

FIRST REGULAR SESSION

HOUSE BILL NO. 536

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLEY (127).

0459H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to MO HealthNet coverage for inmates of public institutions.

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

Section A. Section 208.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.010, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the family support division to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the family support division; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there

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.

18 shall be disregarded such amounts per month of earned income in making such determination
19 as shall be required for federal participation by the provisions of the federal Social Security Act
20 (42 [U.S.C.A.] U.S.C. Section 301, et seq.), or any amendments thereto. When federal law or
21 regulations require the exemption of other income or resources, the family support division may
22 provide by rule or regulation the amount of income or resources to be disregarded.

23 2. Benefits shall not be payable to any claimant who:

24 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
25 away or sold a resource within the time and in the manner specified in this subdivision. In
26 determining the resources of an individual, unless prohibited by federal statutes or regulations,
27 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
28 subsection, and subsection 5 of this section) any resource or interest therein owned by such
29 individual or spouse within the twenty-four months preceding the initial investigation, or at any
30 time during which benefits are being drawn, if such individual or spouse gave away or sold such
31 resource or interest within such period of time at less than fair market value of such resource or
32 interest for the purpose of establishing eligibility for benefits, including but not limited to
33 benefits based on December, 1973, eligibility requirements, as follows:

34 (a) Any transaction described in this subdivision shall be presumed to have been for the
35 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such
36 individual furnishes convincing evidence to establish that the transaction was exclusively for
37 some other purpose;

38 (b) The resource shall be considered in determining eligibility from the date of the
39 transfer for the number of months the uncompensated value of the disposed of resource is
40 divisible by the average monthly grant paid or average Medicaid payment in the state at the time
41 of the investigation to an individual or on his or her behalf under the program for which benefits
42 are claimed, provided that:

43 a. When the uncompensated value is twelve thousand dollars or less, the resource shall
44 not be used in determining eligibility for more than twenty-four months; or

45 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall
46 not be used in determining eligibility for more than sixty months;

47 (2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other
48 than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes
49 convincing evidence that the uncompensated value of the disposed of resource or any part thereof
50 is no longer possessed or owned by the person to whom the resource was transferred;

51 (3) Has received, or whose spouse with whom he or she is living has received, benefits
52 to which he or she was not entitled through misrepresentation or nondisclosure of material facts
53 or failure to report any change in status or correct information with respect to property or income

54 as required by section 208.210. A claimant ineligible pursuant to this ~~[subsection]~~ **subdivision**
55 shall be ineligible for such period of time from the date of discovery as the family support
56 division may deem proper; or in the case of overpayment of benefits, future benefits may be
57 decreased, suspended or entirely withdrawn for such period of time as the division may deem
58 proper;

59 (4) Owns or possesses resources in the sum of one thousand dollars or more; provided,
60 however, that if such person is married and living with spouse, he or she, or they, individually
61 or jointly, may own resources not to exceed two thousand dollars; and provided further, that in
62 the case of a temporary assistance for needy families claimant, a MO HealthNet blind claimant,
63 a MO HealthNet aged claimant, or a MO HealthNet permanent and total disability claimant, the
64 provision of this ~~[subsection]~~ **subdivision** shall not apply;

65 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
66 excluding amounts placed in an irrevocable prearranged funeral or burial contract under chapter
67 436, or has an interest in property, of which he or she is the record or beneficial owner, the value
68 of such property, as determined by the family support division, less encumbrances of record,
69 exceeds twenty-nine thousand dollars, or if married and actually living together with husband
70 or wife, if the value of his or her property, or the value of his or her interest in property, together
71 with that of such husband and wife, exceeds such amount;

72 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
73 child or children in the home owns or possesses property of any kind or character, or has an
74 interest in property for which he or she is a record or beneficial owner, the value of such
75 property, as determined by the family support division and as allowed by federal law or
76 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home
77 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract
78 under chapter 436, one automobile which shall not exceed a value set forth by federal law or
79 regulation and for a period not to exceed six months, such other real property which the family
80 is making a good-faith effort to sell, if the family agrees in writing with the family support
81 division to sell such property and from the net proceeds of the sale repay the amount of
82 assistance received during such period. If the property has not been sold within six months, or
83 if eligibility terminates for any other reason, the entire amount of assistance paid during such
84 period shall be a debt due the state;

85 (7) In the case of MO HealthNet blind claimants, MO HealthNet aged claimants, and
86 MO HealthNet permanent and total disability claimants, starting in fiscal year 2018, owns or
87 possesses resources not to exceed two thousand dollars; provided, however, that if such person
88 is married and living with spouse, he or she, or they, individually or jointly, may own resources
89 not to exceed four thousand dollars except for medical savings accounts and independent living

90 accounts as defined and limited under subsection 3 of section 208.146. These resource limits
91 shall be increased annually by one thousand dollars and two thousand dollars respectively until
92 the sum of resources reach the amount of five thousand dollars and ten thousand dollars
93 respectively by fiscal year 2021. Beginning in fiscal year 2022 and each successive fiscal year
94 thereafter, the division shall measure the cost-of-living percentage increase, if any, as of the
95 preceding July over the level as of July of the immediately preceding year of the Consumer Price
96 Index for All Urban Consumers (**CPI-U**) **for the U.S. City Average for All Items** or successor
97 index published by the U.S. Department of Labor or its successor agency, and the sum of
98 resources allowed under this subdivision shall be modified accordingly to reflect any increases
99 in the cost-of-living, with the amount of the resource limit rounded to the nearest five cents; **or**

100 (8) Is an inmate of a public institution, except as a patient in a public medical institution.
101 **The exclusion of inmates of public institutions in this subdivision shall not apply to MO**
102 **HealthNet claimants if the state receives a waiver of the Medicaid Inmate Exclusion Policy.**
103 **The department of social services shall seek a waiver of the Medicaid Inmate Exclusion**
104 **Policy from the Centers for Medicare and Medicaid Services. If the waiver is approved,**
105 **a person's status as an inmate of a public institution shall not render the person ineligible**
106 **for MO HealthNet benefits.**

107 3. In determining eligibility and the amount of benefits to be granted pursuant to
108 federally aided programs, the income and resources of a relative or other person living in the
109 home shall be taken into account to the extent the income, resources, support and maintenance
110 are allowed by federal law or regulation to be considered.

111 4. In determining eligibility and the amount of benefits to be granted pursuant to
112 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
113 prearranged funeral or burial contract under chapter 436 shall not be taken into account or
114 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
115 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as
116 defined in section 214.270 and any memorial, monument, marker, tombstone or letter marking
117 a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral
118 or burial contract receives any public assistance benefits pursuant to this chapter and if the
119 purchaser of such contract or his or her successors in interest transfer, amend, or take any other
120 such actions regarding the contract so that any person will be entitled to a refund, such refund
121 shall be paid to the state of Missouri with any amount in excess of the public assistance benefits
122 provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her
123 successors. In determining eligibility and the amount of benefits to be granted under federally
124 aided programs, the value of any life insurance policy where a seller or provider is made the
125 beneficiary or where the life insurance policy is assigned to a seller or provider, either being in

126 consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be
127 taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral
128 contract. In addition, the value of any funds, up to nine thousand nine hundred ninety-nine
129 dollars, placed into an irrevocable personal funeral trust account, where the trustee of the
130 irrevocable personal funeral trust account is a state or federally chartered financial institution
131 authorized to exercise trust powers in the state of Missouri, shall not be taken into account or
132 considered an asset of the person whose funds are so deposited if such funds are restricted to be
133 used only for the burial, funeral, preparation of the body, or other final disposition of the person
134 whose funds were deposited into said personal funeral trust account. No person or entity shall
135 charge more than ten percent of the total amount deposited into a personal funeral trust in order
136 to create or set up said personal funeral trust, and any fees charged for the maintenance of such
137 a personal funeral trust shall not exceed three percent of the trust assets annually. Trustees may
138 commingle funds from two or more such personal funeral trust accounts so long as accurate
139 books and records are kept as to the value, deposits, and disbursements of each individual
140 depositor's funds and trustees are to use the prudent investor standard as to the investment of any
141 funds placed into a personal funeral trust. If the person whose funds are deposited into the
142 personal funeral trust account receives any public assistance benefits pursuant to this chapter and
143 any funds in the personal funeral trust account are, for any reason, not spent on the burial,
144 funeral, preparation of the body, or other final disposition of the person whose funds were
145 deposited into the trust account, such funds shall be paid to the state of Missouri with any
146 amount in excess of the public assistance benefits provided under this chapter to be refunded by
147 the state of Missouri to the person who received public assistance benefits or his or her
148 successors. No contract with any cemetery, funeral establishment, or any provider or seller shall
149 be required in regards to funds placed into a personal funeral trust account as set out in this
150 subsection.

151 5. In determining the total property owned pursuant to subdivision (5) of subsection 2
152 of this section, or resources, of any person claiming or for whom public assistance is claimed,
153 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
154 any two or more policies or contracts, or any combination of policies and contracts, which
155 provides for the payment of one thousand five hundred dollars or less upon the death of any of
156 the following:

- 157 (1) A claimant or person for whom benefits are claimed; or
- 158 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
159 she is living.

160

161 If the value of such policies exceeds one thousand five hundred dollars, then the total value of
162 such policies may be considered in determining resources; except that, in the case of temporary
163 assistance for needy families, there shall be disregarded any prearranged funeral or burial
164 contract, or any two or more contracts, which provides for the payment of one thousand five
165 hundred dollars or less per family member.

166 6. Beginning September 30, 1989, when determining the eligibility of institutionalized
167 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for
168 in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the family support division shall
169 comply with the provisions of the federal statutes and regulations. As necessary, the division
170 shall by rule or regulation implement the federal law and regulations which shall include but not
171 be limited to the establishment of income and resource standards and limitations. The division
172 shall require:

173 (1) That at the beginning of a period of continuous institutionalization that is expected
174 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
175 an assessment by the family support division of total countable resources owned by either or both
176 spouses;

177 (2) That the assessed resources of the institutionalized spouse and the community spouse
178 may be allocated so that each receives an equal share;

179 (3) That upon an initial eligibility determination, if the community spouse's share does
180 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the
181 community spouse a resource allowance to increase the community spouse's share to twelve
182 thousand dollars;

183 (4) That in the determination of initial eligibility of the institutionalized spouse, no
184 resources attributed to the community spouse shall be used in determining the eligibility of the
185 institutionalized spouse, except to the extent that the resources attributed to the community
186 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
187 1396r-5;

188 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
189 subsection shall be increased by the percentage increase in the Consumer Price Index for All
190 Urban Consumers (**CPI-U**) **for the U.S. City Average for All Items or successor index**
191 between September, 1988, and the September before the calendar year involved; and

192 (6) That beginning the month after initial eligibility for the institutionalized spouse is
193 determined, the resources of the community spouse shall not be considered available to the
194 institutionalized spouse during that continuous period of institutionalization.

195 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods
196 required and for the reasons specified in 42 U.S.C. Section 1396p.

197 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
198 the provisions of section 208.080.

199 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
200 this chapter there shall be disregarded unless otherwise provided by federal or state statutes the
201 home of the applicant or recipient when the home is providing shelter to the applicant or
202 recipient, or his or her spouse or dependent child. The family support division shall establish by
203 rule or regulation in conformance with applicable federal statutes and regulations a definition of
204 the home and when the home shall be considered a resource that shall be considered in
205 determining eligibility.

206 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient
207 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary
208 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts
209 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title
210 XVIII Medicare Part B, except for hospital outpatient services or the applicable Title XIX cost
211 sharing.

212 11. A "community spouse" is defined as being the noninstitutionalized spouse.

213 12. An institutionalized spouse applying for Medicaid and having a spouse living in the
214 community shall be required, to the maximum extent permitted by law, to divert income to such
215 community spouse to raise the community spouse's income to the level of the minimum monthly
216 needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall
217 occur before the community spouse is allowed to retain assets in excess of the community spouse
218 protected amount described in 42 U.S.C. Section 1396r-5.

✓