

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 40, 116 & 367

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Ticket to Work February 7, 2007 with recommendation that House Committee Substitute for House Bill Nos. 40, 116 & 367 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules February 13, 2007 with recommendation that House Committee Substitute for House Bill Nos. 40, 116 & 367 Do Pass.

Taken up for Perfection February 26, 2007. House Committee Substitute for House Bill Nos. 40, 116 & 367 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

0478L.02P

AN ACT

To repeal sections 135.096, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and to enact in lieu thereof seven new sections relating to long-term care insurance.

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

Section A. Sections 135.096, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, 2 and 660.557, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known 3 as sections 135.096, 208.690, 208.692, 208.694, 208.696, 208.698, and 208.699, to read as 4 follows:

135.096. 1. In order to promote personal financial responsibility for long-term health 2 care in this state, for all taxable years beginning after December 31, 1999, a resident individual 3 may deduct from such individual's Missouri taxable income an amount equal to fifty percent of 4 all nonreimbursed amounts paid by such individual for qualified long-term care insurance 5 premiums to the extent such amounts are not included the individual's itemized deductions. **For 6 all taxable years beginning after December 31, 2006, a resident individual may deduct from 7 each individual's Missouri taxable income an amount equal to one hundred percent of all**

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.

8 **nonreimbursed amounts paid by such individual for qualified long-term care insurance**
9 **premiums to the extent such amounts are not included in the individual's itemized**
10 **deductions.** A married individual filing a Missouri income tax return separately from his or her
11 spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the
12 proportion of such individual's payment of all qualified long-term care insurance premiums. The
13 director of the department of revenue shall place a line on all Missouri individual income tax
14 returns for the deduction created by this section.

15 2. For purposes of this section, "qualified long-term care insurance" means any policy
16 which meets or exceeds the provisions of sections 376.1100 to 376.1118, RSMo, and the rules
17 and regulations promulgated pursuant to such sections for long-term care insurance.
18 **Notwithstanding any other provision of law to the contrary, two or more insurers issuing**
19 **a qualified long-term care insurance policy shall not act in concert with each other and**
20 **with others with respect to any matters pertaining to the making of rates or rating systems.**

208.690. 1. This act shall be known and may be cited as the "Missouri Long-term
2 **Care Partnership Program Act".**

3 2. As used in sections 208.690 to 208.699, the following terms shall mean:

4 (1) "Asset disregard", the disregard of any assets or resources in an amount equal
5 to the insurance benefit payments that are used on behalf of the individual;

6 (2) "Missouri Qualified Long-term Care Partnership approved policy", a long-term
7 care insurance policy certified by the director of the department of insurance, financial
8 institutions and professional registration as meeting the requirements of:

9 (a) The National Association of Insurance Commissioners' Long-term Care
10 Insurance Model Act and Regulation as specified in 42 U.S.C. 1917(b); and

11 (b) The provisions of Section 6021 of the Federal Deficit Reduction Act of 2005.

12 (3) "State Medicaid program", the medical assistance program established in this
13 state under Title XIX of the federal Social Security Act;

14 (4) "State plan amendment", a state Medicaid plan amendment to the federal
15 Department of Health and Human Services that, in determining eligibility for state
16 Medicaid benefits, provides for the disregard of any assets or resources in an amount equal
17 to the insurance benefit payments that are made to or on behalf of an individual who is a
18 beneficiary under a qualified long-term care insurance partnership policy.

208.692. 1. In accordance with Section 6021 of the Federal Deficit Reduction Act of
2 **2005, there is established the Missouri Long-term Care Partnership Program, which shall**
3 **be administered by the department of social services in conjunction with the department**
4 **of insurance, financial institutions and professional registration. The program shall:**

5 **(1) Provide incentives for individuals to insure against the costs of providing for**
6 **their long-term care needs;**

7 **(2) Provide a mechanism for individuals to qualify for coverage of the cost of their**
8 **long-term care needs under the state Medicaid program without first being required to**
9 **substantially exhaust their resources; and**

10 **(3) Alleviate the financial burden on the state's Medicaid program by encouraging**
11 **the pursuit of private initiatives.**

12 **2. Upon the exhaustion of benefits or upon the diminishment of assets below the**
13 **anticipated remaining benefits under a Missouri qualified long-term care partnership**
14 **approved policy, certain assets of an individual, as provided in subsection 3 of this section,**
15 **shall be disregarded when determining any of the following:**

16 **(1) Medicaid eligibility;**

17 **(2) The amount of any Medicaid payment; and**

18 **(3) Any subsequent recovery by the state of a payment for medical services.**

19 **3. The department of social services shall:**

20 **(1) Within one hundred eighty days of the effective date of sections 208.690 to**
21 **208.699, make application to the federal Department of Health and Human Services for a**
22 **state plan amendment to establish a program that, in determining eligibility for state**
23 **Medicaid benefits, provides for the disregard of any assets or resources in an amount equal**
24 **to the insurance benefit payments that are made to or on behalf of an individual who is a**
25 **beneficiary under a qualified long-term care insurance partnership policy; and**

26 **(2) Provide information and technical assistance to the department of insurance,**
27 **financial institutions and professional registration to assure that any individual who sells**
28 **a qualified long-term care insurance partnership policy receives training and demonstrates**
29 **evidence of an understanding of such policies and how they relate to other public and**
30 **private coverage of long-term care.**

31 **4. The department of social services shall promulgate rules to implement the**
32 **provisions of sections 208.690 to 208.699. Any rule or portion of a rule, as that term is**
33 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
34 **section shall become effective only if it complies with and is subject to all of the provisions**
35 **43 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and**
36 **chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**
37 **assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to**
38 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
39 **rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be**
40 **invalid and void.**

208.694. 1. An individual who is beneficiary of a Missouri qualified long-term care partnership approved policy is eligible for assistance under the state Medicaid program using asset disregard under sections 208.690 to 208.699.

2. If the Missouri long-term care partnership program is discontinued, an individual who purchased a qualified long-term care partnership approved policy prior to the date the program was discontinued shall be eligible to receive asset disregard, as provided by Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005.

3. The department of social services may enter into reciprocal agreements with other states that have asset disregard provisions established under Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005 in order to extend the asset disregard to Missouri residents who purchase long-term care policies in another state.

208.696. 1. The director of the department of insurance, financial institutions and professional registration shall:

(1) Develop requirements to ensure that any individual who sells a qualified long-term care insurance partnership policy receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care;

(2) Impose no requirements affecting the terms or benefits of qualified long-term care partnership policies unless the director imposes such a requirement on all long-term care policies sold in this state, without regard to whether the policy is covered under the partnership or is offered in connection with such partnership; and

(3) Develop a summary notice in clear, easily understood language for the consumer purchasing qualified long-term care insurance partnership policies on the current law pertaining to asset disregard and asset tests.

2. The director of the department of insurance, financial institutions and professional registration shall promulgate rules to carry out the provisions of this section, and on the process for certifying the qualified long-term care partnership policies. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

208.698. The issuers of qualified long-term care partnership policies in this state shall provide regular reports to both the Secretary of the Department of Health and Human Services in accordance with federal law and regulations and to the department of social services and the department of insurance, financial institutions and professional registration as provided in Section 6021 of the Federal Deficit Reduction Act of 2005.

208.699. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 208.690 to 208.698 shall sunset automatically six years after the effective date of said sections unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 208.690 to 208.698 shall sunset automatically twelve years after the effective date of the reauthorization of sections 208.690 to 208.698; and

(3) Sections 208.690 to 208.698 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under said sections is sunset.

[660.546. 1. The department of social services shall coordinate a program entitled the "Missouri Partnership for Long-term Care" whereby private insurance and Medicaid funds shall be combined to finance long-term care. Under such program, an individual may purchase a precertified long-term care insurance policy in an amount commensurate with his resources as defined pursuant to the Medicaid program. Notwithstanding any provision of law to the contrary, the resources of such an individual, to the extent such resources are equal to the amount of long-term care insurance benefit payments as provided in section 660.547, shall not be considered by the department of social services in a determination of:

(1) His eligibility for Medicaid;

(2) The amount of any Medicaid payment.

Any subsequent recovery of a payment for medical services by the state shall be as provided by federal law.

2. Notwithstanding any provision of law to the contrary, for purposes of recovering any medical assistance paid on behalf of an individual who was allowed an asset or resource disregard based on such long-term care insurance policy, the definition of estate shall be expanded to include any other real or personal property and other assets in which the individual has any legal title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.]

2 [660.547. The department of social services shall request appropriate
3 waiver or waivers from the Secretary of the federal Department of Health and
4 Human Services to permit the use of long-term care insurance for the
5 preservation of resources pursuant to section 660.546. Such preservation shall
6 be provided, to the extent approved by the federal Department of Health and
7 Human Services, for any purchaser of a precertified long-term care insurance
8 policy delivered, issued for delivery or renewed within five years after receipt of
9 the federal approval of the waiver, and shall continue for the life of the original
10 purchaser of the policy, provided that he maintains his obligations pursuant to the
11 precertified long-term care insurance policy. Insurance benefit payments made
12 on behalf of a claimant, for payment of services which would be covered under
13 section 208.152, RSMo, shall be considered to be expenditures of resources as
14 required under chapter 208, RSMo, for eligibility for medical assistance to the
15 extent that such payments are:

- 16 (1) For services Medicaid approves or covers for its recipients;
- 17 (2) In an amount not in excess of the charges of the health services
18 provider;
- 19 (3) For nursing home care, or formal services delivered to insureds in the
20 community as part of a care plan approved by a coordination, assessment and
21 monitoring agency licensed pursuant to chapter 198, RSMo; and
- 22 (4) For services provided after the individual meets the coverage
23 requirements for long-term care benefits established by the department of social
24 services for this program.

25 The director of the department of social services shall adopt regulations in
26 accordance with chapter 536, RSMo, to implement the provisions of sections
27 660.546 to 660.557, relating to determining eligibility of applicants for Medicaid
28 and the coverage requirements for long-term care benefits.]

2 [660.549. The department of social services shall establish an outreach
3 program to educate consumers to:

- 4 (1) The mechanisms for financing long-term; and
- 5 (2) The asset protection provided under sections 660.546 to 660.557.]

2 [660.551. 1. The department of insurance shall precertify long-term care
3 insurance policies which are issued by insurers who, in addition to complying
4 with other relevant laws and regulations:

- 5 (1) Alert the purchaser to the availability of consumer information and
6 public education provided by the division of aging and the department of
7 insurance pursuant to sections 660.546 to 660.557;
- 8 (2) Offer the option of home- and community-based services in lieu of
9 nursing home care;
- 10 (3) Offer automatic inflation protection or optional periodic per diem
upgrades until the insured begins to receive long-term care benefits; provided,

11 however, that such inflation protection or upgrades shall not be required of life
12 insurance policies or riders containing accelerated long-term care benefits;

13 (4) Provide for the keeping of records and an explanation of benefits
14 reports to the insured and the department of insurance on insurance payments
15 which count toward Medicaid resource exclusion; and

16 (5) Provide the management information and reports necessary to
17 document the extent of Medicaid resource protection offered and to evaluate the
18 Missouri partnership for long-term care including, but not limited to, the
19 information listed in section 660.553.

20 Included among those policies precertified under this section shall be life
21 insurance policies which offer long-term care either by rider or integrated into the
22 life insurance policy.

23 2. No policy shall be precertified pursuant to sections 660.546 to
24 660.557, if it requires prior hospitalization or a prior stay in a nursing home as
25 a condition of providing benefits.

26 3. The department of insurance may adopt regulations to carry out the
27 provisions of sections 660.546 to 660.557.]
28

2 [660.553. The department of insurance shall provide public information
3 to assist individuals in choosing appropriate insurance coverage, and shall
4 establish an outreach program to educate consumers as to:

- 4 (1) The need for long-term; and
- 5 (2) The availability of long-term care
- 6 insurance.]

7
2 [660.555. The director of the department of insurance each year, on
3 January first shall report in writing to the department of social services the
4 following information:

- 4 (1) The success in implementing the provisions of sections 660.546 to
5 660.557;
- 6 (2) The number of policies precertified pursuant to sections 660.546 to
7 660.557;
- 8 (3) The number of individuals filing consumer complaints with respect
9 to precertified policies; and
- 10 (4) The extent and type of benefits paid, in the aggregate, under such
11 policies that could count toward Medicaid resource protection.]
12

2 [660.557. The director of the department of social services shall request
3 the federal approvals necessary to carry out the purposes of sections 660.546 to
4 660.557. Each year on January first, the director of the department of social
5 services shall report in writing to the general assembly on the progress of the
6 program. Such report will include, but not be limited to:

- 6 (1) The success in implementing the provisions of sections 660.546 to
- 7 660.557;
- 8 (2) The number of policies precertified pursuant to sections 660.546 to
- 9 660.557;
- 10 (3) The number of individuals filing consumer complaints with respect
- 11 to precertified policies;
- 12 (4) The extent and type of benefits paid, in the aggregate, under such
- 13 policies that could count toward Medicaid resource protection;
- 14 (5) Estimates of impact on present and future Medicaid expenditures;
- 15 (6) The cost effectiveness of the program; and
- 16 (7) A recommendation regarding the appropriateness of continuing the
- 17 program.]

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