

FIRST REGULAR SESSION

# HOUSE BILL NO. 377

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLY (141).

1047H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 208.909, 208.918, and 208.924, RSMo, and to enact in lieu thereof three new sections relating to personal care assistance services.

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

Section A. Sections 208.909, 208.918, and 208.924, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 208.909, 208.918, and 208.924, to read as follows:

208.909. 1. Consumers receiving personal care assistance services shall be responsible for:

(1) Supervising their personal care attendant;

(2) Verifying wages to be paid to the personal care attendant;

(3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;

(4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence;

(5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; ~~and~~

(6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number; **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.

15           **(7) Allowing the vendor to comply with its quality assurance and supervision**  
16 **process, which shall include, but not be limited to, bi-annual face-to-face home visits and**  
17 **monthly case management activities.**

18           2. Participating vendors shall be responsible for:

19           (1) Collecting time sheets or reviewing reports of delivered services and certifying the  
20 accuracy thereof;

21           (2) The Medicaid reimbursement process, including the filing of claims and reporting  
22 data to the department as required by rule;

23           (3) Transmitting the individual payment directly to the personal care attendant on behalf  
24 of the consumer;

25           (4) Monitoring the performance of the personal care assistance services plan. **Such**  
26 **monitoring shall occur during the bi-annual face-to-face home visits under section 208.918.**  
27 **The vendor shall document whether the attendant was present and if services are being**  
28 **provided to the consumer as set forth in the plan of care.**

29           3. No state or federal financial assistance shall be authorized or expended to pay for  
30 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the  
31 services is to the household unit, or is a household task that the members of the consumer's  
32 household may reasonably be expected to share or do for one another when they live in the same  
33 household, unless such service is above and beyond typical activities household members may  
34 reasonably provide for another household member without a disability.

35           4. No state or federal financial assistance shall be authorized or expended to pay for  
36 personal care assistance services provided by a personal care attendant who has not undergone  
37 the background screening process under section 192.2495. If the personal care attendant has a  
38 disqualifying finding under section 192.2495, no state or federal assistance shall be made, unless  
39 a good cause waiver is first obtained from the department in accordance with section 192.2495.

40           5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking  
41 system for the purpose of reporting and verifying the delivery of consumer-directed services as  
42 authorized by the department of health and senior services or its designee. ~~[Use of such a system~~  
43 ~~prior to July 1, 2015, shall be voluntary.]~~ The telephone tracking system shall be used to process  
44 payroll for employees and for submitting claims for reimbursement to the MO HealthNet  
45 division. At a minimum, the telephone tracking system shall:

46           (a) Record the exact date services are delivered;

47           (b) Record the exact time the services begin and exact time the services end;

48           (c) Verify the telephone number from which the services are registered;

49           (d) Verify that the number from which the call is placed is a telephone number unique  
50 to the client;

51 (e) Require a personal identification number unique to each personal care attendant;

52 (f) Be capable of producing reports of services delivered, tasks performed, client identity,  
53 beginning and ending times of service and date of service in summary fashion that constitute  
54 adequate documentation of service; and

55 (g) Be capable of producing reimbursement requests for consumer approval that assures  
56 accuracy and compliance with program expectations for both the consumer and vendor.

57 ~~(2) [The department of health and senior services, in collaboration with other appropriate~~  
58 ~~agencies, including centers for independent living, shall establish telephone tracking system pilot~~  
59 ~~projects, implemented in two regions of the state, with one in an urban area and one in a rural~~  
60 ~~area. Each pilot project shall meet the requirements of this section and section 208.918. The~~  
61 ~~department of health and senior services shall, by December 31, 2013, submit a report to the~~  
62 ~~governor and general assembly detailing the outcomes of these pilot projects. The report shall~~  
63 ~~take into consideration the impact of a telephone tracking system on the quality of the services~~  
64 ~~delivered to the consumer and the principles of self-directed care.~~

65 ~~——(3)] As new technology becomes available, the department may allow use of a more~~  
66 ~~advanced tracking system, provided that such system is at least as capable of meeting the~~  
67 ~~requirements of this subsection.~~

68 ~~[(4)] (3)~~ The department of health and senior services shall promulgate by rule the  
69 minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as  
70 that term is defined in section 536.010, that is created under the authority delegated in this  
71 section shall become effective only if it complies with and is subject to all of the provisions of  
72 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable  
73 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to  
74 delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
75 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,  
76 shall be invalid and void.

77 ~~[6. In the event that a consensus between centers for independent living and~~  
78 ~~representatives from the executive branch cannot be reached, the telephony report issued to the~~  
79 ~~general assembly and governor shall include a minority report which shall detail those elements~~  
80 ~~of substantial dissent from the main report.~~

81 ~~——7. No interested party, including a center for independent living, shall be required to~~  
82 ~~contract with any particular vendor or provider of telephony services nor bear the full cost of the~~  
83 ~~pilot program.]~~

208.918. 1. In order to qualify for an agreement with the department, the vendor shall  
2 have a philosophy that promotes the consumer's ability to live independently in the most

3 integrated setting or the maximum community inclusion of persons with physical disabilities,  
4 and shall demonstrate the ability to provide, directly or through contract, the following services:

5 (1) Orientation of consumers concerning the responsibilities of being an employer[-] **and**  
6 supervision of personal care attendants including the preparation and verification of time sheets.  
7 **Such orientation shall include notifying customers that falsification of attendant visit**  
8 **verification records shall be considered fraud and shall be reported to the department;**

9 (2) Training for consumers about the recruitment and training of personal care  
10 attendants;

11 (3) Maintenance of a list of persons eligible to be a personal care attendant;

12 (4) Processing of inquiries and problems received from consumers and personal care  
13 attendants;

14 (5) Ensuring the personal care attendants are registered with the family care safety  
15 registry as provided in sections 210.900 to ~~[210.937]~~ **210.936**; and

16 (6) The capacity to provide fiscal conduit services through a telephone tracking system  
17 by the date required under section 208.909.

18 2. In order to maintain its agreement with the department, a vendor shall comply with  
19 the provisions of subsection 1 of this section and shall:

20 (1) Demonstrate sound fiscal management as evidenced on accurate quarterly financial  
21 reports ~~[and annual audit]~~ submitted to the department; ~~[and]~~

22 (2) Demonstrate a positive impact on consumer outcomes regarding the provision of  
23 personal care assistance services as evidenced on accurate quarterly and annual service reports  
24 submitted to the department;

25 (3) Implement a quality assurance and supervision process that ensures program  
26 compliance and accuracy of records:

27 (a) **The department of health and senior services shall promulgate by rule a**  
28 **consumer-directed services division provider certification manager course; and**

29 (b) **The vendor shall perform with the consumer at least bi-annual face-to-face**  
30 **home visits to provide ongoing monitoring of the provision of services in the plan of care**  
31 **and assess the quality of care being delivered. The bi-annual face-to-face home visits do**  
32 **not preclude the vendor's responsibility from its ongoing diligence of case management**  
33 **activity oversight;**

34 (4) Comply with all provisions of sections 208.900 to 208.927, and the regulations  
35 promulgated thereunder; **and**

36 (5) **Maintain a business location which shall comply with any and all applicable**  
37 **city, county, state, and federal requirements.**

38           **3. No state or federal funds shall be authorized or expended if the owner, primary**  
39 **operator, certified manager, or any direct employee of the consumer-directed services**  
40 **vendor is also the personal care attendant.**

          208.924. A consumer's personal care assistance services may be discontinued under  
2 circumstances such as the following:

3           (1) The department learns of circumstances that require closure of a consumer's case,  
4 including one or more of the following: death, admission into a long-term care facility, no longer  
5 needing service, or inability of the consumer to consumer-direct personal care assistance service;

6           (2) The consumer has falsified records; **provided false information of his or her**  
7 **condition, functional capacity, or level of care needs;** or committed fraud;

8           (3) The consumer is noncompliant with the plan of care. Noncompliance requires  
9 persistent actions by the consumer which negate the services provided in the plan of care;

10          (4) The consumer or member of the consumer's household threatens or abuses the  
11 personal care attendant or vendor to the point where their welfare is in jeopardy and corrective  
12 action has failed;

13          (5) The maintenance needs of a consumer are unable to continue to be met because the  
14 plan of care hours exceed availability; and

15          (6) The personal care attendant is not providing services as set forth in the personal care  
16 assistance services plan and attempts to remedy the situation have been unsuccessful.

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