

SECOND REGULAR SESSION

HOUSE BILL NO. 1873

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEMBKE (Sponsor), PORTWOOD, CUNNINGHAM (86), COOPER (155), YOUNG, TILLEY, STORCH, MUSCHANY, MEADOWS, PEARCE, PAGE, MEINERS, WETER, WILDBERGER, OXFORD, KRATKY, BAKER (25), FARES, SATER, SANDER, DEEKEN AND BRUNS (Co-sponsors).

Read 1st time February 24, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5131L.01I

AN ACT

To repeal section 208.930, RSMo, and to enact in lieu thereof one new section relating to personal care assistance services, with an emergency clause.

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

Section A. Section 208.930, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.930, to read as follows:

208.930. 1. As used in this section, the term "department" shall mean the department of health and senior services.

2. Subject to appropriations, the department may provide financial assistance for consumer-directed personal care assistance services through eligible vendors, as provided in sections 208.900 through 208.927, to each person who was participating as a non-Medicaid eligible client pursuant to sections 178.661 through 178.673, RSMo, [on June 30, 2005,] and who:

- (1) Makes application to the department;
- (2) Demonstrates financial need and eligibility under subsection 3 of this section;
- (3) Meets all the criteria set forth in sections 208.900 through 208.927, except for subdivision (5) of subsection 1 of section 208.903;
- (4) Has been found by the department of social services not to be eligible to participate under guidelines established by the Medicaid state plan; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (5) Does not have access to affordable employer-sponsored health care insurance or other
15 affordable health care coverage for personal care assistance services as defined in section
16 208.900. For purposes of this section, "access to affordable employer-sponsored health care
17 insurance or other affordable health care coverage" refers to health insurance requiring a monthly
18 premium less than or equal to one hundred thirty-three percent of the monthly average premium
19 required in the state's current Missouri consolidated health care plan.

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21 Payments made by the department under the provisions of this section shall be made only after
22 all other available sources of payment have been exhausted.

23 3. (1) In order to be eligible for financial assistance for consumer-directed personal care
24 assistance services under this section, a person shall demonstrate financial need, which shall be
25 based on the adjusted gross income and the assets of the person seeking financial assistance and
26 such person's spouse.

27 (2) In order to demonstrate financial need, a person seeking financial assistance under
28 this section [and such person's spouse must] **shall** have an adjusted gross income, less
29 disability-related medical **and reasonable living** expenses, as approved by the department, that
30 is equal to or less than three hundred percent of the federal poverty level. The adjusted gross
31 income shall be based on the most recent income tax return.

32 (3) No person seeking financial assistance for personal care services under this section
33 and such person's spouse shall have assets in excess of two hundred fifty thousand dollars.

34 4. The department shall require applicants [and the applicant's spouse, and consumers
35 and the consumer's spouse] to provide documentation for income, assets, and disability-related
36 medical **and reasonable living** expenses, **as determined by the department**, for the purpose
37 of determining financial need and eligibility for the program. In addition to the most recent
38 income tax return, such documentation may include, but shall not be limited to:

39 (1) Current wage stubs for the applicant [or consumer and the applicant's or consumer's
40 spouse];

41 (2) A current W-2 form for the applicant [or consumer and the applicant's or consumer's
42 spouse];

43 (3) Statements from the applicant's [or consumer's and the applicant's or consumer's
44 spouse's] **employer or** employers;

45 (4) Wage matches with the division of employment security;

46 (5) Bank statements; and

47 (6) Evidence of disability-related medical **and reasonable living** expenses, **as**
48 **determined by the department**, and proof of payment.

49 5. A personal care assistance services plan shall be developed by the department
50 pursuant to section 208.906 for each person who is determined to be eligible and in financial
51 need under the provisions of this section. The plan developed by the department shall include
52 the maximum amount of financial assistance allowed by the department, subject to appropriation,
53 for such services.

54 6. Each consumer who participates in the program is responsible for a monthly premium
55 equal to [the average premium required for the Missouri consolidated health care plan; provided
56 that the total premium described in this section shall not exceed five percent of the consumer's
57 and the consumer's spouse's adjusted gross income for the year involved] **the following:**

58 **(1) For incomes below one hundred fifty percent of the federal poverty level, no**
59 **monthly premium;**

60 **(2) For incomes between one hundred fifty and one hundred eighty-five percent of**
61 **the federal poverty level, one percent of income;**

62 **(3) For incomes between one hundred eighty-five and two hundred twenty-five**
63 **percent of the federal poverty level, three percent of income;**

64 **(4) For incomes between two hundred twenty-five and three hundred percent of the**
65 **federal poverty level, five percent of income.**

66 7. (1) Nonpayment of the premium required in subsection 6 shall result in the denial or
67 termination of assistance, unless the person demonstrates good cause for such nonpayment.

68 (2) No person denied services for nonpayment of a premium shall receive services unless
69 such person shows good cause for nonpayment and makes payments for past-due premiums as
70 well as current premiums.

71 (3) Any person who is denied services for nonpayment of a premium and who does not
72 make any payments for past-due premiums for sixty consecutive days shall have their enrollment
73 in the program terminated.

74 (4) No person whose enrollment in the program is terminated for nonpayment of a
75 premium when such nonpayment exceeds sixty consecutive days shall be reenrolled unless such
76 person pays any past-due premiums as well as current premiums prior to being reenrolled.
77 Nonpayment shall include payment with a returned, refused, or dishonored instrument.

78 8. (1) Consumers determined eligible for personal care assistance services under the
79 provisions of this section shall be reevaluated annually to verify their continued eligibility and
80 financial need. The amount of financial assistance for consumer-directed personal care
81 assistance services received by the consumer shall be adjusted or eliminated based on the
82 outcome of the reevaluation. Any adjustments made shall be recorded in the consumer's personal
83 care assistance services plan.

84 (2) In performing the annual reevaluation of financial need, the department shall
85 annually send a reverification eligibility form letter to the consumer requiring the consumer to
86 respond within [ten] **thirty** days of receiving the letter and to provide income and
87 disability-related medical expense verification documentation. If the department does not
88 receive the consumer's response and documentation within the [ten-day] **thirty-day** period, the
89 department shall send a letter notifying the consumer that he or she has ten days to file an appeal
90 or the case will be closed.

91 (3) The department shall require the consumer and the consumer's spouse to provide
92 documentation for income and disability-related medical **and reasonable living** expense
93 verification for purposes of the eligibility review. Such documentation may include but shall not
94 be limited to the documentation listed in subsection 4 of this section.

95 9. (1) Applicants for personal care assistance services and consumers receiving such
96 services pursuant to this section are entitled to a hearing with the department of social services
97 if eligibility for personal care assistance services is denied, if the type or amount of services is
98 set at a level less than the consumer believes is necessary, if disputes arise after preparation of
99 the personal care assistance plan concerning the provision of such services, or if services are
100 discontinued as provided in section 208.924. Services provided under the provisions of this
101 section shall continue during the appeal process.

102 (2) A request for such hearing shall be made to the department of social services in
103 writing in the form prescribed by the department of social services within ninety days after the
104 mailing or delivery of the written decision of the department of health and senior services. The
105 procedures for such requests and for the hearings shall be as set forth in section 208.080.

106 10. Unless otherwise provided in this section, all other provisions of sections 208.900
107 through 208.927 shall apply to individuals who are eligible for financial assistance for personal
108 care assistance services under this section.

109 11. The department may promulgate rules and regulations, including emergency rules,
110 to implement the provisions of this section. Any rule or portion of a rule, as that term is defined
111 in section 536.010, RSMo, that is created under the authority delegated in this section shall
112 become effective only if it complies with and is subject to all of the provisions of chapter 536,
113 RSMo, and, if applicable, section 536.028, RSMo. Any provisions of the existing rules
114 regarding the personal care assistance program promulgated by the department of elementary and
115 secondary education in title 5, code of state regulations, division 90, chapter 7, which are
116 inconsistent with the provisions of this section are void and of no force and effect.

117 [12. The provisions of this section shall expire on June 30, 2006.]

Section B. Because immediate action is necessary to ensure continued financial
2 assistance for personal care services, section A of this act is deemed necessary for the immediate

3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act shall be in full
5 force and effect on July 1, 2006, or upon its passage and approval, whichever later occurs.

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