

FIRST REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 307
95TH GENERAL ASSEMBLY

1446L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 190 and 633, RSMo, by adding thereto sixteen new sections relating to ambulance service reimbursement allowance tax, with an emergency clause for a certain section.

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

Section A. Chapters 190 and 633, RSMo, are amended by adding thereto sixteen new sections, to be known as sections 190.800, 190.803, 190.806, 190.809, 190.812, 190.815, 190.818, 190.821, 190.824, 190.827, 190.830, 190.833, 190.836, 190.839, 633.402, and 1, to read as follows:

- 190.800. 1. Each ground ambulance service, except for any ambulance service owned and operated by an entity owned and operated by the state of Missouri, including but not limited to any hospital owned or operated by the board of curators, as defined in chapter 172, RSMo, or any department of the state, shall, in addition to all other fees and taxes now required or paid, pay an ambulance service reimbursement allowance tax for the privilege of engaging in the business of providing ambulance services in this state.**
- 2. For the purpose of this section, the following terms shall mean:**
- (1) "Ambulance", the same meaning as such term is defined in section 190.100;**
- (2) "Ambulance service", the same meaning as such term is defined in section 190.100;**
- (3) "Engaging in the business of providing ambulance services in this state", accepting payment for such services;**

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.

13 (4) "Gross receipts", all amounts received by an ambulance service licensed under
14 section 190.109 for its own account from the provision of all emergency services, as defined
15 in section 190.100, to the public in the state of Missouri, but shall not include revenue from
16 taxes collected under law, grants, subsidies received from governmental agencies, or the
17 value of charity care.

 190.803. 1. Each ambulance service's reimbursement allowance shall be based on
2 its gross receipts using a formula established by the department of social services by rule.
3 The determination of tax due shall be the monthly gross receipts reported to the
4 department of social services multiplied by the tax rate established by rule by the
5 department of social services. Such tax rate may be a graduated rate based on gross
6 receipts and shall not exceed a rate of six percent per annum of gross receipts.

7 2. Notwithstanding any other provision of law to the contrary, any action
8 respecting the validity of the rules promulgated under this section or section 190.815 or
9 190.833 shall be filed in the circuit court of Cole County. The circuit court of Cole County
10 shall hear the matter as the court of original jurisdiction.

 190.806. Each ambulance service shall keep such records as may be necessary to
2 determine the amount of its reimbursement allowance. On or before the first day of
3 October of each year, every ambulance service shall submit to the department of social
4 services a statement that accurately reflects such information as is necessary to determine
5 such ambulance service's reimbursement allowance tax. Each licensed ambulance service
6 shall report gross receipts to the department of social services. The information obtained
7 by the department of social services shall be confidential.

 190.809. 1. The director of the department of social services shall make a
2 determination as to the amount of ambulance service reimbursement allowance tax due
3 from each ambulance service.

4 2. The director of the department of social services shall notify each ambulance
5 service of the annual amount of its reimbursement allowance tax on or before the first day
6 of October each year. Such amount may be paid in monthly increments over the balance
7 of the reimbursement allowance tax period, as set forth in subsection 1 of section 190.821.

8 3. The department of social services is authorized to offset the federal
9 reimbursement allowance tax owed by an ambulance service against any MO HealthNet
10 payment due such ambulance service, if the ambulance service requests such an offset. The
11 amounts to be offset shall result, so far as practicable, in withholding from the ambulance
12 service an amount substantially equivalent to the assessment to be due from the ambulance
13 service. The office of administration and state treasurer are authorized to make any fund
14 transfers necessary to execute the offset.

15 **4. The department of social services may adjust the tax rate quarterly on a**
16 **prospective basis. The department of social services may adjust more frequently for**
17 **individual ambulance services if there is a substantial and statistically significant change**
18 **in their service provider characteristics. The department of social services may define such**
19 **adjustment criteria by rule.**

190.812. 1. Each ambulance service reimbursement allowance tax determination
2 **shall be final after receipt of written notice from the department of social services, unless**
3 **the ambulance service files a protest with the director of the department of social services**
4 **setting forth the grounds on which the protest is based, within thirty days from the date**
5 **of receipt of written notice from the department of social services to the ambulance service.**

6 **2. If a timely protest is filed, the director of the department of social services shall**
7 **reconsider the determination and, if the ambulance service has so requested, the director**
8 **or the director's designee shall grant the ambulance service a hearing to be held within**
9 **forty-five days after the protest is filed, unless extended by agreement between the**
10 **ambulance service and the director. The director shall issue a final decision within forty-**
11 **five days of the completion of the hearing. After reconsideration of the reimbursement**
12 **allowance determination and a final decision by the director of the department of social**
13 **services, an ambulance service's appeal of the director's final decision shall be to the**
14 **administrative hearing commission in accordance with section 208.156, RSMo, and section**
15 **621.055, RSMo.**

190.815. The director of the department of social services shall prescribe by rule
2 **the form and content of any document required to be filed under sections 190.800 to**
3 **190.836. No later than November 30, 2009, the department of social services shall**
4 **promulgate rules to implement the provisions of sections 190.830 to 190.836.**

190.818. 1. The ambulance service reimbursement allowance tax owed or, if an
2 **offset has been requested, the balance, if any, after such offset shall be remitted by the**
3 **ambulance service to the department of social services. The remittance shall be made**
4 **payable to the director of the department of revenue. The amount remitted shall be**
5 **deposited in the state treasury to the credit of the "Ambulance Service Reimbursement**
6 **Allowance Fund", which is hereby created for the sole purpose of providing payments to**
7 **ambulance services. All investment earnings of the ambulance service reimbursement**
8 **allowance fund shall be credited to the ambulance service reimbursement allowance fund.**
9 **The unexpended balance in the ambulance service reimbursement allowance fund at the**
10 **end of the biennium is exempt from the provisions of section 33.080, RSMo. The**
11 **unexpended balance shall not revert to the general revenue fund, but shall accumulate in**
12 **the ambulance service reimbursement allowance fund from year to year.**

13 **2. An offset as authorized by this section or a payment to the ambulance service**
14 **reimbursement allowance fund shall be accepted as payment of the ambulance service's**
15 **obligation imposed by section 190.800.**

16 **3. The state treasurer shall maintain records that show the amount of money in the**
17 **ambulance service reimbursement allowance fund at any time and the amount of any**
18 **investment earnings on that amount. The department of social services shall disclose such**
19 **information to any interested party upon written request.**

190.821. 1. An ambulance service reimbursement allowance tax period as provided
2 **in sections 190.800 to 190.836 shall be from the first day of October to the thirtieth day of**
3 **September. The department shall notify each ambulance service with a balance due on the**
4 **thirtieth day of September of each year the amount of such balance due. If any ambulance**
5 **service fails to pay its ambulance service reimbursement allowance tax within thirty days**
6 **of such notice, the reimbursement allowance shall be delinquent. The reimbursement**
7 **allowance tax may remain unpaid during an appeal as provided in section 190.812.**

8 **2. Except as otherwise provided in this section, if any reimbursement allowance tax**
9 **imposed under section 190.800 is unpaid and delinquent, the department of social services**
10 **may proceed to enforce the state's lien against the property of the ambulance service and**
11 **to compel the payment of such reimbursement allowance tax in the circuit court having**
12 **jurisdiction in the county where the ambulance service is located. In addition, the director**
13 **of the department of social services or the director's designee may cancel or refuse to issue,**
14 **extend, or reinstate a MO HealthNet participation agreement to any ambulance service**
15 **which fails to pay such delinquent reimbursement allowance tax required by section**
16 **190.800 unless under appeal as allowed in section 190.812.**

17 **3. Except as otherwise provided in this section, failure to pay a delinquent**
18 **reimbursement allowance tax imposed under section 190.800 shall be grounds for denial,**
19 **suspension, or revocation of a license granted under this chapter. The director of the**
20 **department of social services may notify the department of health and senior services to**
21 **deny, suspend, or revoke the license of any ambulance service which fails to pay a**
22 **delinquent reimbursement allowance tax unless under appeal as provided in section**
23 **190.812.**

190.824. Nothing in sections 190.800 to 190.836 shall be deemed to affect or in any
2 **way limit the tax-exempt or nonprofit status of any ambulance service granted by state or**
3 **federal law.**

190.827. The department of social services shall make payments to those ambulance
2 **services that have a valid MO HealthNet participation agreement with the department.**

3 The ambulance service reimbursement allowance shall not be used to supplant, and shall
4 be in addition to, general revenue payments to ambulance services.

190.830. The requirements of sections 190.800 to 190.830 shall apply only so long
2 as the revenues generated under section 190.800 are eligible for federal financial
3 participation as provided in sections 190.800 to 190.836 and payments are made under
4 section 190.800. For the purpose of this section, "federal financial participation" means
5 the federal government's share of Missouri's expenditures under the MO HealthNet
6 program. Notwithstanding any other provision of this section to the contrary, in the event
7 federal financial participation is either denied, discontinued, reduced in excess of five
8 percent per year, or no longer available for the revenues generated under section 190.800,
9 the director of the department of social services shall cause disbursement of all moneys
10 held in the ambulance service reimbursement allowance fund to be made to all ambulance
11 services in accordance with rules promulgated by the department of social services, along
12 with a full accounting of such disbursements, within forty-five days of receipt of notice
13 thereof by the department of social services.

190.833. The ambulance service reimbursement allowance tax provided in section
2 190.800 shall not be imposed prior to the effective date of rules promulgated by the
3 department of social services, but in no event prior to October 1, 2009.

190.836. No rules implementing sections 190.800 to 190.836 may be filed with the
2 secretary of state without first being provided to interested parties registered on a list of
3 such parties to be maintained by the director of the department of social services. Rules
4 shall be provided to all interested parties seventy-two hours prior to being filed with the
5 secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010,
6 RSMo, that is created under the authority delegated in sections 190.800 to 190.836 shall
7 become effective only if it complies with and is subject to all of the provisions of chapter
8 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to 190.836 and
9 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
12 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
13 invalid and void.

190.839. Sections 190.800 to 190.839 shall expire on September 30, 2011.

633.402. 1. For purposes of this section, the following terms mean:

2 (1) "Certification fee", a fee to be paid by providers of health benefit services,
3 which in the aggregate for all providers shall not exceed the overall cost of the department
4 of mental health's operation of its certification programs for residential habilitation,

5 individualized supported living, and day habilitation services provided to developmentally
6 disabled individuals;

7 (2) "Home and community-based waiver services for persons with developmental
8 disabilities", a department of mental health program which admits persons who are
9 developmentally disabled for residential habilitation, individualized supported living, or
10 day habilitation services under chapter 630, RSMo;

11 (3) "Provider of health benefit services", publicly and privately operated programs
12 providing residential habilitation, individualized supported living, or day habilitation
13 services to developmentally disabled individuals that have been certified to meet
14 department of mental health certification standards.

15 2. Beginning July 1, 2009, each provider of health benefit services accepting
16 payment shall pay a certification fee.

17 3. Each provider's fee shall be based on a formula set forth in rules and regulations
18 promulgated by the department of mental health.

19 4. The fee imposed under this section shall be determined based on the reasonable
20 costs incurred by the department of mental health in its programs of certification of
21 providers of health benefit services. Imposition of the fee shall be contingent upon receipt
22 of all necessary federal approvals under federal law and regulation to assure that the
23 collection of the fee will not adversely affect the receipt of federal financial participation
24 in medical assistance under Title XIX of the federal Social Security Act.

25 5. Fees shall be determined annually and prorated monthly by the director of the
26 department of mental health or his or her designee and shall be made payable to the
27 director of the department of revenue.

28 6. In the alternative, a provider may direct that the director of the department of
29 social services offset, from the amount of any payment to be made by the state to the
30 provider, the amount of the fee payment owed for any month.

31 7. Fee payments shall be deposited in the state treasury to the credit of the "Home
32 and Community-Based Developmental Disabilities Waiver Reimbursement Allowance
33 Fund", which is hereby created in the state treasury. All investment earnings of this fund
34 shall be credited to the fund. The state treasurer shall be custodian and may approve
35 disbursement. Notwithstanding the provisions of section 33.080, RSMo, to the contrary,
36 any unexpended balance in the home and community-based developmental disabilities
37 waiver reimbursement allowance fund at the end of the biennium shall not revert to the
38 general revenue fund but shall accumulate from year to year. The state treasurer shall
39 maintain records that show the amount of money in the fund at any time and the amount
40 of any investment earnings on that amount.

41 **8. Every provider of residential habilitation, individualized supported living, and**
42 **day habilitation services to developmentally disabled individuals, shall submit annually an**
43 **acknowledgment of certification for the purpose of paying its certification fee. The report**
44 **shall be in such form as may be prescribed by rule by the director of the department of**
45 **mental health.**

46 **9. The director of the department of mental health shall prescribe by rule the form**
47 **and content of any document required to be filed under the provisions of this section.**

48 **10. Upon receipt of notification from the director of the department of mental**
49 **health of a provider's delinquency in paying fees required under this section, the director**
50 **of the department of social services shall withhold, and shall remit to the director of the**
51 **department of revenue, the fee amount estimated by the director of the department of**
52 **mental health from any payment to be made by the state to the provider.**

53 **11. In the event a provider objects to the estimate described in subsection 10 of this**
54 **section, or any other decision of the department of mental health related to this section, the**
55 **provider of services may request a hearing. If a hearing is requested, the director of the**
56 **department of mental health shall provide the provider of services an opportunity to be**
57 **heard and to present evidence bearing on the amount due for an assessment or other issue**
58 **related to this section within thirty days after collection of an amount due or receipt of a**
59 **request for a hearing, whichever is later. The director of the department of mental health**
60 **shall issue a final decision within forty-five days of the completion of the hearing. After**
61 **reconsideration of the fee determination and a final decision by the director of the**
62 **department of mental health, a residential habilitation, individualized supported living,**
63 **and day habilitation services to developmentally disabled individuals provider's appeal of**
64 **the director of the department of mental health's final decision shall be to the**
65 **administrative hearing commission in accordance with section 208.156, RSMo, and section**
66 **621.055, RSMo.**

67 **12. Notwithstanding any other provision of law to the contrary, appeals regarding**
68 **this assessment shall be to the circuit court of Cole County or the circuit court in the**
69 **county in which the provider is located. The circuit court shall hear the matter as the court**
70 **of original jurisdiction.**

71 **13. Nothing in this section shall be deemed to affect or in any way limit the tax-**
72 **exempt or nonprofit status of any provider of residential habilitation, individualized**
73 **supported living, and day habilitation services to developmentally disabled individuals,**
74 **granted by state law.**

75 **14. The director of the department of mental health shall promulgate rules and**
76 **regulations to implement this section. Any rule or portion of a rule, as that term is defined**

77 in section 536.010, RSMo, that is created under the authority delegated in this section shall
78 become effective only if it complies with and is subject to all of the provisions of chapter
79 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
80 RSMo, are nonseverable and if any of the powers vested with the general assembly
81 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
82 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
83 authority and any rule proposed or adopted after August 28, 2009, shall be invalid and
84 void.

85 15. The provisions of this section shall expire on September 30, 2011.

Section 1. Reimbursement for ambulance services provided under chapter 208,
2 RSMo, shall be made based on mileage calculations from the point of pick up to the
3 destination.

Section B. Because of the need to preserve state revenue and promote safety and quality
2 in mental health community programs, the enactment of section 633.402 of section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the enactment of section 633.402 of section A of this act shall be in full force and effect upon
6 its passage and approval.

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