

FIRST REGULAR SESSION

# HOUSE BILL NO. 961

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ICET.

Read 1<sup>st</sup> time April 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2038L.011

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### AN ACT

To amend chapter 208, RSMo, by adding thereto seven new sections relating to a federal reimbursement allowance for certain health benefit plans, with an emergency clause.

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

Section A. Chapter 208, RSMo, is amended by adding thereto seven new sections, to be  
2 known as sections 208.431, 208.432, 208.433, 208.434, 208.435, 208.436, and 208.437, to read  
3 as follows:

**208.431. 1. For purposes of sections 208.431 to 208.437, the following terms mean:**

2 **(1) "Engaging in the business of providing health benefit services", accepting**  
3 **payment for health benefit services;**

4 **(2) "Medicaid-only health benefit plan", a health benefit plan, as defined in section**  
5 **376.1350, RSMo, offered as Medicaid-only health benefit plan by a Medicaid managed care**  
6 **organization with a contract under 42 U.S.C. Section 1396b(m).**

7 **2. Beginning July 1, 2005, each Medicaid-only health benefit plan in this state shall,**  
8 **in addition to all other fees and taxes now required or paid, pay a Medicaid-only health**  
9 **benefit plan reimbursement allowance for the privilege of engaging in the business of**  
10 **providing health benefit services in this state.**

11 **3. Each Medicaid-only health benefit plan's reimbursement allowance shall be**  
12 **based on a formula set forth in rules, including emergency rules if necessary, promulgated**  
13 **by the department of social services. No Medicaid-only health benefit plan reimbursement**  
14 **allowance shall be collected by the department of social services if the federal Center for**  
15 **Medicare and Medicaid Services determines that such reimbursement allowance is not**

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.

16 authorized under Title XIX of the Social Security Act. If such determination is made by  
17 the federal Center for Medicare and Medicaid Services, any Medicaid-only health benefit  
18 plan reimbursement allowance collected prior to such determination shall be immediately  
19 returned to the Medicaid-only health benefit plans which have paid such allowance.

208.432. Each Medicaid-only health benefit plan shall keep such records as may be  
2 necessary to determine the amount of its reimbursement allowance. Every Medicaid-only  
3 health benefit plan shall submit to the department of social services a statement that  
4 accurately reflects such information as is necessary to determine that Medicaid-only health  
5 benefit plan's reimbursement allowance.

208.433. 1. The director of the department of social services shall make a  
2 determination as to the amount of health benefit plan reimbursement allowance due from  
3 each Medicaid-only health benefit plan.

4 2. The director of the department of social services shall notify each Medicaid-only  
5 health benefit plan of the annual amount of its reimbursement allowance. Such amount  
6 may be paid in monthly increments over the balance of the reimbursement allowance  
7 period.

8 3. The department of social services may offset the health benefit plan  
9 reimbursement allowance owed by the Medicaid-only health benefit plan against any  
10 payment due that health benefit plan only if the health benefit plan requests such an offset.  
11 The amounts to be offset shall result, so far as practicable, in withholding from the health  
12 benefit plan an amount substantially equivalent to the reimbursement allowance owed by  
13 the health benefit plan. The office of administration and state treasurer may make any  
14 fund transfers necessary to execute the offset.

208.434. 1. Each Medicaid-only health benefit plan reimbursement allowance  
2 determination shall be final after receipt of written notice from the department of social  
3 services, unless the Medicaid-only health benefit plan files a protest with the director of the  
4 department of social services setting forth the grounds on which the protest is based, within  
5 thirty days from the date of receipt of written notice from the department of social services  
6 to the health benefit plan.

7 2. If a timely protest is filed, the director of the department of social services shall  
8 reconsider the determination and, if the Medicaid-only health benefit plan has so  
9 requested, the director or the director's designee shall grant the health benefit plan a  
10 hearing to be held within forty-five days after the protest is filed, unless extended by  
11 agreement between the health benefit plan and the director. The director shall issue a final  
12 decision within forty-five days of the completion of the hearing. After reconsideration of  
13 the reimbursement allowance determination and a final decision by the director of the

14 department of social services, a health benefit plan's appeal of the director's final decision  
15 shall be to the administrative hearing commission in accordance with sections 208.156 and  
16 621.055, RSMo.

208.435. 1. The department of social services shall promulgate rules, including  
2 emergency rules if necessary, to implement the provisions of sections 208.431 to 208.437,  
3 including but not limited to:

4 (1) The form and content of any documents required to be filed under sections  
5 208.431 to 208.437;

6 (2) The dates for the filing of documents by Medicaid-only health benefit plans and  
7 for notification by the department to each Medicaid-only health benefit plan of the annual  
8 amount of its reimbursement allowance; and

9 (3) The formula for determining the amount of each plan's reimbursement  
10 allowance.

11 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
12 that is created under the authority delegated in sections 208.431 to 208.437 shall become  
13 effective only if it complies with and is subject to all of the provisions of chapter 536,  
14 RSMo, and, if applicable, section 536.028, RSMo. Sections 208.431 to 208.437 and chapter  
15 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
16 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
17 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
18 authority and any rule proposed or adopted after the effective date of this section shall be  
19 invalid and void.

208.436. 1. (1) The health benefit plan reimbursement allowance owed or, if an  
2 offset has been requested, the balance, if any, after such offset, shall be remitted by the  
3 health benefit plan to the department of social services. The remittance shall be made  
4 payable to the director of the department of revenue.

5 (2) The amount remitted shall be deposited in the state treasury to the credit of the  
6 "Medicaid-only Health Benefit Plan Reimbursement Allowance Fund", which is hereby  
7 created for the sole purposes of providing payment to Medicaid-only health benefit plans.  
8 All investment earnings of the health benefit plan reimbursement allowance fund shall be  
9 credited to the health benefit reimbursement allowance fund.

10 (3) The unexpended balance in the health benefit plan reimbursement allowance  
11 fund at the end of the biennium is exempt from the provisions of section 33.080, RSMo.  
12 The unexpended balance shall not revert to the general revenue fund, but shall accumulate  
13 in the health benefit plan reimbursement allowance fund from year to year.

14 (4) The state treasurer shall maintain records that show the amount of money in

15 the health benefit plan reimbursement allowance fund at any time and the amount of any  
16 investment earnings on that amount. The department of social services shall disclose such  
17 information to any interested party upon written request.

18 2. An offset as authorized by this section or a payment to the health benefit plan  
19 reimbursement allowance fund shall be accepted as payment of the Medicaid-only health  
20 benefit's obligation imposed by section 208.431.

208.437. 1. A Medicaid-only health benefit plan reimbursement allowance period  
2 as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth  
3 day of June. The department shall notify each Medicaid-only health benefit plan with a  
4 balance due on the thirtieth day of June of each year the amount of such balance due. If  
5 any health benefit plan fails to pay its health benefit plan reimbursement allowance within  
6 thirty days of such notice, the reimbursement allowance shall be delinquent. The  
7 reimbursement allowance may remain unpaid during an appeal.

8 2. Except as otherwise provided in this section, if any reimbursement allowance  
9 imposed under the provision of sections 208.431 to 208.437 is unpaid and delinquent, the  
10 department of social services may compel the payment of such reimbursement allowance  
11 in the circuit court having jurisdiction in the county where the main offices of the health  
12 benefit plan's Medicaid managed care organization is located. In addition, the director of  
13 the department of social services or the director's designee may cancel or refuse to issue,  
14 extend or reinstate a Medicaid contract agreement to any Medicaid-only health benefit  
15 plan which fails to pay such delinquent reimbursement allowance required by sections  
16 208.431 to 208.437 unless under appeal.

17 3. Except as otherwise provided in this section, failure to pay a delinquent  
18 reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for  
19 denial, suspension or revocation of a license granted by the department of insurance. The  
20 director of the department of insurance may deny, suspend or revoke the license of a  
21 Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m)  
22 which fails to pay a health benefit plan's delinquent reimbursement allowance unless under  
23 appeal.

24 4. Nothing in sections 208.431 to 208.437 shall be deemed to affect or in any way  
25 limit the tax-exempt or nonprofit status of any health benefit plan or Medicaid managed  
26 care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

27 5. Sections 208.431 to 208.437 shall expire on June 30, 2006.

Section B. Because immediate action is necessary to ensure the provision of services to  
2 certain public assistance recipients, section A of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an

4 emergency act within the meaning of the constitution, and section A of this act shall be in full  
5 force and effect upon its passage and approval.