

SECOND REGULAR SESSION

HOUSE BILL NO. 1174

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEFANICK (Sponsor), HANAWAY, CROWELL, BEAN, LAGER, PORTWOOD, YATES, THRELKELD, PARKER, JETTON, NIEVES, BEARDEN, MYERS, PRATT, SUTHERLAND, DUSENBERG, STEVENSON, HOBBS, DEEKEN, BRUNS, GUEST, SHOEMAKER, WILSON (130), QUINN, ANGST, MUNZLINGER, PEARCE SANDER, DEMPSEY, PURGASON, ROARK, CUNNINGHAM (145), BAKER, BOUGH, DAVIS (122), GOODMAN, REINHART, MILLER, WILSON (119), SELF, FARES, KING, WALLACE, DETHROW, KINGERY, KELLY (144), JOHNSON (47), MARSH, SCHNEIDER, DOUGHERTY, MOORE, BYRD, CUNNINGHAM (86) AND SEIGFREID (Co-sponsors).

Read 1st time January 20, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3955L.02I

AN ACT

To repeal sections 208.152, 208.204, and 630.210, RSMo, and to enact in lieu thereof four new sections relating to the children's mental health reform act.

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

Section A. Sections 208.152, 208.204, and 630.210, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 208.152, 208.204, 630.097, and
3 630.210, to read as follows:

208.152. 1. Benefit payments for medical assistance shall be made on behalf of those
2 eligible needy persons who are unable to provide for it in whole or in part, with any payments
3 to be made on the basis of the reasonable cost of the care or reasonable charge for the services
4 as defined and determined by the division of medical services, unless otherwise hereinafter
5 provided, for the following:

6 (1) Inpatient hospital services, except to persons in an institution for mental diseases who
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the
8 division of medical services shall provide through rule and regulation an exception process for
9 coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile
10 professional activities study (PAS) or the Medicaid children's diagnosis length-of-stay schedule;

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

11 and provided further that the division of medical services shall take into account through its
12 payment system for hospital services the situation of hospitals which serve a disproportionate
13 number of low-income patients;

14 (2) All outpatient hospital services, payments therefor to be in amounts which represent
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the
18 division of medical services may evaluate outpatient hospital services rendered under this section
19 and deny payment for services which are determined by the division of medical services not to
20 be medically necessary, in accordance with federal law and regulations;

21 (3) Laboratory and X-ray services;

22 (4) Nursing home services for recipients, except to persons in an institution for mental
23 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the
24 department of health and senior services or a nursing home licensed by the division of aging or
25 appropriate licensing authority of other states or government-owned and -operated institutions
26 which are determined to conform to standards equivalent to licensing requirements in Title XIX,
27 of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities.
28 The division of medical services may recognize through its payment methodology for nursing
29 facilities those nursing facilities which serve a high volume of Medicaid patients. The division
30 of medical services when determining the amount of the benefit payments to be made on behalf
31 of persons under the age of twenty-one in a nursing facility may consider nursing facilities
32 furnishing care to persons under the age of twenty-one as a classification separate from other
33 nursing facilities;

34 (5) Nursing home costs for recipients of benefit payments under subdivision (4) of this
35 section for those days, which shall not exceed twelve per any period of six consecutive months,
36 during which the recipient is on a temporary leave of absence from the hospital or nursing home,
37 provided that no such recipient shall be allowed a temporary leave of absence unless it is
38 specifically provided for in his plan of care. As used in this subdivision, the term "temporary
39 leave of absence" shall include all periods of time during which a recipient is away from the
40 hospital or nursing home overnight because he is visiting a friend or relative;

41 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,
42 or elsewhere;

43 (7) Dental services;

44 (8) Services of podiatrists as defined in section 330.010, RSMo;

45 (9) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;

46 (10) Emergency ambulance services and, effective January 1, 1990, medically necessary
47 transportation to scheduled, physician-prescribed nonelective treatments. The department of
48 social services may conduct demonstration projects related to the provision of medically
49 necessary transportation to recipients of medical assistance under this chapter. Such
50 demonstration projects shall be funded only by appropriations made for the purpose of such
51 demonstration projects. If funds are appropriated for such demonstration projects, the
52 department shall submit to the general assembly a report on the significant aspects and results
53 of such demonstration projects;

54 (11) Early and periodic screening and diagnosis of individuals who are under the age of
55 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other
56 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such
57 services shall be provided in accordance with the provisions of section 6403 of P.L.53 101-239
58 and federal regulations promulgated thereunder;

59 (12) Home health care services;

60 (13) Optometric services as defined in section 336.010, RSMo;

61 (14) Family planning as defined by federal rules and regulations; provided, however, that
62 such family planning services shall not include abortions unless such abortions are certified in
63 writing by a physician to the Medicaid agency that, in his professional judgment, the life of the
64 mother would be endangered if the fetus were carried to term;

65 (15) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing
66 aids, and wheelchairs;

67 (16) Inpatient psychiatric hospital services for individuals under age twenty-one as
68 defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

69 (17) Outpatient surgical procedures, including presurgical diagnostic services performed
70 in ambulatory surgical facilities which are licensed by the department of health and senior
71 services of the state of Missouri; except, that such outpatient surgical services shall not include
72 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965
73 amendments to the federal Social Security Act, as amended, if exclusion of such persons is
74 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security
75 Act, as amended;

76 (18) Personal care services which are medically oriented tasks having to do with a
77 person's physical requirements, as opposed to housekeeping requirements, which enable a person
78 to be treated by his physician on an outpatient, rather than on an inpatient or residential basis in
79 a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be
80 rendered by an individual not a member of the recipient's family who is qualified to provide such
81 services where the services are prescribed by a physician in accordance with a plan of treatment

82 and are supervised by a licensed nurse. Persons eligible to receive personal care services shall
83 be those persons who would otherwise require placement in a hospital, intermediate care facility,
84 or skilled nursing facility. Benefits payable for personal care services shall not exceed for any
85 one recipient one hundred percent of the average statewide charge for care and treatment in an
86 intermediate care facility for a comparable period of time;

87 (19) Mental health services. The state plan for providing medical assistance under Title
88 XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental
89 health services when such services are provided by community mental health facilities operated
90 by the department of mental health or designated by the department of mental health as a
91 community mental health facility or as an alcohol and drug abuse facility **or as a child-serving**
92 **agency within the comprehensive children's mental health service system established in**
93 **section 630.097, RSMo.**

94 (a) The department of mental health shall establish by administrative rule the definition
95 and criteria for designation as a community mental health facility and for designation as an
96 alcohol and drug abuse facility. Such mental health services shall include:

97 [(a)] a. Outpatient mental health services including preventive, diagnostic, therapeutic,
98 rehabilitative, and palliative interventions rendered to individuals in an individual or group
99 setting by a mental health professional in accordance with a plan of treatment appropriately
100 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
101 part of client services management;

102 [(b)] b. Clinic mental health services including preventive, diagnostic, therapeutic,
103 rehabilitative, and palliative interventions rendered to individuals in an individual or group
104 setting by a mental health professional in accordance with a plan of treatment appropriately
105 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
106 part of client services management;

107 [(c)] c. Rehabilitative mental health and alcohol and drug abuse services including **home**
108 **and community-based** preventive, diagnostic, therapeutic, rehabilitative, and palliative
109 interventions rendered to individuals in an individual or group setting by a mental health or
110 alcohol and drug abuse professional in accordance with a plan of treatment appropriately
111 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
112 part of client services management. As used in this section, "mental health professional" and
113 "alcohol and drug abuse professional" shall be defined by the department of mental health
114 pursuant to duly promulgated rules. With respect to services established by this subdivision, the
115 department of social services, division of medical services, shall enter into an agreement with
116 the department of mental health. Matching funds for outpatient mental health services, clinic
117 mental health services, and rehabilitation services for mental health and alcohol and drug abuse

118 shall be certified by the department of mental health to the division of medical services. The
119 agreement shall establish a mechanism for the joint implementation of the provisions of this
120 subdivision. In addition, the agreement shall establish a mechanism by which rates for services
121 may be jointly developed;

122 (20) Comprehensive day rehabilitation services beginning early posttrauma as part of a
123 coordinated system of care for individuals with disabling impairments. Rehabilitation services
124 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment
125 plan developed, implemented, and monitored through an interdisciplinary assessment designed
126 to restore an individual to optimal level of physical, cognitive and behavioral function. The
127 division of medical services shall establish by administrative rule the definition and criteria for
128 designation of a comprehensive day rehabilitation service facility, benefit limitations and
129 payment mechanism;

130 (21) Hospice care. As used in this subsection, the term "hospice care" means a
131 coordinated program of active professional medical attention within a home, outpatient and
132 inpatient care which treats the terminally ill patient and family as a unit, employing a medically
133 directed interdisciplinary team. The program provides relief of severe pain or other physical
134 symptoms and supportive care to meet the special needs arising out of physical, psychological,
135 spiritual, social and economic stresses which are experienced during the final stages of illness,
136 and during dying and bereavement and meets the Medicare requirements for participation as a
137 hospice as are provided in 42 CFR Part 418. Beginning July 1, 1990, the rate of reimbursement
138 paid by the division of medical services to the hospice provider for room and board furnished
139 by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the
140 rate of reimbursement which would have been paid for facility services in that nursing home
141 facility for that patient, in accordance with subsection (c) of section 6408 of P.L. 101-239
142 (Omnibus Budget Reconciliation Act of 1989);

143 (22) Such additional services as defined by the division of medical services to be
144 furnished under waivers of federal statutory requirements as provided for and authorized by the
145 federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general
146 assembly;

147 (23) Beginning July 1, 1990, the services of a certified pediatric or family nursing
148 practitioner to the extent that such services are provided in accordance with chapter 335, RSMo,
149 and regulations promulgated thereunder, regardless of whether the nurse practitioner is
150 supervised by or in association with a physician or other health care provider;

151 (24) Subject to appropriations, the department of social services shall conduct
152 demonstration projects for nonemergency, physician-prescribed transportation for pregnant
153 women who are recipients of medical assistance under this chapter in counties selected by the

154 director of the division of medical services. The funds appropriated pursuant to this subdivision
155 shall be used for the purposes of this subdivision and for no other purpose. The department shall
156 not fund such demonstration projects with revenues received for any other purpose. This
157 subdivision shall not authorize transportation of a pregnant woman in active labor. The division
158 of medical services shall notify recipients of nonemergency transportation services under this
159 subdivision of such other transportation services which may be appropriate during active labor
160 or other medical emergency;

161 (25) Nursing home costs for recipients of benefit payments under subdivision (4) of this
162 subsection to reserve a bed for the recipient in the nursing home during the time that the recipient
163 is absent due to admission to a hospital for services which cannot be performed on an outpatient
164 basis, subject to the provisions of this subdivision:

165 (a) The provisions of this subdivision shall apply only if:

166 a. The occupancy rate of the nursing home is at or above ninety-seven percent of
167 Medicaid certified licensed beds, according to the most recent quarterly census provided to the
168 division of aging which was taken prior to when the recipient is admitted to the hospital; and

169 b. The patient is admitted to a hospital for a medical condition with an anticipated stay
170 of three days or less;

171 (b) The payment to be made under this subdivision shall be provided for a maximum of
172 three days per hospital stay;

173 (c) For each day that nursing home costs are paid on behalf of a recipient pursuant to this
174 subdivision during any period of six consecutive months such recipient shall, during the same
175 period of six consecutive months, be ineligible for payment of nursing home costs of two
176 otherwise available temporary leave of absence days provided under subdivision (5) of this
177 subsection; and

178 (d) The provisions of this subdivision shall not apply unless the nursing home receives
179 notice from the recipient or the recipient's responsible party that the recipient intends to return
180 to the nursing home following the hospital stay. If the nursing home receives such notification
181 and all other provisions of this subsection have been satisfied, the nursing home shall provide
182 notice to the recipient or the recipient's responsible party prior to release of the reserved bed.

183 2. Benefit payments for medical assistance for surgery as defined by rule duly
184 promulgated by the division of medical services, and any costs related directly thereto, shall be
185 made only when a second medical opinion by a licensed physician as to the need for the surgery
186 is obtained prior to the surgery being performed.

187 3. The division of medical services may require any recipient of medical assistance to
188 pay part of the charge or cost, as defined by rule duly promulgated by the division of medical
189 services, for dental services, drugs and medicines, optometric services, eye glasses, dentures,

190 hearing aids, and other services, to the extent and in the manner authorized by Title XIX of the
191 federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When
192 substitution of a generic drug is permitted by the prescriber according to section 338.056, RSMo,
193 and a generic drug is substituted for a name brand drug, the division of medical services may not
194 lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of
195 the federal Social Security Act. A provider of goods or services described under this section
196 must collect from all recipients the partial payment that may be required by the division of
197 medical services under authority granted herein, if the division exercises that authority, to remain
198 eligible as a provider. Any payments made by recipients under this section shall be in addition
199 to, and not in lieu of, any payments made by the state for goods or services described herein.

200 4. The division of medical services shall have the right to collect medication samples
201 from recipients in order to maintain program integrity.

202 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of
203 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers
204 so that care and services are available under the state plan for medical assistance at least to the
205 extent that such care and services are available to the general population in the geographic area,
206 as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations
207 promulgated thereunder.

208 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded
209 health centers shall be in accordance with the provisions of subsection 6402(c) and section 6404
210 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations
211 promulgated thereunder.

212 7. Beginning July 1, 1990, the department of social services shall provide notification
213 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who
214 are determined to be eligible for medical assistance under section 208.151 to the special
215 supplemental food programs for women, infants and children administered by the department
216 of health and senior services. Such notification and referral shall conform to the requirements
217 of section 6406 of P.L. 101-239 and regulations promulgated thereunder.

218 8. Providers of long-term care services shall be reimbursed for their costs in accordance
219 with the provisions of section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as
220 amended, and regulations promulgated thereunder.

221 9. Reimbursement rates to long-term care providers with respect to a total change in
222 ownership, at arm's length, for any facility previously licensed and certified for participation in
223 the Medicaid program shall not increase payments in excess of the increase that would result
224 from the application of section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a
225 (a)(13)(C).

226 10. The department of social services, division of medical services, may enroll qualified
227 residential care facilities, as defined in chapter 198, RSMo, as Medicaid personal care providers.

208.204. 1. The division of medical services may administer the funds appropriated to
2 the department of social services or any division of the department for payment of medical care
3 provided to children in the legal custody of the department of social services or any division of
4 the department.

5 **2. Through judicial review or family support team meetings, the children's division**
6 **shall determine which cases involve children in the system due exclusively to a need for**
7 **mental health services, and identify the cases where no instance of abuse, neglect, or**
8 **abandonment exists.**

9 **3. Within sixty days of a child being identified pursuant to subsection 2 of this**
10 **section, an individualized service plan shall be developed by the applicable state agencies**
11 **responsible for providing or paying for any and all appropriate and necessary services.**
12 **The individualized service plan shall specifically identify which agencies are going to pay**
13 **for, subject to appropriations, and provide such services, and such plan shall be submitted**
14 **to the court for approval. Services shall be provided in the least restrictive, most**
15 **appropriate environment that meets the needs of the child including home, community-**
16 **based treatment, and supports. The child's family shall actively participate in designing**
17 **the individualized service plan for the child. The department of social services shall notify**
18 **the appropriate judge of the child and shall submit the individualized service plan**
19 **developed for approval by the judge. The child may be returned by the judge to the**
20 **custody of the child's family.**

21 **4. When the children are returned to their family's custody and become the service**
22 **responsibility of the department of mental health, the appropriate moneys to provide for**
23 **the care of each child in each particular situation shall be billed to the department of social**
24 **services by the department of mental health pursuant to a comprehensive financing plan**
25 **jointly developed by the two departments.**

630.097. 1. The department of mental health shall develop, in partnership with all
2 **departments represented on the children's services commission, a unified accountable**
3 **comprehensive children's mental health service system. The department of mental health**
4 **shall establish a state interagency comprehensive children's mental health service system**
5 **team comprised of representation from:**

- 6 (1) Family run organizations and family members;
- 7 (2) Child advocate organizations;
- 8 (3) The department of health and senior services;

9 **(4) The department of social services' children's division, division of youth services,**
10 **and the division of medical services;**

11 **(5) The department of elementary and secondary education;**

12 **(6) The department of mental health's division of alcohol and drug abuse, division**
13 **of mental retardation and developmental disabilities, and the division of comprehensive**
14 **psychiatric services;**

15 **(7) The department of public safety;**

16 **(8) The office of state courts administrator;**

17 **(9) The juvenile justice system; and**

18 **(10) Local representatives of the member organizations of the state team to serve**
19 **children with emotional and behavioral disturbance problems, developmental disabilities,**
20 **and substance abuse problems;**

21 **The team shall be called "The Comprehensive System Management Team". There shall**
22 **be a stakeholder advisory committee to provide input to the comprehensive system**
23 **management team to assist the departments in developing strategies and to ensure positive**
24 **outcomes for children are being achieved. The department of mental health shall obtain**
25 **input from appropriate consumer and family advocates when selecting family members for**
26 **the comprehensive system management team, in consultation with the departments that**
27 **serve on the children's services commission. The implementation of a comprehensive**
28 **system shall include all state agencies and system partner organizations involved in the**
29 **lives of the children served. These system partners may include private and not-for-profit**
30 **organizations and representatives from local system of care teams and these partners may**
31 **serve on the stakeholder advisory committee. The department of mental health shall**
32 **promulgate rules for the implementation of this section in consultation with all of the**
33 **departments represented in the children's services commission.**

34 **2. The department of mental health shall, in partnership with the departments**
35 **servicing on the children's services commission and the stakeholder advisory committee,**
36 **develop a state comprehensive children's mental health service system plan. This plan**
37 **shall be developed and submitted to the governor, the general assembly and children's**
38 **services commission by December 2004. There shall be subsequent annual reports that**
39 **include progress toward outcomes, monitoring, changes in populations and services, and**
40 **emerging issues. The plan shall:**

41 **(1) Describe the mental health service and support needs of Missouri's children and**
42 **their families, including the specialized needs of specific segments of the population;**

- 43 **(2) Define the comprehensive array of services including services such as intensive**
44 **home-based services, early intervention services, family support services, respite services,**
45 **and behavioral assistance services;**
- 46 **(3) Establish short and long term goals, objectives, and outcomes;**
- 47 **(4) Describe and define the parameters for local implementation of comprehensive**
48 **children's mental health system teams;**
- 49 **(5) Describe and emphasize the importance of family involvement in all levels of the**
50 **system;**
- 51 **(6) Describe the mechanisms for financing, and the cost of implementing the**
52 **comprehensive array of services;**
- 53 **(7) Describe the coordination of services across child serving agencies and at critical**
54 **transition points, with emphasis on the involvement of local schools;**
- 55 **(8) Describe methods for service, program, and system evaluation;**
- 56 **(9) Describe the need for, and approaches to, training and technical assistance; and**
- 57 **(10) Describe the roles and responsibilities of the state and local child serving**
58 **agencies in implementing the comprehensive children's mental health care system.**
- 59 **3. The comprehensive system management team shall collaborate to develop**
60 **uniform language to be used in intake and throughout provision of services.**
- 61 **4. The comprehensive children's mental health services system shall:**
- 62 **(1) Be child centered, family focused, strengths based, and family driven, with the**
63 **needs of the child and family dictating the types and mix of services provided, and shall**
64 **include the families as full participants in all aspects of the planning and delivery of**
65 **services;**
- 66 **(2) Provide community-based mental health services to children and their families**
67 **in the context in which the children live and attend school;**
- 68 **(3) Respond in a culturally competent and responsive manner;**
- 69 **(4) Emphasize prevention, early identification and intervention;**
- 70 **(5) Assure access to a continuum of services that:**
- 71 **(a) Educate the community about the mental health needs of children;**
- 72 **(b) Address the unique physical, behavioral, emotional, social, developmental, and**
73 **educational needs of children;**
- 74 **(c) Are coordinated with the range of social and human services provided to**
75 **children and their families by local school districts, social services, health and senior**
76 **services, public safety, juvenile office and the juvenile and family courts;**
- 77 **(d) Provide a comprehensive array of services through an integrated service plan;**

78 (e) Provide services in the least restrictive most appropriate environment that meets
79 the needs of the child; and

80 (f) Are appropriate to the developmental needs of children;

81 (6) Include early screening and prompt intervention to:

82 (a) Identify and treat the mental health needs of children in the least restrictive
83 environment appropriate to their needs; and

84 (b) Prevent further deterioration;

85 (7) Address the unique problems of paying for mental health services for children,
86 including:

87 (a) Access to private insurance coverage;

88 (b) Public funding, including:

89 a. Assuring that funding follows children across departments; and

90 b. Maximizing federal financial participation.

91 (c) Private funding and services;

92 (8) Assure a smooth transition from child to adult mental health services when
93 needed;

94 (9) Coordinate a service delivery system inclusive of services, providers, and schools
95 that serve children and youth with emotional and behavioral disturbance problems, and
96 their families through state agencies that serve on the state comprehensive children's
97 management team; and

98 (10) Be outcome based.

99 5. By August 28, 2007 and periodically thereafter, the children's services
100 commission shall conduct and distribute to the general assembly an evaluation of the
101 implementation and effectiveness of the comprehensive children's mental health care
102 system, including an assessment of family satisfaction and the progress of achieving
103 outcomes.

630.210. 1. The director shall determine the maximum amount for services which shall
2 be charged in each of the residential facilities, day programs or specialized services operated or
3 funded by the department for full-time or part-time inpatient, resident or outpatient evaluation,
4 care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental
5 disorder, mental illness, mental retardation, developmental disability or drug or alcohol abuse.
6 The maximum charge shall be related to the per capita inpatient cost or actual outpatient
7 evaluation or other service costs of each facility, program or service, which may vary from one
8 locality to another. The director shall promulgate rules setting forth a reasonable standard means
9 test which shall be applied by all facilities, programs and services operated or funded by the
10 department in determining the amount to be charged to persons receiving services. The

11 department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for
12 the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or
13 arranged by the department for any patient, resident or client who is domiciled in Missouri and
14 who is unable to pay fully for services.

15 2. The director shall apply the standard means test annually and may make application
16 of the test upon his own initiative or upon request of an interested party whenever evidence is
17 offered tending to show that the current support status of any patient, resident or client is no
18 longer proper. Any change of support status shall be retroactive to the date of application or
19 request for review. If the persons responsible to pay under section 630.205 or 552.080, RSMo,
20 refuse to cooperate in providing information necessary to properly apply the test or if retroactive
21 benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a
22 date prior to the date of application or request for review. The decision of the director in
23 determining the amount to be charged for services to a patient, resident or client shall be final.
24 Appeals from the determination may be taken to the circuit court of Cole County or the county
25 where the person responsible for payment resides in the manner provided by chapter 536, RSMo.

26 3. The department shall not pay for services provided to a patient, resident or client who
27 is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the
28 department may pay for services provided to a transient person for up to thirty days pending
29 verification of his domiciliary state, and for services provided for up to thirty days in an
30 emergency situation. The director shall promulgate rules for determination of the domiciliary
31 state of any patient, resident or client receiving services from a facility, program or service
32 operated or funded by the department.

33 4. Whenever a patient, resident or client is receiving services from a residential facility,
34 day program or specialized service operated or funded by the department, and the state, county,
35 municipality, parent, guardian or other person responsible for support of the patient, resident or
36 client fails to pay any installment required to be paid for support, the department or the
37 residential facility, day program or specialized service may discharge the patient, resident or
38 client as provided by chapter 31, RSMo. The patient, resident or client shall not be discharged
39 under this subsection until the final disposition of any appeal filed under subsection 2 of this
40 section.

41 **5. The standard means test may be waived for a child in need of mental health**
42 **services to avoid inappropriate custody transfers to the children's division. The**
43 **department of mental health shall notify the child's parent or custodian that the standard**
44 **means test may be waived. The department of mental health shall promulgate rules for**
45 **waiving the standard means test. Any rule or portion of a rule, as that term is defined in**
46 **section 536.010, RSMo, that is created under the authority delegated in this section shall**

47 **become effective only if it complies with and is subject to all of the provisions of chapter**
48 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
49 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
50 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
51 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
52 **authority and any rule proposed or adopted after August 28, 2004, shall be invalid and**
53 **void.**