

FIRST REGULAR SESSION  
[PERFECTED]  
HOUSE SUBSTITUTE FOR  
**HOUSE BILL NO. 612**  
**91ST GENERAL ASSEMBLY**

Taken up for Perfection March 28, 2001.

House Substitute for House Bill No. 612 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

1625L.03P

**AN ACT**

To repeal section 208.151, RSMo, relating to the community first act, and to enact in lieu thereof five new sections relating to the same subject.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 208.151, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 208.146, 208.151, 208.810, 208.813 and 208.819, to read as follows:

- 208.146. 1. Pursuant to the federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA)(Public Law 106-170), the medical assistance provided for in section 208.151 may be paid for a person who is employed and who:**
- (1) Meets the definition of disabled under the supplemental security income program or meets the definition of an employed individual with a medically improved disability under TWWIIA;**
- (2) Meets the asset limits in subsection 2 of this section; and**
- (3) Has an annual income of two hundred fifty percent or less of the federal poverty guidelines. For purposes of this subdivision, "income" does not include any income of the person's spouse up to one hundred thousand dollars or children. Individuals with incomes in excess of one hundred fifty percent of the federal poverty level shall pay a premium for participation in accordance with subsection 5 of this section.**
- 2. For purposes of determining eligibility pursuant to this section, a person's assets**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 shall not include:

15 (1) Any spousal assets up to one hundred thousand dollars, one-half of any marital  
16 assets and all assets excluded pursuant to section 208.010;

17 (2) Retirement accounts, including individual accounts, 401(k) plans, 403(b) plans,  
18 Keogh plans and pension plans;

19 (3) Medical expense accounts set up through the person's employer;

20 (4) Family development accounts established pursuant to sections 208.750 to  
21 208.775; or

22 (5) PASS plans.

23 3. A person who is otherwise eligible for medical assistance pursuant to this section  
24 shall not lose his or her eligibility if such person maintains an independent living  
25 development account. For purposes of this section, an "independent living development  
26 account" means an account established and maintained to provide savings for  
27 transportation, housing, home modification, and personal care services and assistive  
28 devices associated with such person's disability. Independent living development accounts  
29 shall be limited to deposits of earned income made by the eligible individual while  
30 participating in the program and shall not be considered an asset for purposes of  
31 determining and maintaining eligibility until such person reaches the age of sixty-five.

32 4. If an eligible individual's employer offers employer-sponsored health insurance  
33 and the department of social services determines that it is more cost effective, the  
34 individual shall participate in the employer-sponsored insurance. The department shall  
35 pay such individual's portion of the premiums, co-payments and any other costs associated  
36 with participation in the employer-sponsored health insurance.

37 5. Any person whose income exceeds one hundred fifty percent of the federal  
38 poverty level shall pay a premium for participation in the medical assistance provided in  
39 this section. The premium shall be:

40 (1) For a person whose income is between one hundred fifty-one and one hundred  
41 seventy-five percent of the federal poverty level, four percent of income at one hundred  
42 sixty-three percent of the federal poverty level;

43 (2) For a person whose income is between one hundred seventy-six and two  
44 hundred percent of the federal poverty level, five percent of income at one hundred eighty-  
45 eight percent of the federal poverty level;

46 (3) For a person whose income is between two hundred one and two hundred  
47 twenty-five percent of the federal poverty level, six percent of income at two hundred  
48 thirteen percent of the federal poverty level;

49 (4) For a person whose income is between two hundred twenty-six and two hundred

50 **fifty percent of the federal poverty level, seven percent of income at two hundred thirty-**  
51 **eight percent of the federal poverty level.**

52 **6. If the department elects to pay employer-sponsored insurance pursuant to**  
53 **subsection 4 of this section then the medical assistance established by this section shall be**  
54 **provided to an eligible person as a secondary or supplemental policy to any employer-**  
55 **sponsored benefits which may be available to such person.**

56 **7. The department of social services shall submit the appropriate documentation**  
57 **to the federal government for approval which allows the resources listed in subdivisions**  
58 **(2) to (5) of subsection 2 of this section and subsection 3 of this section to be exempt for**  
59 **purposes of determining and maintaining eligibility pursuant to this section.**

60 **8. The department of social services shall apply for any and all grants which may**  
61 **be available to offset the costs associated with the implementation of this section.**

208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and  
2 to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security  
3 Act (42 U.S.C. section 301 et seq.) as amended, the following needy persons shall be eligible to  
4 receive medical assistance to the extent and in the manner hereinafter provided:

5 (1) All recipients of state supplemental payments for the aged, blind and disabled;

6 (2) All recipients of aid to families with dependent children benefits, including all  
7 persons under nineteen years of age who would be classified as dependent children except for  
8 the requirements of subdivision (1) of subsection 1 of section 208.040;

9 (3) All recipients of blind pension benefits;

10 (4) All persons who would be determined to be eligible for old age assistance benefits,  
11 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards  
12 in effect December 31, 1973, or less restrictive standards as established by rule of the division  
13 of family services, who are sixty-five years of age or over and are patients in state institutions  
14 for mental diseases or tuberculosis;

15 (5) All persons under the age of twenty-one years who would be eligible for aid to  
16 families with dependent children except for the requirements of subdivision (2) of subsection 1  
17 of section 208.040, and who are residing in an intermediate care facility, or receiving active  
18 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as  
19 amended;

20 (6) All persons under the age of twenty-one years who would be eligible for aid to  
21 families with dependent children benefits except for the requirement of deprivation of parental  
22 support as provided for in subdivision (2) of subsection 1 of section 208.040;

23 (7) All persons eligible to receive nursing care benefits;

24 (8) All recipients of family foster home or nonprofit private child-care institution care,

25 subsidized adoption benefits and parental school care wherein state funds are used as partial or  
26 full payment for such care;

27 (9) All persons who were recipients of old age assistance benefits, aid to the permanently  
28 and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to  
29 meet the eligibility requirements, except income, for these assistance categories, but who are no  
30 longer receiving such benefits because of the implementation of Title XVI of the federal Social  
31 Security Act, as amended;

32 (10) Pregnant women who meet the requirements for aid to families with dependent  
33 children, except for the existence of a dependent child in the home;

34 (11) Pregnant women who meet the requirements for aid to families with dependent  
35 children, except for the existence of a dependent child who is deprived of parental support as  
36 provided for in subdivision (2) of subsection 1 of section 208.040;

37 (12) Pregnant women or infants under one year of age, or both, whose family income  
38 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the  
39 federal poverty level as established and amended by the federal Department of Health and  
40 Human Services, or its successor agency;

41 (13) Children who have attained one year of age but have not attained six years of age  
42 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget  
43 Reconciliation Act of 1989). The division of family services shall use an income eligibility  
44 standard equal to one hundred thirty-three percent of the federal poverty level established by the  
45 Department of Health and Human Services, or its successor agency;

46 (14) Children who have attained six years of age but have not attained nineteen years of  
47 age. For children who have attained six years of age but have not attained nineteen years of age,  
48 the division of family services shall use an income assessment methodology which provides for  
49 eligibility when family income is equal to or less than equal to one hundred percent of the federal  
50 poverty level established by the Department of Health and Human Services, or its successor  
51 agency. As necessary to provide Medicaid coverage [under] **pursuant to** this subdivision, the  
52 department of social services may revise the state Medicaid plan to extend coverage under 42  
53 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not  
54 attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d  
55 using a more liberal income assessment methodology as authorized by paragraph (2) of  
56 subsection (r) of 42 U.S.C. 1396a;

57 (15) The following children with family income which does not exceed two hundred  
58 percent of the federal poverty guideline for the applicable family size:

59 (a) Infants who have not attained one year of age with family income greater than one  
60 hundred eighty-five percent of the federal poverty guideline for the applicable family size;

61 (b) Children who have attained one year of age but have not attained six years of age  
62 with family income greater than one hundred thirty-three percent of the federal poverty guideline  
63 for the applicable family size; and

64 (c) Children who have attained six years of age but have not attained nineteen years of  
65 age with family income greater than one hundred percent of the federal poverty guideline for the  
66 applicable family size. Coverage [under] **pursuant to** this subdivision shall be subject to the  
67 receipt of notification by the director of the department of social services and the revisor of  
68 statutes of approval from the secretary of the U.S. Department of Health and Human Services  
69 of applications for waivers of federal requirements necessary to promulgate regulations to  
70 implement this subdivision. The director of the department of social services shall apply for  
71 such waivers. The regulations may provide for a basic primary and preventive health care  
72 services package, not to include all medical services covered by section 208.152, and may also  
73 establish co-payment, coinsurance, deductible, or premium requirements for medical assistance  
74 [under] **pursuant to** this subdivision. Eligibility for medical assistance [under] **pursuant to** this  
75 subdivision shall be available only to those infants and children who do not have or have not  
76 been eligible for employer-subsidized health care insurance coverage for the six months prior  
77 to application for medical assistance. Children are eligible for employer-subsidized coverage  
78 through either parent, including the noncustodial parent. The division of family services may  
79 establish a resource eligibility standard in assessing eligibility for persons [under] **pursuant to**  
80 this subdivision. The division of medical services shall define the amount and scope of benefits  
81 which are available to individuals [under] **pursuant to** this subdivision in accordance with the  
82 requirement of federal law and regulations. Coverage [under] **pursuant to** this subdivision shall  
83 be subject to appropriation to provide services approved [under] **pursuant to** the provisions of  
84 this subdivision;

85 (16) The division of family services shall not establish a resource eligibility standard in  
86 assessing eligibility for persons [under] **pursuant to** subdivision (12), (13) or (14) of this  
87 subsection. The division of medical services shall define the amount and scope of benefits which  
88 are available to individuals eligible [under] **pursuant to** each of the subdivisions (12), (13), and  
89 (14) of this subsection, in accordance with the requirements of federal law and regulations  
90 promulgated thereunder except that the scope of benefits shall include case management  
91 services;

92 (17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal  
93 care shall be made available to pregnant women during a period of presumptive eligibility  
94 pursuant to 42 U.S.C. section 1396r-1, as amended;

95 (18) A child born to a woman eligible for and receiving medical assistance [under]  
96 **pursuant to** this section on the date of the child's birth shall be deemed to have applied for

97 medical assistance and to have been found eligible for such assistance under such plan on the  
98 date of such birth and to remain eligible for such assistance for a period of time determined in  
99 accordance with applicable federal and state law and regulations so long as the child is a member  
100 of the woman's household and either the woman remains eligible for such assistance or for  
101 children born on or after January 1, 1991, the woman would remain eligible for such assistance  
102 if she were still pregnant. Upon notification of such child's birth, the division of family services  
103 shall assign a medical assistance eligibility identification number to the child so that claims may  
104 be submitted and paid under such child's identification number;

105 (19) Pregnant women and children eligible for medical assistance pursuant to  
106 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical  
107 assistance benefits be required to apply for aid to families with dependent children. The division  
108 of family services shall utilize an application for eligibility for such persons which eliminates  
109 information requirements other than those necessary to apply for medical assistance. The  
110 division shall provide such application forms to applicants whose preliminary income  
111 information indicates that they are ineligible for aid to families with dependent children.  
112 Applicants for medical assistance benefits [under] **pursuant to** subdivision (12), (13) or (14)  
113 shall be informed of the aid to families with dependent children program and that they are  
114 entitled to apply for such benefits. Any forms utilized by the division of family services for  
115 assessing eligibility [under] **pursuant to** this chapter shall be as simple as practicable;

116 (20) Subject to appropriations necessary to recruit and train such staff, the division of  
117 family services shall provide one or more full-time, permanent case workers to process  
118 applications for medical assistance at the site of a health care provider, if the health care provider  
119 requests the placement of such case workers and reimburses the division for the expenses  
120 including but not limited to salaries, benefits, travel, training, telephone, supplies, and  
121 equipment, of such case workers. The division may provide a health care provider with a  
122 part-time or temporary case worker at the site of a health care provider if the health care provider  
123 requests the placement of such a case worker and reimburses the division for the expenses,  
124 including but not limited to the salary, benefits, travel, training, telephone, supplies, and  
125 equipment, of such a case worker. The division may seek to employ such case workers who are  
126 otherwise qualified for such positions and who are current or former welfare recipients. The  
127 division may consider training such current or former welfare recipients as case workers for this  
128 program;

129 (21) Pregnant women who are eligible for, have applied for and have received medical  
130 assistance [under] **pursuant to** subdivision (2), (10), (11) or (12) of this subsection shall  
131 continue to be considered eligible for all pregnancy-related and postpartum medical assistance  
132 provided [under] **pursuant to** section 208.152 until the end of the sixty-day period beginning

133 on the last day of their pregnancy;

134 (22) Case management services for pregnant women and young children at risk shall be  
135 a covered service. To the greatest extent possible, and in compliance with federal law and  
136 regulations, the department of health shall provide case management services to pregnant women  
137 by contract or agreement with the department of social services through local health departments  
138 organized [under] **pursuant to** the provisions of chapter 192, RSMo, or chapter 205, RSMo, or  
139 a city health department operated under a city charter or a combined city-county health  
140 department or other department of health designees. To the greatest extent possible the  
141 department of social services and the department of health shall mutually coordinate all services  
142 for pregnant women and children with the crippled children's program, the prevention of mental  
143 retardation program and the prenatal care program administered by the department of health.  
144 The department of social services shall by regulation establish the methodology for  
145 reimbursement for case management services provided by the department of health. For  
146 purposes of this section, the term "case management" shall mean those activities of local public  
147 health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in  
148 the state's Medicaid program, refer them to local physicians or local health departments who  
149 provide prenatal care under physician protocol and who participate in the Medicaid program for  
150 prenatal care and to ensure that said high-risk mothers receive support from all private and public  
151 programs for which they are eligible and shall not include involvement in any Medicaid prepaid,  
152 case-managed programs;

153 (23) By January 1, 1988, the department of social services and the department of health  
154 shall study all significant aspects of presumptive eligibility for pregnant women and submit a  
155 joint report on the subject, including projected costs and the time needed for implementation, to  
156 the general assembly. The department of social services, at the direction of the general assembly,  
157 may implement presumptive eligibility by regulation promulgated pursuant to chapter 207,  
158 RSMo;

159 (24) All recipients who would be eligible for aid to families with dependent children  
160 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

161 (25) All persons who would be determined to be eligible for old age assistance benefits,  
162 permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards  
163 in effect December 31, 1973, [or those supplemental security income recipients who would be  
164 determined eligible for general relief benefits under the eligibility standards in effect December  
165 31, 1973, except income; or less restrictive standards as established by rule of the division of  
166 family services.] **except that less restrictive income methodologies, as authorized under 42**  
167 **U.S.C. 1396a (r) (2), shall be used to raise the income limit to one hundred percent of the**  
168 **federal poverty level.** If federal law or regulation authorizes the division of family services to,

169 by rule, exclude the income or resources of a parent or parents of a person under the age of  
170 eighteen and such exclusion of income or resources can be limited to such parent or parents, then  
171 notwithstanding the provisions of section 208.010:

172 (a) The division may by rule exclude such income or resources in determining such  
173 person's eligibility for permanent and total disability benefits; and

174 (b) Eligibility standards for permanent and total disability benefits shall not be limited  
175 by age;

176 (26) Within thirty days of the effective date of an initial appropriation authorizing  
177 medical assistance on behalf of "medically needy" individuals for whom federal reimbursement  
178 is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an  
179 amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum,  
180 an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii).

181 2. Rules and regulations to implement this section shall be promulgated in accordance  
182 with section 431.064, RSMo, and chapter 536, RSMo. No rule or portion of a rule promulgated  
183 [under] **pursuant to** the authority of this chapter shall become effective unless it has been  
184 promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

185 3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance  
186 pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months  
187 immediately preceding the month in which such family became ineligible for such assistance  
188 because of increased income from employment shall, while a member of such family is  
189 employed, remain eligible for medical assistance for four calendar months following the month  
190 in which such family would otherwise be determined to be ineligible for such assistance because  
191 of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42  
192 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the  
193 month in which such family becomes ineligible for such aid, because of hours of employment  
194 or income from employment of the caretaker relative, shall remain eligible for medical assistance  
195 for six calendar months following the month of such ineligibility as long as such family includes  
196 a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical  
197 assistance during the entire six-month period described in this section and which meets reporting  
198 requirements and income tests established by the division and continues to include a child as  
199 provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six  
200 months. The division of medical services may provide by rule the scope of medical assistance  
201 coverage to be granted to such families.

202 4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act,  
203 as amended, any individual who, for the month of August, 1972, was eligible for or was  
204 receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV



205 of such act and who, for such month, was entitled to monthly insurance benefits under Title II  
206 of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter  
207 prior to October, 1974, if such individual would have been eligible for such aid or assistance for  
208 such month had the increase in monthly insurance benefits under Title II of such act resulting  
209 from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C.  
210 301 et seq.), as amended, not been applicable to such individual.

211 5. When any individual has been determined to be eligible for medical assistance, such  
212 medical assistance will be made available to him **or her** for care and services furnished in or  
213 after the third month before the month in which he **or she** made application for such assistance  
214 if such individual was, or upon application would have been, eligible for such assistance at the  
215 time such care and services were furnished; provided, further, that such medical expenses remain  
216 unpaid.

**208.810. In an effort to comply with the United States Supreme Court decision in  
2 Olmstead v. L.C., 527 U.S. 581, and to further Missouri's commitment to assist persons  
3 with disabilities, regardless of age, to live as independently as possible, sections 208.810 to  
4 208.819 shall be known and may be cited as the "Community First Act".**

**208.813. 1. There is hereby established the "Community First Commission" to  
2 oversee the state's compliance with the decision in Olmstead v. L.C., 527 U.S. 581, and  
3 implement the recommendations of the temporary home and community-based services  
4 and consumer-directed care commission of 2000. The duties of the community first  
5 commission shall include, but not be limited to:**

6 **(1) Facilitating communication and collaboration between state agencies and  
7 departments in accomplishing the objectives of the temporary home and community-based  
8 services and consumer-directed care commission of 2000 and the community first  
9 commission;**

10 **(2) Assessing the manner in which institutionalized individuals with disabilities,  
11 regardless of age, transition into community-based treatment settings, and evaluating the  
12 community-based treatment settings on their success in keeping at-risk individuals with  
13 disabilities out of institutions;**

14 **(3) Developing recommendations for legislative or administrative rule changes  
15 based on the findings of the commission.**

16 **2. The community first commission shall consist of the following twenty-four  
17 members:**

18 **(1) Eleven public members appointed by the governor, including advocates for  
19 persons with disabilities, persons with disabilities, family members of persons with  
20 disabilities, who are representative of a variety of disability groups, including those related**

21 to age and also including those related to developmental disabilities;

22 (2) The director of the department of mental health;

23 (3) The director of the division of medical services in the department of social  
24 services;

25 (4) The director of the division of vocational rehabilitation in the department of  
26 elementary and secondary education;

27 (5) The director of the division of aging or senior services in the department of  
28 health;

29 (6) The executive director of the governor's council on disabilities;

30 (7) The lieutenant governor;

31 (8) Two members of the house of representatives, one from each of the two major  
32 political parties, with the majority party member appointed by the speaker of the house  
33 of representatives and the minority party member appointed by the minority floor leader;

34 (9) Two members of the senate, one from each of the two major political parties,  
35 appointed by the president pro tem of the senate.

36 (10) The President of ARC of Missouri;

37 (11) The Director of the Division of Extended Employment; and

38 (12) One member of the judiciary.

39 3. The commission shall meet at least biannually. The lieutenant governor shall act  
40 as co-chair of the commission along with a public member chosen by the commission  
41 members.

42 4. Commission members shall receive no compensation for duties performed, but  
43 shall be reimbursed for their travel and travel-related expenses incurred as a result of their  
44 participation in the commission.

45 5. On or before January thirty-first of each year, the commission shall submit a  
46 report to the governor and general assembly annually. The report shall detail the status  
47 of the state's compliance with *Olmstead v. L.C.*, 527 U.S. 581, and shall include  
48 recommendations for any statutory or regulatory changes that would further the effort to  
49 assist persons with disabilities live more independently. The report shall be divided into  
50 three sections, with separate sections devoted to the physically disabled, the mentally  
51 disabled and older adults which specifically address the issues of each group.

52 6. The community first commission shall be reauthorized by the general assembly  
53 every four years.

208.819. 1. Persons institutionalized in nursing homes who are Medicaid eligible  
2 and who wish to move back into the community shall be eligible for a one-time Missouri  
3 transition to independence grant. The Missouri transition to independence grant shall be

4 limited to up to fifteen hundred dollars to offset the initial down payments and setup costs  
5 associated with housing a person with disabilities as such person moves out of a nursing  
6 home. Such grants shall be established and administered by the division of vocational  
7 rehabilitation in consultation with the department of social services. The division of  
8 vocational rehabilitation and the department of social services shall cooperate in actively  
9 seeking federal and private grant moneys to fund this program; except that, such federal  
10 and private grant moneys shall not limit the general assembly's ability to appropriate  
11 moneys for the Missouri transition to independence grants.

12       **2. Representatives of disability-related community organizations shall have access**  
13 **to the premises and residents of nursing facilities, habilitation centers, residential care**  
14 **facilities and other facilities to inform residents of community options, assess interest in**  
15 **community placement, and plan and facilitate any transition chosen by the resident.**