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**Rules of**  
**Department of Social Services**  
**Division 70—MO HealthNet Division**  
**Chapter 4—Conditions of Participant Participation,**  
**Rights and Responsibilities**

<b>Title</b>		<b>Page</b>
<b>13 CSR 70-4.030</b>	Participant Liability for Medical Services Not Reimbursable to the Provider by the MO HealthNet Agency .....	3
<b>13 CSR 70-4.040</b>	Eligibility Corrective Action Participant Payments.....	3
<b>13 CSR 70-4.050</b>	Copayment and Coinsurance for Certain Medicaid-Covered Services.....	4
<b>13 CSR 70-4.051</b>	Copayment for Pharmacy Services.....	5
<b>13 CSR 70-4.060</b>	Required Reporting of Injuries Received by Title XIX Recipients .....	5
<b>13 CSR 70-4.070</b>	Title XIX Recipient Lock-In Program.....	6
<b>13 CSR 70-4.080</b>	State Children’s Health Insurance Program .....	7
<b>13 CSR 70-4.090</b>	Uninsured Women’s Health Program.....	8
<b>13 CSR 70-4.100</b>	Preventing Medicaid Payment of Expenses Used to Meet Spenddown .....	9
<b>13 CSR 70-4.110</b>	Placement of Liens on Property of Certain Institutionalized MO HealthNet Eligible Persons .....	9



**Title 13—DEPARTMENT OF  
SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 4—Conditions of Participant  
Participation, Rights and  
Responsibilities**

**13 CSR 70-4.030 Participant Liability for Medical Services Not Reimbursable to the Provider by the MO HealthNet Agency**

*PURPOSE: This rule establishes the guidelines for determination of participant liability for medical services not reimbursable to the provider by the MO HealthNet agency.*

(1) When an enrolled MO HealthNet provider provides an item or service to a MO HealthNet participant eligible for the item or service on the date provided, there shall be a presumption that the provider accepts the participant's MO HealthNet benefits and seeks reimbursement from the MO HealthNet agency in accordance with all of the applicable MO HealthNet rules. This presumption shall be overcome only by written evidence of an agreement between the provider and the participant indicating that MO HealthNet is not the intended payor for the specific item or service but rather that the participant accepts the status and liabilities of a private pay patient. All third-party resource benefits must be exhausted before payment will be made by the division for the item or service rendered to that participant. For purposes of this rule, neither the provider nor the participant shall be required to exhaust all third-party resources in those situations where the provider or participant elect not to pursue contingent liability from a third-party tortfeasor. Both the provider and the participant have an affirmative duty to report the existence of contingent liability to the MO HealthNet Division and the participant has the duty to cooperate with the MO HealthNet Division if the division elects to pursue the contingent liability.

(2) When an item or service is rendered to a MO HealthNet participant who was eligible for the item or service on the date provided and provision of the item or service is billed to the MO HealthNet agency by an enrolled MO HealthNet provider who is not reimbursed by the agency for the item or service claimed, the item or service will not be the liability of the participant if the item or service would have been otherwise payable by the MO HealthNet agency at the MO HealthNet allowable amount had the provider followed all of the policies, procedures and rules applicable to the item or service as of the date

provided. If the item or service is not otherwise payable for reasons unrelated to the actions of the provider, the participant is liable to the provider for payment of the item or service.

(3) The creation of a presumptive acceptance by a provider of the MO HealthNet benefits for a MO HealthNet covered service and the requirement for written evidence of an agreement to overcome presumptive acceptance, as established in this rule, shall not be applicable to services provided to a participant who is dually eligible and entitled to both MO HealthNet and Medicare Part B medical insurance benefits.

(4) The provisions of this rule shall apply to items or services provided on or after July 11, 1985.

*AUTHORITY: section 207.020, RSMo 2000 and sections 208.152 and 208.153, RSMo Supp. 2007.\* This rule was previously filed as 13 CSR 40-81.140. Original rule filed April 16, 1985, effective July 11, 1985. Amended: Filed March 2, 1988, effective May 12, 1988. Amended: Filed Oct. 12, 2007, effective April 30, 2008.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993; 208.152, RSMo 1967, amended 1969, 1971, 1972, 1973, 1975, 1977, 1978(2), 1981, 1986, 1988, 1990, 1992, 1993, 2004, 2005, 2007; and 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007.*

**13 CSR 70-4.040 Eligibility Corrective Action Participant Payments**

*PURPOSE: This rule establishes the basis on which participants may be reimbursed by the MO HealthNet program for Title XIX services and for services covered under state-only types of assistance programs and after this referred to as MO HealthNet paid by them to providers between the date of the initial agency decision denying their eligibility and the date of the agency or court decision establishing their eligibility for MO HealthNet.*

(1) All participants whose eligibility for MO HealthNet benefits is denied and whose eligibility is subsequently established as a result of an agency hearing decision, a court decision based on an agency hearing decision or any other final agency decision rendered on or after January 1, 1986 may be reimbursed by the MO HealthNet agency for MO HealthNet services paid by the participants to providers between the date of the agency decision denying their eligibility and the date

of the agency or court decision establishing their eligibility for MO HealthNet benefits.

(A) Payments to a participant will be made only for medical services which were covered services at the time provided in accordance with MO HealthNet program benefits, limitations and requirements applicable to the services or the participant as of the date provided, except that prior authorization requirements will not apply.

(B) Payments may be made for services of either an enrolled MO HealthNet provider or for providers who do not participate in MO HealthNet.

(C) Payments to a participant will be limited to the lesser of the MO HealthNet allowable amount for the covered item or service as of the date provided or the aggregate amount paid by the participant for the covered item or service.

(D) Any medical expenses paid by the participant which are for the purpose of meeting that participant's spenddown obligation are not payable.

(E) All third-party resource benefits received by the participant for MO HealthNet covered services must be applied against the lesser of the MO HealthNet allowable amount for the covered item or service as of the date provided or the aggregate amount paid by the participant for the covered item or service. No payment shall be made to the participant until all third-party resource benefits have been exhausted as would have been applicable to participants receiving MO HealthNet. For purposes of this rule, neither the provider nor the participant shall be required to exhaust all third-party resources in those situations where the provider or the participant elects not to pursue contingent liability from a third-party tortfeasor. Both the provider and the participant have an affirmative duty to report the existence of contingent liability to the MO HealthNet Division and the participant has the duty to cooperate with the MO HealthNet Division if the division elects to pursue the contingent liability.

(F) As evidenced by the MO HealthNet agency's date of receipt, the participant or person legally responsible will have one (1) year from the date of the final agency or court decision establishing eligibility to submit all written requests for participant payment to the MO HealthNet agency with sufficient documentation to determine the appropriate reimbursement amount under the applicable provisions of subsections (1)(A), (C) and (E) for the MO HealthNet-covered items or services paid by the participant.



AUTHORITY: sections 208.153 and 208.201, RSMo Supp. 2007.\* This rule was previously filed as 13 CSR 40-81.141. Original rule filed April 16, 1985, effective Jan. 1, 1986. Amended: Filed Jan. 22, 1992, effective Sept. 6, 1992. Amended: Filed May 1, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 12, 2007, effective April 30, 2008.

\*Original authority: 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007; and 208.201, RSMo 1987, amended 2007.

13 CSR 70-4.050 Copayment and Coinsurance for Certain Medicaid-Covered Services

PURPOSE: This rule implements recipient copayment for certain Missouri Medicaid program areas.

(1) Recipients eligible to receive Missouri Medicaid services under certain program areas shall be required to pay a small portion of the costs of the services. The services to be affected by the copayment or coinsurance requirements are—

- (A) Dental services related to trauma or the treatment of a disease/medical condition;
(B) Optical services related to trauma or the treatment of a disease/medical condition, and one (1) eye exam every two (2) years;
(C) Podiatry services provided through the podiatry program;
(D) Inpatient hospital services;
(E) Hospital outpatient clinic/emergency room services; and
(F) All physician-related services.

(2) Participating providers of services in the program areas named shall be required to charge copayment or coinsurance, as applicable, on each subject item of service performed or furnished, or on each date of service as applicable.

(3) Copayment charged shall be in accordance with 42 CFR 447.54 and, applicable to the services described in subsections (1)(A), (excepting dentures), (B), (C), and (F), based on the following schedule:

Table with 2 columns: Medicaid Payment for Each Item of Service, Recipient Copayment Amount. Rows include \$10 or less, \$10.01-\$25, \$25.01-\$50, \$50.01 or more.

(4) Under this rule, coinsurance shall apply only to Medicaid-covered full and partial

dentures. The coinsurance amount to be charged shall be five percent (5%) of the lesser of the Medicaid maximum allowable amount for the service or the provider's billed charge.

(5) Copayment to be charged for inpatient hospital services shall be ten dollars (\$10) per hospitalization, applicable to the first day of the Medicaid-covered hospital stay and to be charged to the recipient prior to discharge.

(6) Co-payment to be charged for hospital outpatient clinic or emergency room services shall be three dollars (\$3) for each date of service on which the recipient receives, either one (1) or both, outpatient clinic or emergency room services.

(7) The following is a list of exemptions to the Medicaid copayment requirement:

- (A) Services provided to recipients under nineteen (19) years of age;
(B) Services provided to recipients residing within a skilled nursing facility, an intermediate care facility, a residential care facility, an adult boarding home or a psychiatric hospital;
(C) Services provided to recipients who have both Medicare and Medicaid entitlement if Medicare covers the service and provides payment for it;
(D) Emergency or transfer inpatient hospital admissions;
(E) Emergency services provided in an outpatient clinic or emergency room, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:
1. Placing the patient's health in serious jeopardy;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part;
(F) Certain therapy services (physical therapy, chemotherapy, radiation therapy, psychotherapy and chronic renal dialysis) except when provided as an inpatient hospital service;
(G) Family planning services;
(H) Services provided to pregnant women;
(I) Services provided to foster care recipients;
(J) Services identified as medically necessary through an Early Periodic Screening, Diagnosis and Treatment (EPSDT) screen;
(K) Services provided through MC+ Managed Care Contracts;
(L) Personal care services;
(M) Mental health services;

- (N) Services provided to the blind;
(O) Hospice services; and
(P) Medicaid waiver services.

(8) Providers are responsible for collecting the copayment or coinsurance amounts from individuals. The medical assistance program shall not increase its reimbursement to a provider to offset an uncollected copayment from a recipient. A provider shall collect a copayment from a recipient at the time each service is provided or at a later date. Providers of services as described in this rule and as subject to a copayment or coinsurance requirement may not deny or reduce services otherwise eligible for Medicaid benefits on the basis of the recipient's inability to pay the due copayment or coinsurance amount when charged.

(9) A recipient's inability to pay a required coinsurance or copayment amount, as due and charged when a service is delivered, in no way shall extinguish the recipient liability to pay the due amount or prevent a provider from attempting to collect a copayment.

(10) Participation privileges in the Medicaid program shall be limited to providers who accept, as payment in full, the amounts paid by the state agency plus any coinsurance or copayment amount required of the recipient.

(11) Providers of services in the program areas named must charge copayment or coinsurance as specified at the time the service is provided to retain their participation privileges in the Missouri Medicaid program.

(12) Providers must maintain records of copayment or coinsurance amounts for five (5) years and must make those records available to the Department of Social Services upon request.

(13) If it is the routine business practice of a provider to discontinue future services to an individual with uncollected debt, the provider may include uncollected copayments under this practice.

(14) A provider shall give a Medicaid recipient a reasonable opportunity to pay an uncollected copayment.

(15) A provider shall give a Medicaid recipient with uncollected debt advanced notice and a reasonable opportunity to arrange care with a different provider before services can be discontinued.



(16) If a provider is not willing to provide services to a recipient with uncollected copayments and the requirements of this regulation have been met, the provider may discontinue future services to an individual with uncollected copayments. In accordance with 42 *Code of Federal Regulations* (CFR) 431.51, a recipient may obtain services from any qualified provider who is willing to provide services to that particular recipient and accept their ability/inability to pay the required copayments.

*AUTHORITY: sections 208.152, RSMo Supp. 2004 and as enacted by the 93rd General Assembly and 208.201, RSMo 2000.\* This rule was previously filed as 13 CSR 40-81.054. Emergency rule filed Oct. 21, 1981, effective Nov. 1, 1981, expired Feb. 10, 1982. Original rule filed Oct. 21, 1981, effective Feb. 11, 1982. Emergency amendment filed Jan. 21, 1983, effective Feb. 1, 1983, expired May 11, 1983. Amended: Filed Jan. 21, 1983, effective May 12, 1983. Amended: Filed Aug. 14, 1984, effective Nov. 11, 1984. Emergency amendment filed Aug. 11, 2005, effective Sept. 1, 2005, expired Feb. 27, 2006. Amended: Filed May 16, 2005, effective Nov. 30, 2005.*

*\*Original authority: 208.152, RSMo 1967, amended 1969, 1971, 1972, 1973, 1975, 1977, 1978, 1981, 1986, 1988, 1990, 1992, 1993, 2004 and 208.201, RSMo 1987.*

**13 CSR 70-4.051 Copayment for Pharmacy Services**

*PURPOSE: This rule establishes the regulatory basis for the Medicaid requirement of eligible recipient copayment when receiving covered pharmacy services.*

(1) All Medicaid-eligible recipients shall be responsible for a copayment upon receipt of each original or refilled prescription of a Medicaid-covered drug unless the service is exempted under provisions of section (2). Copayment responsibility and amounts collectible shall be as follows:

Medicaid Maximum Allowable Amount for Each Item of Service	Recipient Copayment Amount
\$10.00 or less	\$0.50
\$10.01-\$25.00	\$1.00
\$25.01 or more	\$2.00

The Medicaid maximum allowable amount for each item of service is the lesser of the providers billed charge or the price(s) in the drug pricing file 13 CSR 70-20.070(3).

(2) Services exempted from the copayment requirement for drugs are—

(A) Services to recipients under nineteen (19) years of age;

(B) Services to recipients residing within a skilled nursing home, an intermediate care nursing home, a residential care home, an adult boarding home or a psychiatric hospital;

(C) Those drugs specifically identified as relating to family planning services (oral contraceptives);

(D) Those drugs which are prescribed and identified as relating to an Early Periodic Screening, Diagnosis and Treatment (EPSDT) program screening or referral service; and

(E) Those drugs prescribed for foster care children.

(3) Those drugs which are exempt from the requirement of copayment as related to an EPSDT screening or referral service must be confirmed as such to the dispenser through one (1) of the following methods:

(A) The prescribing physician (MD, DO, dentist, podiatrist) identifies on the prescription that it relates to EPSDT examination and treatment; or

(B) The prescribing physician verbally states that the prescription relates to EPSDT examination and treatment in cases of telephone prescribing. This verbal assertion must be included in the dispensing provider's reduction into writing of the prescription.

(4) Providers of service may not deny or reduce services otherwise eligible for Medicaid benefits on the basis of the recipient's inability to pay the due copayment amount when charged.

(5) A recipient's inability to pay a required copayment amount, as due and charged when a service is delivered, shall in no way extinguish the recipient liability to pay the due amount.

(6) Providers of service must collect copayment as specified in accordance with section 208.152, RSMo. Participation privileges in the Medicaid program shall be limited to providers who accept, as payment in full, the amounts paid by the state agency plus any copayment amount required of the recipient and collected or collectible as charged by the provider.

(7) Providers must maintain records of copayment amounts for five (5) years and must make these records available to the Department of Social Services upon request.

(8) The computation and application of the required copayment as it applies to all nonexempted Medicaid-covered drug prescriptions shall be performed by the provider dispensing the covered Medicaid drug. No alterations or changes are to be made to claims by providers which reflect the collection or application of the required copayment amount.

*AUTHORITY: sections 208.152, 208.153 and 208.201, RSMo 1994.\* This rule was previously filed as 13 CSR 40-81.055. Original rule filed April 14, 1982, effective July 11, 1982. Amended: Filed Oct. 13, 1983, effective Jan. 13, 1984. Amended: Filed May 15, 2000, effective Nov. 30, 2000.*

*\*Original authority: 208.152, RSMo 1967, amended 1969, 1971, 1972, 1973, 1975, 1977, 1978, 1981, 1986, 1988, 1990, 1992, 1993; 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991; and 208.201, RSMo 1987.*

**13 CSR 70-4.060 Required Reporting of Injuries Received by Title XIX Recipients**

*PURPOSE: The Division of Family Services has statutory responsibility under House Bill 1086, 208.215.8. to require that recipients of benefits as defined in Chapter 208, RSMo report injuries to the Division of Family Services.*

(1) All recipients of benefits provided for in Chapter 208, RSMo, within thirty (30) days of the date of benefit receipt, shall provide the county office in the county of their residence with detailed information concerning any occurrences, other than an illness, routine medical service or other medical treatment not related to a casualty, where medical treatment is given as a result of a casualty.

(2) Casualty as used in this regulation means an accident, event due to sudden unusual occurrence, misfortune or mishap.

(3) Recipient is defined as any person for whom medical benefits are provided for in Chapter 208, RSMo.

(4) Failure to supply the information on a form prescribed by the Medical Services Division within thirty (30) days of the occurrence, as determined by the Division of Family Services, may be held as constituting recipient failure to cooperate and result in loss of benefits.

(5) Loss of benefits resulting from a determination of recipient failure to cooperate in accordance with the provisions of this rule shall not penalize nor deny reimbursement to



a Title XIX provider who provided covered services to a recipient presenting valid evidence of Title XIX eligibility as of the date service is provided, where the provider has advised the Division of Family Services that the covered services rendered may have resulted from circumstances defined in this rule by completing the accident portion of the claim form or other written notice.

*AUTHORITY: sections 207.020, 208.153 and 208.159, RSMo 1986.\* This rule was previously filed as 13 CSR 40-81.092. Original rule filed Aug. 13, 1982, effective Nov. 11, 1982.*

*\*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986; 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991; and 208.159, RSMo 1979.*

### 13 CSR 70-4.070 Title XIX Recipient Lock-In Program

*PURPOSE: This rule establishes the regulatory basis for implementation of a method to limit or restrict the use of the recipient's Medicaid identification card to designated providers of medical services.*

(1) Definitions which shall apply in the administration of this program.

(A) Misutilization of medical services is defined as the act of seeking or obtaining medical services, or both, from a number of like providers and in quantities which exceed the levels that are considered medically necessary by current medical practices, standards and policies of the Missouri Title XIX Medicaid Program.

(B) Lock-in is defined as the method to limit or restrict the use of the recipient's Medicaid identification (ID) card to a designated provider(s) only. When one (1) of the designated providers is a physician, this provider is the primary-care physician and is responsible for providing or directing, or both, the recipient's medical care and for making any necessary referrals to other providers as medically indicated.

(C) The Division of Medical Services, Surveillance and Utilization Review System Unit will review all suspect or potential cases of lock-in. The Surveillance and Utilization Review System Unit professional staff will initiate lock-in procedures after utilization review of documented services indicate misutilization of Title XIX services, benefits, or both.

(2) The lock-in or limitation is for one (1) person and the fiscal agent audit is for that

person's individual Medicaid ID number. Payment to any other provider(s) with the provider type of the designated provider is limited to—

(A) Documented emergencies; and

(B) Referral from the designated provider, with designated provider's name or provider's number on all claims submitted by the other provider(s) to show designated provider as the referring physician or provider.

(3) In cases where treatment or service by another provider of the same type as the designated provider is needed is not an emergency and the designated provider is not available to render service to the recipient, the recipient may obtain an authorization from the individual's Division of Family Services local office which allows the recipient to obtain the needed service from a different provider. The form is titled Medical Referral Form of Restricted Recipient and is numbered MSS-S/UR-118. This form is also available from the state office Division of Medical Services, Surveillance and Utilization Review System Unit, P.O. Box 6500, Jefferson City, MO 65102-6500. The form must be attached to the different provider's claim for reimbursement.

(4) Change of the designated provider may be requested by the recipient during a period of lock-in. The recipient must contact his/her Division of Family Services local office and request the change of provider by completing the Recipient Lock-In Form Authorization for Medical Services. The change of approved authorized provider(s) will be effective the first day of the month following the receipt of the completed Authorization for Medical Services Form. In the event the change of authorized provider(s) cannot be reflected on the recipient's Medicaid ID card on the first day of the month following the receipt of the Authorization for Medical Services Form, the recipient's Division of Family Services local office may replace the Medicaid ID card with a corrected income maintenance letter of eligibility showing the proper listing of designated provider. A copy of the income maintenance letter must be forwarded to the Division of Medical Services Surveillance and Utilization Review System Unit for case documentation. No more than one (1) provider-type change may be allowed in a three (3)-month period. Exceptions to the previously mentioned may be approved if documentation is presented for just cause of additional authorized provider changes within the three (3)-month period. This documentation must be submitted by the recipient's

caseworker in writing for review and approval by the Division of Medical Services Surveillance and Utilization Review System Unit professional staff.

(5) Lock-In Provider Types.

(A) Medical—physician.

(B) Pharmacy.

(C) Dental.

(D) Optometrist.

(E) Optical company.

(F) Ambulance.

(G) Durable medical equipment.

(H) Institutional—inpatient—outpatient—emergency room facility.

(I) Audiology.

(J) Home health.

(K) Podiatry.

(L) Independent clinic

(6) Recipients have free choice of providers who are participants in the Missouri Medicaid program. Professional practitioners have the right to accept or refuse recipients for treatment. Both the provider and recipient must be agreeable to the lock-in relationship. If the recipient does not cooperate in designating a lock-in provider, the Division of Medical Services or local Division of Family Services office may arrange for a provider after documenting the recipient's lack of cooperation in designating a provider. The medical ID card may be held only as a mechanism to get the recipient to the Division of Family Services office to discuss or select a lock-in provider.

(7) The recipient selected for lock-in has the right to the fair hearing procedures as offered under applicable state law and federal regulations.

(8) The lock-in period will be for a minimum of twelve (12) months and a maximum of twenty-four (24) months. Not sooner than twelve (12) months but no longer than twenty-four (24) months after a recipient has been placed on lock-in, the Surveillance and Utilization Review System Unit professional staff will review the case and continue the recipient on lock-in if review of documented services indicates continuing misutilization of Title XIX services, benefits, or both. The lock-in period will again be for a minimum of twelve (12) months and a maximum of twenty-four (24) months before another review is conducted, after which lock-in may again be renewed. Recipients who have initially been placed on the lock-in program prior to December 1, 1985 will continue to be subject to twelve (12)-month reviews. The recipient has the right to the fair hearing procedures as offered under applicable state law and federal



regulations if s/he is continued on lock-in after a review. The effective date for the start of lock-in should be the same for the medical ID card and the audit implementation of the fiscal agency by the Surveillance and Utilization Review System Unit. A form processed by electronic data processing and forwarded to the fiscal agency will give the effective date of lock-in. If a case is closed during a twelve (12)-month period, the lock-in restriction would automatically still be in effect at the fiscal agent unless the medical ID number was changed. The lock-in period should be continued a full twelve (12) months. A new Authorization of Medical Services Form should be submitted on any change of provider. The Surveillance and Utilization Review System Unit should also be advised of any name or Medicaid ID number changes instigated in behalf of lock-in recipients.

(9) If Missouri Medicaid recipients are identified as misutilizing the Title XIX Medicaid Program in the following areas, but not limited to, lock-in proceedings, referral to the Division of Investigation, or both, will be implemented:

(A) Lending Medicaid ID card to noneligible persons;

(B) Submitting forged documents to providers for medical benefits or services;

(C) Seeking excessive or unnecessary medical care as defined in subsection (1)(A) of this rule, that is, drugs, office visits, eyeglasses, dentures, etc.;

(D) Utilizing multiple medical providers; or

(E) Refusing to submit to or failing to have predicted urine or blood levels following testing for opioid or opioid-like controlled substances covered by Missouri Medicaid while engaged in a pain or substance abuse treatment regimen.

*AUTHORITY: section 208.201, RSMo 2000.\* This rule was previously filed as 13 CSR 40-81.200. Emergency rule filed July 13, 1981, effective Aug. 1, 1981, expired Oct. 10, 1981. Original rule filed July 13, 1981, effective Oct. 11, 1981. Amended: Filed Sept. 4, 1985, effective Dec. 1, 1985. Amended: Filed Nov. 2, 1988, effective Jan. 13, 1989. Amended: Filed Aug. 1, 2003, effective Feb. 29, 2004.*

*\*Original authority: 208.201, RSMo 1987.*

### 13 CSR 70-4.080 State Children's Health Insurance Program

*PURPOSE: This rule establishes components of the State Children's Health Insurance Program which will provide health care coverage*

*to uninsured, low income children pursuant to Senate Bill 632 enacted by the 89th General Assembly, 1998 and reauthorized by Senate Bill 577 enacted by the 94th General Assembly, 2007.*

(1) Definitions.

(A) Children. Persons up to nineteen (19) years of age.

(B) Health insurance. Any hospital and medical expense incurred policy, nonprofit health care service for benefits other than through an insurer, nonprofit health care service plan contract, health maintenance organization subscriber contract, preferred provider arrangement or contract, or any other similar contract or agreement for the provision of health care benefits. The term "health insurance" does not include short-term, accident, fixed indemnity, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) An uninsured child/children in a family(ies) with gross income of more than one hundred fifty percent (150%) of the federal poverty level shall not have had health insurance for six (6) months prior to the month of application pursuant to 208.631, RSMo.

(3) If a child/children in a family(ies) with gross income of more than one hundred fifty percent (150%) of the federal poverty level had health insurance and such health insurance coverage was dropped, within six (6) months prior to the month of application, the child is not eligible for coverage under this rule until six (6) months after coverage was dropped.

(4) The six (6)-month period of ineligibility would not apply to children who lose health insurance due to—

(A) A parent's or guardian's loss of employment due to factors other than voluntary termination;

(B) A parent's or guardian's employment with a new employer that does not provide an option for dependent coverage;

(C) Expiration of a parent's or guardian's dependent Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage period;

(D) Lapse of a child's (children's) health insurance when maintained by an individual other than custodial parent or guardian;

(E) Lapse of a child's (children's) health insurance when the lifetime maximum benefits under their private health insurance have been exhausted; or

(F) Lapse of a child's (children's) health insurance when the health insurance plan does not cover an eligible child's (children's) preexisting condition.

(5) Parent(s) and guardian(s) of uninsured children with gross income of more than one hundred fifty percent (150%) but less than three hundred percent (300%) of the federal poverty level must certify, as a part of the application process, that the child does not have access to affordable employer-sponsored health care insurance or other affordable health care coverage available to the parent(s) or guardian(s) through their association with an identifiable group (for example, a trade association, union, professional organization) or through the purchase of individual health insurance coverage. Access to affordable employer-sponsored health care insurance or other affordable health care coverage shall result in the applicant not being eligible for the Health Care for Uninsured Children program for the child/children in families with gross income of more than one hundred fifty percent (150%) but less than three hundred percent (300%) of the federal poverty level.

(A) For families with gross income of more than two hundred twenty-five percent (225%) but less than three hundred percent (300%) of the federal poverty level affordable employer-sponsored health care insurance or other affordable health care coverage is health insurance requiring a monthly dependent premium of five percent (5%) of two hundred twenty-five percent (225%) of the federal poverty level for a family of three (3).

(B) For families with gross income of more than one hundred eighty-five percent (185%) but less than two hundred twenty-six percent (226%) of the federal poverty level affordable employer-sponsored health care insurance or other affordable health care coverage is health insurance requiring a monthly dependent premium of four percent (4%) of one hundred eighty-five percent (185%) of the federal poverty level for a family of three (3).

(C) For families with gross income of more than one hundred fifty percent (150%) but less than one hundred eighty-six percent (186%) of the federal poverty level affordable employer-sponsored health care insurance or other affordable health care coverage is health insurance requiring a monthly dependent premium of three percent (3%) of one hundred



fifty percent (150%) of the federal poverty level for a family of three (3).

(6) An uninsured child/children with gross income of more than two hundred twenty-five percent (225%) but less than three hundred percent (300%) of the federal poverty level shall be eligible for service(s) thirty (30) calendar days after the date the application is received if the required premium has been received. An uninsured child/children with gross income of more than one hundred fifty percent (150%) but less than two hundred twenty-six percent (226%) of the federal poverty level shall be eligible for services once the required premium has been received.

(A) Parent(s) or guardian(s) of uninsured children with gross income of more than one hundred fifty percent (150%) but less than one hundred eighty-six percent (186%) of the federal poverty level are responsible for a monthly premium equal to four percent (4%) of monthly income between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty level for the family size.

(B) Parent(s) or guardian(s) of uninsured children with gross income of more than one hundred eighty-five percent (185%) but less than two hundred twenty-six percent (226%) of the federal poverty level are responsible for a monthly premium equal to four percent (4%) of monthly income between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty level for the family size plus eight percent (8%) of monthly income between one hundred eighty-five percent (185%) and two hundred twenty-five percent (225%) of the federal poverty level for the family size.

(C) Parent(s) or guardian(s) of uninsured children with gross income of more than two hundred twenty-five percent (225%) but less than three hundred percent (300%) of the federal poverty level are responsible for a monthly premium equal to four percent (4%) of monthly income between one hundred fifty percent (150%) and one hundred eighty-five percent (185%) of the federal poverty level for the family size plus eight percent (8%) of monthly income between one hundred eighty-five percent (185%) and two hundred twenty-five percent (225%) of the federal poverty level for the family size plus fourteen percent (14%) of monthly income between two hundred twenty-five percent (225%) and three hundred percent (300%) of the federal poverty level for the family size.

(D) The monthly premium shall not exceed five percent (5%) of the family's gross income.

(E) The premium must be paid prior to service delivery.

(F) The premium notice shall include information on what to do if there is a change in gross income.

(G) No service(s) will be covered prior to the effective date which is thirty (30) calendar days after the date the application is received for uninsured children in families with an income of more than two hundred twenty-five percent (225%) of the federal poverty level.

(7) If the parent or guardian with an income of more than two hundred twenty-five percent (225%) of the federal poverty level fails to meet the premium payment requirements, a past due notice shall be sent requesting remittance within twenty (20) calendar days from date of the past due letter. Failure to make payment within this time period shall result in the child's ineligibility for coverage for six (6) months.

(8) Premium adjustments shall be calculated yearly in March with an effective date of July 1 of the same calendar year. Individuals shall be notified of the change in premium amount at least thirty (30) days prior to the effective date.

(9) The six (6)-month waiting period and thirty (30)-calendar-day delay in service delivery is not applicable to a child/children already participating in the program when the parent's or guardian's income changes. Coverage shall be extended for sixty (60) calendar days to allow for premium collection and to ensure continuity in coverage. Coverage shall be discontinued for the child/children if the premium payment is not made within the sixty (60)-day extension.

(10) Any child identified as having "special health care needs," defined as a condition which left untreated would result in the death or serious physical injury of a child, who does not have access to affordable employer-subsidized health care insurance shall not be required to be without health care coverage for six (6) months in order to be eligible for services under sections 208.631 to 208.657, RSMo and shall not be subject to the thirty (30)-day waiting period required under section 208.646, RSMo, as long as the child meets all other qualifications for eligibility.

(11) The total aggregate premiums for a family covered by this rule shall not exceed five percent (5%) of the family's gross income for a twelve (12)-month period of coverage beginning with the first month of service eli-

gibility. Waiver of premiums shall be made upon notification and documentation from the family that payments for premiums have been made up to five percent (5%) of their yearly gross income.

(12) Parent(s) and guardian(s) of uninsured children with gross income of more than one hundred fifty percent (150%) but less than three hundred percent (300%) of the federal poverty level must certify that their total net worth does not exceed two hundred fifty thousand dollars (\$250,000) to be eligible for health insurance under this rule.

(13) For the purposes of this rule, children participating in the Missouri Health Insurance Pool are considered insured. Child/children whose parent(s) or guardian(s) drop Missouri Health Insurance Pool coverage in order to qualify under this rule shall not be eligible for six (6) months from the month coverage was terminated.

(14) For the purposes of this rule, a child/children whose annual maximum benefits of a particular medical service under their private insurance has been exhausted is not considered insured and does not have access to affordable health insurance.

*AUTHORITY: sections 208.633, 208.636, 208.643, 208.646, 208.650, 208.655, and 208.657, RSMo 2000 and sections 208.201, 208.631, 208.640, and 208.647, RSMo Supp. 2007.\* Original rule filed July 15, 1998, effective Feb. 28, 1999. Emergency amendment filed Aug. 4, 2005, effective Sept. 1, 2005, expired Feb. 27, 2006. Amended: Filed April 29, 2005, effective Nov. 30, 2005. Amended: Filed Nov. 15, 2005, effective May 30, 2006. Emergency amendment filed June 15, 2006, effective July 1, 2006, expired Dec. 28, 2006. Amended: Filed June 15, 2006, effective Dec. 30, 2006. Amended: Filed Sept. 17, 2007, effective March 30, 2008. Amended: Filed Feb. 1, 2008, effective Aug. 30, 2008. Amended: Filed June 2, 2008, effective Nov. 30, 2008.*

*\*Original authority: 208.201, RSMo 1987, amended 2007; 208.631, RSMo 1998, amended 2002, 2006, 2007; 208.633, RSMo 1998; 208.636, RSMo 1998; 208.640, RSMo 1998, amended 2005, 2007; 208.643, RSMo 1998; 208.646, RSMo 1998; 208.647, RSMo 2004; 208.650, RSMo 1998; 208.655, RSMo 1998; and 208.657, RSMo 1998.*

### 13 CSR 70-4.090 Uninsured Women's Health Program

*PURPOSE: This rule establishes the Uninsured Women's Health Program. This program will provide payment for women's*



health services for uninsured women who do not qualify for other medical assistance benefits, and would lose their MO HealthNet eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage, and for women ages eighteen (18) to fifty-five (55) who have a net family income of at or below one hundred eighty-five percent (185%) of the Federal Poverty Level (FPL) and have assets totaling no more than two hundred fifty thousand dollars (\$250,000), in order to reduce the possibility of a family's future dependence on welfare as authorized pursuant to section 208.040, RSMo. The program is authorized pursuant to award of the Missouri's Women's Health Services Program approved by the Centers for Medicare and Medicaid Services.

(1) Uninsured women who do not qualify for other medical assistance benefits, and would lose their MO HealthNet eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage, and women ages eighteen (18) to fifty-five (55) who have a net family income of at or below one hundred eighty-five percent (185%) of the Federal Poverty Level (FPL) and have assets totaling no more than two hundred fifty thousand dollars (\$250,000), shall be eligible to receive medical services to the extent and in the manner provided in this regulation. Uninsured women who do not qualify for other medical assistance benefits, and would lose their MO HealthNet eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage regardless of income, and women ages eighteen (18) to fifty-five (55) who have a net family income of at or below one hundred eighty-five percent (185%) of the Federal Poverty Level (FPL) and have assets totaling no more than two hundred fifty thousand dollars (\$250,000), will continue to be eligible for women's health services only. Women's health services are defined as: pelvic exams and pap tests, sexually transmitted disease testing and treatment (the treatments of medical complications occurring from the sexually transmitted disease are not covered for this program), family planning counseling/education on various methods of birth control, United States Department of Health and Human Services approved methods of contraception including sterilization and x-ray services related to the sterilization, and drugs (excluding antiretrovirals), supplies, or devices related to the women's health services described in this rule when they are prescribed by a physician or advanced practice nurse, subject to the National Drug Rebate Program requirements.

(2) Uninsured women who do not qualify for other benefits, and would lose their MO HealthNet eligibility sixty (60) days after the birth of their child or sixty (60) days after a miscarriage, and women ages eighteen (18) to fifty-five (55) who have a net family income of at or below one hundred eighty-five percent (185%) of the Federal Poverty Level (FPL) and have assets totaling no more than two hundred fifty thousand dollars (\$250,000), are not required to pay a co-payment for women's health services.

(3) The Department of Social Services, MO HealthNet Division shall provide for granting an opportunity for a fair hearing to any applicant or participant whose claim for benefits under the Section 1115, Missouri's Women's Health Services Program is denied by the MO HealthNet Division. There are established positions of state hearing officers within the Department of Social Services, Division of Legal Services in order to comply with all pertinent federal and state law and regulations. The state hearing officers shall have authority to conduct state level hearings of an appeal nature and shall serve as direct representative of the director of the MO HealthNet Division.

*AUTHORITY: sections 208.040 and 208.201, RSMo Supp. 2008 and section 660.017, RSMo 2000.\* Emergency rule filed Sept. 13, 1999, effective Sept. 23, 1999, terminated Oct. 15, 1999. Original rule filed Aug. 16, 1999, effective March 30, 2000. Amended: Filed March 29, 2001, effective Oct. 30, 2001. Emergency amendment filed June 7, 2002, effective July 1, 2002, expired Dec. 27, 2002. Amended: Filed June 11, 2002, effective Nov. 30, 2002. Emergency amendment filed June 7, 2005, effective July 1, 2005, expired Dec. 27, 2005. Amended: Filed June 15, 2005, effective Dec. 30, 2005. Amended: Filed May 14, 2009, effective Nov. 30, 2009.*

*\*Original authority: 208.040, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001; 208.201, RSMo 1987, amended 2007; and 660.017, RSMo 1993, amended 1995.*

### **13 CSR 70-4.100 Preventing Medicaid Payment of Expenses Used to Meet Spend-down**

*PURPOSE: This rule establishes the basis on which the Medical Assistance program may reimburse for Title XIX services after spend-down has been met. Spend-down is a process by which aged persons (over sixty-five (65) years), blind persons, or people with disabilities become Medicaid eligible based on their*

*incurred medical expenses when they would not otherwise be eligible.*

(1) Aged persons (over sixty-five (65) years), blind persons, or people with disabilities with income above limits established under section 208.151.1(25), RSMo for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, as amended, are allowed to deduct from income incurred medical expenses (that is, spenddown) to become eligible.

(2) Spenddown eligibility shall be calculated on a monthly basis.

(3) The Missouri Medical Assistance program (Medicaid) will only reimburse enrolled Medicaid providers for covered medical expenses that exceed a recipient's spenddown amount. Medicaid does not pay the portion of a claim used to meet the applicant's spenddown obligation. For example, for the first day of coverage, the Division of Medical Services denies or splits (partially pays) a claim or claims until the applicant's spenddown liability is reduced to zero (0).

(4) After the Division of Medical Services has reduced the recipient's liability to zero (0) for the first day of coverage, other claims submitted for that day of spenddown coverage and claims for the time remaining in the month are paid up to the Medicaid rate.

(5) Recipients shall have the option to pay their monthly spenddown requirement to the Division of Medical Services, much like a premium payment, in order to have continuous Medicaid coverage. Recipients may also arrange to make the monthly spenddown payment through electronic funds transfer (EFT) from a bank account.

*AUTHORITY: sections 208.151, RSMo Supp. 2004 and 208.153 and 208.201, RSMo 2000.\* Emergency rule filed April 25, 2005, effective May 5, 2005, expired Oct. 31, 2005. Original rule filed April 29, 2005, effective Oct. 30, 2005.*

*\*Original authority 208.151, RSMo 1967, amended 1973, 1981, 1982, 1987, 1988, 1989, 1990, 1991, 1993, 1995, 2001; 208.153, RSMo 1967, amended 1973, 1989, 1990, 1991; and 208.201, RSMo 1987.*

### **13 CSR 70-4.110 Placement of Liens on Property of Certain Institutionalized MO HealthNet Eligible Persons**

*PURPOSE: This rule implements the guidelines for placement of liens on the property of*





*certain institutionalized MO HealthNet eligible persons, in accordance with the authority given to states in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as amended.*

(1) When an applicant for MO HealthNet or a MO HealthNet participant is a patient, or will become a patient, in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, the Department of Social Services will determine if the placement of a lien against the property of the applicant or participant is applicable. A lien is imposed on the property of an individual, in accordance with the authority given states in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), when—

(A) The MO HealthNet participant is or has made application to become a patient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his/her income required for personal needs;

(B) The institutionalized MO HealthNet participant owns property. Property includes the homestead and all other real property in which the person has a sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than fair market value within thirty-six (36) months prior to the person entering the nursing facility;

(C) The department has determined after notice and opportunity for hearing that there is no reasonable expectation that the person can be discharged from the facility within one hundred twenty (120) days and return home. The hearing, if requested, will proceed under the provision of Chapter 536, RSMo, before a hearing officer designated by the director of the Department of Social Services. The fact that there is no reasonable expectation that the person can be discharged from the facility within one hundred twenty (120) days and return home may be substantiated by one (1) of the following:

1. Applicant/participant states in writing that he/she does not intend to return home within one hundred twenty (120) days;

2. Applicant/participant has been in the institution for longer than one hundred twenty (120) days; and

3. A physician states in writing that the applicant/participant cannot be expected to be discharged within one hundred twenty (120) days of admission; and

(D) A lien is imposed on the property unless one (1) of the following persons lawfully resides in the property:

1. The institutionalized person's spouse;

2. The institutionalized person's child who is under twenty-one (21) years of age or is blind or permanently and totally disabled; or

3. The institutionalized person's sibling who has an equity interest in the property and who was residing in such individual's home for a period of at least one (1) year immediately before the date of the individual's admission to the institution.

(2) After determining the applicability of the lien, the MO HealthNet participant is given an Explanation of TEFRA Lien. A person who objects to the imposition of a lien is ineligible for medical assistance. Ineligibility is based on the person's objection without good cause to the imposition of the lien, which impedes the department's ability to implement its lien requirements.

(3) A lien may be imposed upon the property but the department will not seek adjustment or recovery of the costs of medical assistance correctly paid on behalf of the participant when the participant's child over the age of twenty-one (21) resides in the home and facts are established, to the satisfaction of the department, by sworn affidavit of the participant's child or authorized representative with personal knowledge of the facts, conclusively showing that—

(A) The participant's child has lived with and cared for the participant in the participant's home continuously for the two (2) years immediately prior to the participant entering a nursing facility, intermediate care facility for the mentally retarded, or other medical institution;

(B) By providing that care the participant's child has allowed the participant to live at home rather than in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution;

(C) The participant's child continues to reside in the home since the participant entered into a nursing facility, intermediate care facility for the mentally retarded, or other medical institution;

(D) Facts to be included in the affidavit shall include but not be limited to:

1. The number of days and hours each week the child was providing care to the participant;

2. Types of care provided; such as, bathing and grooming, administering medication, providing therapeutic/health related activities;

3. Types of assistance provided; such as, household chores/cleaning, maintenance, repair, improvements; and

4. Types of errands outside the home provided; such as, shopping for groceries and household items, transportation to medical visits, pharmacy, recreational and social activities, and religious activities;

(E) The department may, at its discretion, require the participant to provide documentation to support the statements in the affidavit;

(F) The affidavit must be provided to the MO HealthNet Division, TEFRA Lien Recoveries at P.O. Box 6500, Jefferson City, MO 65102-6500 in a timely manner before the lien has been satisfied against the participant's home;

(G) Upon a determination by the department that the facts established in the affidavit satisfy the department that the exception has been met, then the TEFRA Lien shall be maintained but not enforced so long as the child resides in the property and it is not sold, transferred, or leased, other than the child may take title to the property subject to the lien;

(H) Upon a determination by the department that the facts established in the affidavit do not satisfy the department that the exception has been met, then the lien may be enforced as otherwise provided in section (6); and

(I) Participants who object to a TEFRA Lien in a timely manner under this subsection are entitled to a fair hearing, under the provision of Chapter 536, RSMo, before a hearing officer designated by the director of the Department of Social Services. A timely objection must be made in writing to the department within ninety (90) days of the objected adverse decision.

(4) The director of the department or the director's designee will file for record, with the recorder of deeds of the county in which any real property is situated, a written Certificate of TEFRA Lien. The lien will contain the name of the MO HealthNet participant and a description of the property. The recorder will note the time of receiving such notice and will record and index the certificate of lien in the same manner as deeds of real estate are required to be recorded and indexed. The county recorder shall be reimbursed by presenting a statement showing the number of certificates and releases filed each calendar quarter to the Department of Social Services.

(5) The TEFRA lien will be for the debt due the state for medical assistance paid or to be paid on behalf of the MO HealthNet participant. The amount of the lien will be for the



full amount due the state at the time the lien is enforced. Fees paid to county recorder of deeds for filing of the lien will be included in the amount of the lien.

(6) The TEFRA lien does not affect ownership interest in a property until it is sold, transferred, or leased, or upon the death of the individual, at which time the lien must be satisfied, subject to the following:

(A) Any costs of sale of the property that are to be paid before the lien must be approved in advance by the department, and if a HUD-1 statement is prepared for that sale transaction, then a copy must be provided to the department prior to the closing for review and approval;

(B) Subject to the provisions of subsection (6)(A), in any case of a pending probate matter in a court of the state of Missouri for the administration of the assets and interests of the participant, including the property subject to the lien, then the following probate costs and expenses may be paid from the sale of the real estate at closing ahead of the lien:

1. Filing fees, publication fees, appraisal fees, personal representative fees, executor fees, attorney's fees;

2. Costs to maintain and repair the property for sale; such as, insurance premiums, lawn care, necessary repairs to prepare for sale, customary real estate sales commissions, publication of sale notice; and the participant or authorized representative shall produce documentation to support costs and incurred expenses; and

3. Burial costs of the participant; and

(C) The lien shall not be released against the real estate, except as required in section (7), until all net equity in the property remaining after closing costs after sale, transfer, or lease has been paid in satisfaction of the lien to the department, after payment of customary and approved costs from the sale proceeds as set forth in subsections (6)(A) and (6)(B). Closing costs are shared equally by all beneficiaries of the net proceeds of the real estate sale. In no case shall the state directly pay any costs of the sale or probate.

(7) The lien will be dissolved in the event the individual is discharged from the institution and returns home. A Notice of TEFRA Lien Release will be filed within thirty (30) days with the recorder of deeds of the county in which the original Certificate of TEFRA Lien was filed.

(8) The department shall apply a cost effectiveness review for each TEFRA lien when a reduction of recovery on the lien is requested. It shall be cost effective to accept a reduced

recovery on a lien when the reduction is less than five hundred dollars (\$500) and it appears that rejection of the reduced recovery would result in an even greater reduction in recovery, no recovery at all, or result in additional costs that net a recovery which is less than the requested reduction in recovery.

*AUTHORITY: sections 208.201 and 208.215, RSMo Supp. 2011.\* Emergency rule filed Aug. 15, 2005, effective Sept. 1, 2005, expires Feb. 27, 2006. Original rule filed May 16, 2005, effective Nov. 30, 2005. Amended: Filed Dec. 15, 2011, effective June 30, 2012.*

*\*Original authority: 208.201, RSMo 1987, amended 2007 and 208.215, RSMo 1981, amended 1982, 1987, 1990, 1993, 1996, 2005, 2007, 2010.*