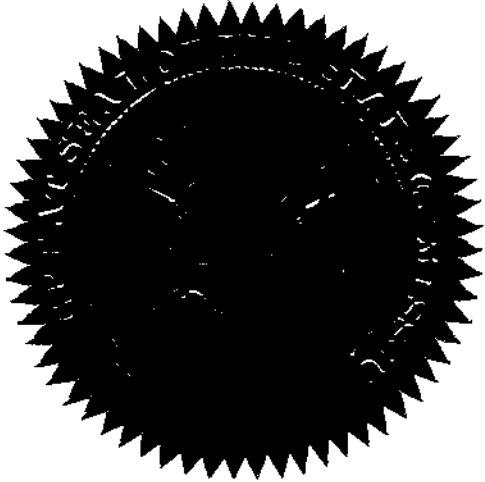
The Plan shall include, but not be limited to, the following energy-related topics: 1) Electric Generation; 2) Fuels and Resource Extraction; 3) Energy Distribution; 4) Energy Usage; 5) Energy Storage; 6) Energy-related Land Use; 7) Energy/Water Nexus; 8) Energy Pricing and Rate-setting Processes; 9) Energy Security and Assurance; and 10) Energy Resources in Emergencies.

The Plan shall identify any changes to statutes or regulations that are necessary to its implementation.

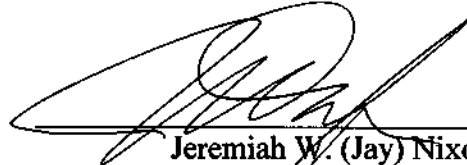
The Plan shall be developed in a manner that will allow the public and representatives of all interested stakeholders to participate.

All executive branch entities, including but not limited to, the Department of Economic Development, the Department of Natural Resources, the Department of Agriculture, the Office of Administration, the Department of Elementary and Secondary Education, the Department of Higher Education, the Department of Transportation, the Public Service Commission, the Office of the Public Counsel, and the State Emergency Management Agency shall provide administrative support and coordination with the Division of Energy in the development of the State Energy Plan.

The Division of Energy shall deliver a State Energy Plan to the Governor by May 31, 2015.

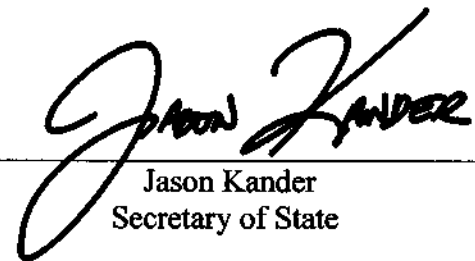


IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 18th day of June, 2014.



Jeremiah W. (Jay) Nixon
Governor

ATTEST:



Jason Kander
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 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 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-7.433 Deer: Firearms Hunting Season. The commission proposes to amend section (4), and subsections (4)(A) and (4)(B) of this rule.

PURPOSE: This amendment clarifies the methods and permits required to hunt other wildlife during the youth and alternative methods portions of the fall firearms deer season.

(4) Other wildlife may be hunted during the firearms deer hunting season *[with the following restrictions:]* **except as further restricted in this section—**

(A) During the November portion statewide and the antlerless portion in open counties, other wildlife (**except furbearers**) may be hunted only with pistol, revolver, or rifle firing a .22 caliber or smaller rimfire cartridge, or a shotgun and shot not larger than No. 4; except that waterfowl hunters, trappers, or landowners on their land or lessees on land upon which they reside may use other methods as specified in 3 CSR 10-7.410(1)(G);

(B) **During the November portion statewide and the antlerless portion in open counties, [F]urbearers may be hunted [using any legal deer hunting method during] within the established furbearer hunting seasons during daylight hours using any legal deer hunting method** by persons holding an unfilled Firearms Deer *[Hunting Permit] hunting permit*, and—

1. A Resident Small Game Hunting Permit; or
2. A Nonresident Furbearer Hunting and Trapping Permit;

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the Code of State Regulations. Amended: Filed July 1, 2014.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending sections (3), (4), and (15) and adding subparagraph (3)(B)1.V.

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2015 trend factor to be applied in determining hospital payments for SFY 2015. This amendment also clarifies the per diem rate computation for new and existing facilities and clarifies the reimbursement for a facility that terminates from and reenters the MO HealthNet program. In addition, this amendment clarifies the publication to be used for trend indices.

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation./::

(A) The per diem rate shall be determined from the 1995 base year cost report in accordance with the following formula:

$$\text{Per Diem} = \frac{(\text{OC} * \text{TI})}{\text{MPD}} + \frac{\text{CMC}}{\text{MPDC}}$$

1. OC—The operating component is the hospital's total allowable cost (TAC) less CMC;

2. CMC—The capital and medical education component of the hospital's TAC;

3. MPD—Medicaid inpatient days;

4. MPDC-MPD—Medicaid patient days for capital costs as defined in paragraph (3)(A)3. with a minimum utilization of sixty percent (60%) as described in paragraph (5)(C)8.;

5. TI—Trend indices. The trend indices are applied to the OC of the per diem rate. The trend *[indices]* index for SFY 1995 is used to adjust the OC to a common fiscal year end of June 30. **The adjusted OC shall be trended through SFY 2001;**

6. TAC—Allowable inpatient routine and special care unit expenses, ancillary expenses, and graduate medical education costs will be added to determine the hospital's total allowable cost (TAC);

7. The per diem shall not exceed the average MO HealthNet inpatient charge per diem as determined from the base year cost report and adjusted by the TI; and

8. The per diem shall be adjusted for rate increases granted in accordance with subsection (5)(F) for allowable costs not included in the base year cost report.

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-) quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill, **or equivalent publication regardless of any changes in the name of the publication or publisher,** for each State Fiscal Year (SFY).

1. The TI are—

- A. SFY 1994—4.6%
- B. SFY 1995—4.45%
- C. SFY 1996—4.575%
- D. SFY 1997—4.05%
- E. SFY 1998—3.1%
- F. SFY 1999—3.8%
- G. SFY 2000—4.0%
- H. SFY 2001—4.6%
- I. SFY 2002—4.8%
- J. SFY 2003—5.0%
- K. SFY 2004—6.2%
- L. SFY 2005—6.7%
- M. SFY 2006—5.7%
- N. SFY 2007—5.9%
- O. SFY 2008—5.5%
- P. SFY 2009—5.5%
- Q. SFY 2010—3.9%

R. SFY 2011—3.2%—The 3.2% trend shall not be applied in determining the per diem rate, Direct Medicaid payments, or uninsured payments.

- S. SFY 2012—4.0%
- T. SFY 2013—4.4%
- U. SFY 2014—3.7%
- V. SFY 2015—4.3%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, *[shall have its MO HealthNet rate determined in accordance with section (4)]* will receive the same inpatient rate and outpatient rate as the previous owner/operator. Such facility will also receive the same Direct

Medicaid Add-On Payment and Uninsured Add-On Payment as the previous owner/operator if the facility reenters the MO HealthNet Program during the same state fiscal year. If the facility does not reenter during the same state fiscal year, the Direct Medicaid Add-On Payment and Uninsured Add-On Payment will be determined based on the applicable base year data (i.e., fourth prior year cost report for the Direct Medicaid Payment; see 13 CSR 70-15.220 for the applicable data for the Uninsured Add-On Payment). If the facility does not have the applicable base year data, the Direct Medicaid Add-On Payment and the Uninsured Add-On Payment will be based on the most recent audited data available and will include annual trend factor adjustments from the year subsequent to the cost report period through the state fiscal year for which the payments are being determined.

(4) Per Diem Rate—New Hospitals.

(A) Facilities Reimbursed by Medicare on a Per Diem Basis. In the absence of adequate cost data, a new facility's MO HealthNet rate *[may be its most current Medicare rate on file for two (2) fiscal years following the facility's initial fiscal year as a new facility. The MO HealthNet rate for this third fiscal year will be the lower of the most current Medicare rate on file by review date or the facility's MO HealthNet rate for its second fiscal year indexed forward by the inflation index for the current fiscal year. The MO HealthNet rate for the facility's fourth fiscal year will be determined in accordance with sections (1)–(3) of this plan.]* shall be determined as set forth below in (4)(B).

(B) Facilities Reimbursed by Medicare on a DRG Basis. In the absence of adequate cost data, a new facility's MO HealthNet rate shall be ninety percent (90%) of the average-weighted, statewide per diem rate for the year it became certified to participate in the MO HealthNet Program until a prospective rate is determined on the facility's *[fourth fiscal year] rate setting* cost report *[in accordance with sections (1)–(3) of this plan]* as set forth below in paragraph (4)(B)1. The facility's rate setting cost report shall be the first full fiscal year cost report. If the facility's *[fourth] first full* fiscal year cost report does not include any Medicaid costs, the facility shall continue to receive the initial rate, and the prospective rate will be determined from the facility's *[fifth] second full* fiscal year cost report. **If the facility's second full fiscal year cost report does not include any Medicaid cost, the initial rate shall become the facility's prospective rate and shall be effective the date the facility was enrolled in the MO HealthNet program. The effective date for facilities whose prospective rate was based on the rate setting cost report shall be the first day of the SFY that the rate setting cost report is the base year cost report for determining the Direct Medicaid Add-On Payment.**

1. Prospective Per Diem Reimbursement Rate Computation. Each new hospital shall receive a MO HealthNet prospective per diem rate based on the sum of the following components:

A. Total Allowable Cost, less Graduate Medical Education cost, adjusted by the Trend Indices included in (3)(B) from the year subsequent to the rate setting cost report period through the state fiscal year for which the rate is being determined, divided by Medicaid Inpatient Days; plus,

B. Graduate Medical Education cost divided by Medicaid Inpatient Days.

2. The per diem rate shall not exceed the average MO HealthNet inpatient charge per day as determined from the rate setting cost report as adjusted by the applicable Trend Indices;

3. The per diem rate shall be adjusted for rate increases granted in accordance with subsection (5)(F) for allowable costs not included in the rate setting cost report.

4. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid Payments computed in accordance with subsection (15)(B).

(C) In addition to the MO HealthNet rate determined by either subsection (4)(A) or (4)(B), the MO HealthNet per diem rate for a new hospital licensed after February 1, 2007, shall include an adjustment for the hospital's estimated Direct Medicaid Add-On [p/Payment per patient day, as determined in subsection (15)(C), until the facility's [fourth fiscal year] prospective rate is set in accordance with subsection (4)(B). [The MO HealthNet rate for the facility's fourth fiscal year will be determined in accordance with sections (1)–(3) of this plan.] The facility's Direct Medicaid Add-On adjustment will then no longer be included in the per diem rate but shall be calculated as a separate Add-On [p/Payment, as set forth in section (15). [If the facility's fourth fiscal year cost report does not include any Medicaid costs, the facility shall continue to receive the Direct Medicaid Add-On as an adjustment to its initial rate. The prospective rate will be determined on the facility's fifth fiscal year cost report at which time the facility's Direct Medicaid Add-On adjustment will no longer be included in the per diem but be calculated as a separate Add-On payment, as set forth in section (15).]

(15) Direct Medicaid Payments.

(C) For new hospitals that do not have a base cost report, Direct Medicaid [p/Payments shall be estimated as follows:

1. Hospitals receiving Direct Medicaid [p/Payments shall be divided into quartiles based on total beds;

2. Direct Medicaid [p/Payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average Direct Medicaid [p/Payment per bed;

3. The number of beds for the new hospital without the base cost report shall be multiplied by the average Direct Medicaid [p/Payment per bed to determine the hospital's estimated Direct Medicaid [p/Payment for the current state fiscal year; and

4. For a new hospital licensed after February 1, 2007, estimated total Direct Medicaid [p/Payments for the current state fiscal year shall be divided by the estimated MO HealthNet patient days for the new hospital's quartile to obtain the estimated Direct Medicaid adjustment per patient day. This adjustment per day shall be added to the new hospital's MO HealthNet rate as determined in section (4), so that the hospital's Direct Medicaid [p/Payment per day is included in its per diem rate, rather than as a separate Add-On [p/Payment. When the hospital's per diem rate is determined from its fourth prior year cost report in accordance with sections (1)–(3), the facility's Direct Medicaid [p/Payment will be calculated in accordance with subsection (15)(B) and reimbursed as an Add-On [p/Payment rather than as part of the per diem rate. If the hospital is defined as a critical access hospital, its MO HealthNet per diem rate and Direct Medicaid [p/Payment will be determined in accordance with subsection (5)(F).

5. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, shall have its Direct Medicaid [p/Payments determined in accordance with [subsection (15)(C)] paragraph (3)(B)4.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2013. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2014, effective July 1, 2014, expires Dec. 27, 2014. Amended: Filed July 1, 2014.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$30.7 million.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be 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
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 - Hospital Program

Rule Number and Title:	13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2015 Impact: Total Cost = \$83.1 million; State Share = \$30.7 million

III. WORKSHEET

Estimated Cost for SFY 2015:

Estimated Payments with 4.3% Trend	\$2,362,511,171
Estimated Payments without 4.3% Trend	<u>\$2,279,380,001</u>
Estimated Impact of 4.3% Trend	\$83,131,170
State Share Percentage	<u>36.905%</u>
State Share	\$30,679,558

IV. ASSUMPTIONS

The estimated cost is based upon the data in FRA 15-1. The base year for the SFY 2015 payments are the 2011 cost reports, which are adjusted by the applicable trends published in 13 CSR 70-15.010 and the 4.3% trend for SFY 2015, which is the subject of this proposed amendment.

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

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is adding part (1)(A)13.G.(IX) and subparts (a) and (b), paragraph (1)(B)3. and subparagraphs A.–E., renumbering as needed, and adding paragraph (1)(B)5.

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2015 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the FRA fiscal year cost report, revises the estimated inpatient and outpatient adjusted net revenues for new hospitals beginning January 1, 2015, and clarifies the assessment for hospitals whose license has been terminated and becomes relicensed.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. The Medicare/Medicaid Cost Report version 2552-96 (CMS 2552-96) shall be used for fiscal years ending on or after September 30, 1996. The Medicare/Medicaid Cost Report version 2552-10 (CMS 2552-10) shall be used for fiscal years beginning on and after May 1, 2010. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-)/- month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-)/- month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-)/- month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-)/- month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3 from CMS 2552-96, or Worksheet G-2, Line 28, Column 3 from CMS 2552-10, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6 from CMS 2552-96, or Worksheet C, Part I, Line 45, Column 6 from CMS 2552-10;

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1 from CMS 2552-96, or Worksheet G-2, Line 6, Column 1 from CMS 2552-10;

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.);

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2 from CMS 2552-96, or Worksheet G-2, Line 25, Column 2 from CMS 2552-10;

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7 from CMS 2552-96, or Worksheet C, Part I, Line 95, Column 7 from CMS 2552-10;

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2 from CMS 2552-96, or Worksheet G-2, Line 22, Column 2 from CMS 2552-10;

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50-63.59 from CMS 2552-96, or Worksheet C, Part I, Column 7, Line 88 and subsets from CMS 2552-10; and

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24 from CMS 2552-96, or Worksheet G-2, Lines 5, 7, 9, 21, 24, 26, and 27 from CMS 2552-10;

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology;

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue";

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1 from CMS 2552-96, or Worksheet G-2, Line 28, Column 1 from CMS 2552-10, of the most recent cost report that is available for a hospital;

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2 from CMS 2552-96, or Worksheet G-2, Line 28,

Column 2 from CMS 2552-10, of the most recent cost report that is available for a hospital;

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue"; and

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

(VII) SFY 2013 = 4.4%

(VIII) SFY 2014 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—3.70%

(IX) SFY 2015 =

(a) Inpatient Adjusted Net Revenues—0%

(b) Outpatient Adjusted Net Revenues—4.30%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

(B) Each hospital engaging in the business of providing inpatient health care in Missouri shall pay an FRA. The FRA shall be calculated by the Department of Social Services.

1. The FRA shall be sixty-three dollars and sixty-three cents (\$63.63) per inpatient hospital day from the 1991 base cost report for Federal Fiscal Year 1994. For succeeding periods, the FRA shall be as described beginning with section (2) and going forward.

2. If a hospital does not have a fourth prior year base cost report, inpatient and outpatient adjusted net revenues shall be estimated as follows:

A. Hospitals required to pay the FRA, except safety net hospitals, shall be divided in quartiles based on total beds;

B. The inpatient adjusted net revenue shall be summed for each quartile and divided by the total beds in the quartile to yield an average inpatient adjusted net revenue per bed. The number of beds for the hospital without the base cost report shall be multiplied by the average inpatient adjusted net revenue per bed to determine the estimated inpatient adjusted net revenue; and

C. The outpatient adjusted net revenue shall be summed for each quartile and divided by the number of facilities in the quartile to yield an average outpatient adjusted net revenue per facility which will be the estimated outpatient adjusted net revenue for the hospital without the base cost report.

3. Beginning January 1, 2015, if a hospital does not have a third prior year cost report on which to determine the hospital revenues subject to FRA assessment as set forth in paragraph (1)(A)13., inpatient and outpatient adjusted net revenues shall be based upon the projections included with its Certificate of Need (CON) application on the "Service-Specific Revenues and Expenses" form (CON projections) required in a full CON review as described in 19 CSR 60-50.300. If the hospital did not go through a full CON review, it must submit a completed "Service-

Specific Revenues and Expenses" form that has been verified by an independent auditor.

A. The hospital must provide the division with the breakdown of the inpatient and outpatient revenues that tie to the CON projections.

B. The CON projections and the breakdown of the inpatient and outpatient revenues are subject to review and validation by the division.

C. If the facility does not provide the CON projections, the breakdown of the inpatient and outpatient revenues, or any other additional information requested by the division within thirty (30) days of the division's request, the inpatient and outpatient adjusted net revenues shall be based upon the quartile method set forth in paragraph (1)(B)2.

D. Direct Medicaid and Uninsured Add-On Payments shall be included in the estimated inpatient and outpatient adjusted net revenues.

E. Once the facility has a third prior year cost report, the assessment shall be based on the actual inpatient and outpatient adjusted net revenues from such cost report.

3.14. The FRA assessment for hospitals that merge operation under one (1) Medicare and MO HealthNet provider number shall be determined as follows:

A. The previously determined FRA assessment for each hospital shall be combined under the active MO HealthNet provider number for the remainder of the state fiscal year after the division receives official notification of the merger; and

B. The FRA assessment for subsequent fiscal years shall be based on the combined data for both facilities.

5. A hospital which either voluntarily or involuntarily terminates its license and which becomes relicensed will be assessed the same inpatient and outpatient assessment as the previous hospital owner/operator if the hospital becomes relicensed during the same state fiscal year. If the hospital does not become relicensed during the same state fiscal year, the inpatient and outpatient assessment will be determined based on the applicable base year data (i.e., third prior year). If the hospital does not have the applicable base year data, the inpatient and outpatient assessment will be based on the most recent cost report data available and will include annual trend factor adjustments from the year subsequent to the cost report period through the state fiscal year for which the assessments are being determined.

AUTHORITY: sections 208.201 and 208.453, RSMo Supp. 2013, and section 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2014, effective July 1, 2014, expires Dec. 27, 2014. Amended: Filed July 1, 2014.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$3.5 million.

PRIVATE COST: This proposed amendment will cost private entities approximately \$18.6 million.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be 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
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Hospitals which provide health care services in Missouri that are owned or controlled by the state, counties, cities, or hospital districts	Estimated cost for SFY 2015 \$3.5 million

III. WORKSHEET

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Public Facilities Revenues	44	\$1,385,519,275	\$1,364,275,580	\$2,749,794,855
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment without Trend		\$82,438,397	\$81,174,397	\$163,612,794
Revenue Trend for SFY 2015		0.00%	4.30%	
Total Revenues Trended		\$1,385,519,275	\$1,422,939,430	\$2,808,458,705
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment with Trend		\$82,438,397	\$84,664,896	\$167,103,293
Impact of Trend (Assessment with trend less Assessment without trend)				\$3,490,499
Prior SFY Total Assessment using Prior Year Methodology				\$159,415,949
Increase of Total Assessment over Prior SFY				\$7,687,344

IV. ASSUMPTIONS

This fiscal note reflects the total assessment to be collected during SFY 2015 of approximately \$167.1 million and is an increase of approximately \$7.7 million from SFY 2014. The impact of the 4.3% trend on outpatient revenues is approximately \$3.5 million.

The fiscal note is based on establishing the FRA assessment rate at 5.95% and a trend of 4.3% on outpatient revenues effective for dates of service beginning July 1, 2014. The FRA assessment rate of 5.95% is levied upon Missouri hospitals' trended, inpatient and outpatient net adjusted revenue in accordance with the Missouri Partnership Plan.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Proposed Amendment

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:
103	Hospitals	Estimated cost for SFY 2015 \$18.6 million

III. WORKSHEET

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Private Facilities Revenues	104	\$7,993,443,215	\$7,251,881,091	\$15,245,324,306
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment without Trend		\$475,609,871	\$431,486,925	\$907,096,796
Revenue Trend for SFY 2015		0.00%	4.30%	
Total Revenues Trended		\$7,993,443,215	\$7,563,711,978	\$15,557,155,193
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment with Trend		\$475,609,871	\$450,040,863	\$925,650,734
Impact of Trend (Assessment with trend less Assessment without trend)				\$18,553,938
Prior SFY Total Assessment using Prior Year Methodology				\$919,559,792
Increase of Total Assessment over Prior SFY				\$6,090,942

IV. ASSUMPTIONS

This fiscal note reflects the total assessment to be collected during SFY 2015 of approximately \$925.7 million and is an increase of approximately \$6.1 million over SFY 2014. The impact of the 4.3% trend on outpatient revenues is approximately \$18.6 million.

The fiscal note is based on establishing the FRA assessment rate at 5.95% and a trend of 4.3% on outpatient revenues effective for dates of service beginning July 1, 2014. The FRA assessment rate of 5.95% is levied upon Missouri hospitals' trended, inpatient and outpatient net adjusted revenue in accordance with the Missouri Partnership Plan.

**Title 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 5—Public Defender Fees for Services**

PROPOSED RULE

18 CSR 10-5.010 Public Defender Fees for Services

PURPOSE: This rule establishes a schedule of charges to be assessed against individuals who are eligible for public defender services and who receive such services in accordance with Chapter 600 and section 600.090.1(2) RSMo, 2000.

(1) Application.

(A) The state public defender is statutorily obligated to represent individuals accused of certain crimes and who are without means to secure private defense counsel. Once an individual is determined eligible for services by the public defender or the court, the public defender shall immediately commence representation. Every individual receiving public defender services is required to reimburse the public defender commission for the costs of the representation in such amounts as he or she can reasonably pay, either in a single payment or by installments in accordance with the schedule of charges hereby established by this rule.

(2) Schedule of Charges.

(A) The commission hereby establishes the following schedule of charges to be assessed as fees owed the State Public Defender for services rendered:

BASE SCHEDULE OF CHARGES

1. Entry with early withdrawal	\$ 25.00
2. Misdemeanors and Probation Violation Cases	\$ 125.00
3. Felonies, Appeals, and Post Conviction Remedies	\$ 375.00
4. Felony Sex Cases	\$ 500.00
5. Murder Non Capital and Civil Commitment Cases	\$ 750.00
6. Capital Murder Cases.	\$1,500.00

(B) The fees assessed by the Schedule of Charges constitute the entire costs assessed against an individual receiving public defender services in an individual case. If an individual has more than one (1) case a fee will be charged in each case according to the Schedule of Charges.

(C) When an individual is criminally charged with separate counts within the same indictment or information, the most serious count charged will determine the charge assessed as fees for the case.

(D) For good cause shown, the Office of the Public Defender may waive or reduce the amount assessed as a charge for services.

(3) No Fee Cases.

(A) No fees shall be assessed for state-provided defender services in cases in which the individual receiving services is under eighteen (18) at the time the services commence and/or is legally unable to contract for services.

AUTHORITY: sections 600.017(10), 600.086, and 600.090, RSMo 2000. Original rule filed June 30, 2014.

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 approximately \$1,182,808. These fees will be assessed on private individu-

als who are eligible for public defender services and who receive such services.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Defender Commission, 1000 West Nifong, Building 7, Suite 100, Columbia, MO 65203. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 18 – Public Defender Commission
Division Title: Division 10 – Office of State Public Defender
Chapter Title: Chapter 5 – Public Defender Fees for Services**

Rule Number and Title:	18 CSR 10-5.010 Public Defender Fees for Services
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 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:
Est. 4,516 private individuals	No businesses – only private individuals are represented by the MSPD.	\$1,182,808

III. WORKSHEET

These fees will be imposed on those who are charged with a criminal offense in Missouri and who are represented by the Missouri State Public Defender (MSPD) because they are determined to be indigent. A lien is filed against such individuals so that if they become able to pay in the future (i.e., they are no longer indigent), the MSPD can recover such fees. Based on FY 2013 (FY 2014 numbers are not yet available), the MSPD opened 75,278 cases within the fee categories set forth in the rule. If the MSPD was successful in collecting against 100% of the individuals represented by the MSPD, the total amount of fees collected would be approximately \$19,224,750. Historically, the MSPD has only been able to collect a fraction of those costs, typically because those represented by the MSPD remain indigent. In FY2013, the MSPD collected approximately 6.1% of such fees, totaling \$1,178,663. Using the fee schedule put forth as part of this rule and both the same number of cases that were opened in FY 2013 and the same collection rate, the projected amount of fees that will be collected from private individuals is \$1,182,808.

IV. ASSUMPTIONS

The Missouri State Public Defender assumes that the ability to collect from those who have received criminal indigent legal services will remain constant.