

SS SB 539 -- HEALTH CARE AND SOCIAL SERVICES PROGRAMS

SPONSOR: Purgason (Stefanick)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 5 to 3.

This substitute changes the laws regarding health care and social services programs, including the Missouri Medicaid Program, the Missouri Rx Plan, and personal care assistance programs.

MISSOURI MEDICAID PROGRAM

The substitute reduces income levels for eligibility for medical assistance and eliminates some optional services, including medical assistance for the working disabled and general relief medical assistance, and lowers the income level of parents of uninsured children in the MC+ for Kids Program that are required to pay a premium from 226% to 151% of the federal poverty level. The Family Support Division within the Department of Social Services is required to conduct annual income eligibility and verification reviews of all recipients of medical assistance. The division must send a re-verification form letter annually to recipients and require the recipient to respond and provide income verification documents within 10 days.

The substitute changes the division of assets procedure for the purposes of determining eligibility for Medicaid when one spouse enters a nursing home and the other spouse remains in the community. Currently, resources that are allocated to the institutionalized spouse can be diverted to the community spouse to provide an income stream for the community spouse. The substitute requires an institutionalized spouse to divert income to the community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance. The diversion of income must occur before the community spouse is allowed to retain assets in excess of the community spouse's protected amount described in federal law.

For purposes of determining Medicaid eligibility, investment in annuities is limited to those that are actuarially sound, provide equal payments for the duration of the device, and provide the state secondary or contingent beneficiary status. The department must establish a 60-month look-back period to review any investment in an annuity by an applicant for Medicaid benefits. The department is allowed to enforce federal TEFRA (Tax Equity and Fiscal Responsibility Act) liens on the property of permanently institutionalized individuals, which include those persons the department determines cannot reasonably be expected to be discharged and return to the home.

Subject to federal law, the department is required to promulgate rules that require recipients of medical assistance to

participate in cost-sharing activities for all covered services, except for personal care, mental health, and health care for uninsured children programs. The cost-sharing provision will also not apply to other qualified children, pregnant women, or blind persons. A health care provider may not refuse to provide a service if a recipient is unable to pay a required fee. However, upon approval from the department, a provider may terminate future services to an individual with an unclaimed debt, as long as it is the provider's routine business practice and the provider gives advance notice and a reasonable opportunity for payment to the individual. The department is allowed to apply for federal Medicaid waivers as necessary if the cost to the state as a result of the waiver does not exceed an additional \$1 million. The request for a waiver will not become effective except by an executive order of the Governor.

MISSOURI RX PLAN

The substitute allows the Missouri Rx Plan to select one or more prescription drug plans as the preferred plan for purposes of the coordination of benefits between the Missouri Rx Plan and the Medicare part D drug benefit. The Department of Health and Senior Services must give initial enrollment priority to individuals who are eligible for both Medicare and Medicaid. The successive enrollment priority is Medicare eligible participants with an annual household income at or below 150% of the federal poverty level.

The plan is the payor of last resort and is meant to cover costs to participants that are not covered by Medicare part D. Persons ineligible for coverage under the Missouri Rx Plan include individuals qualified for coverage for prescription drugs under a public assistance program other than the Medicare Modernization Act, persons who are not considered dually- eligible, and persons qualified for full coverage under another plan of assistance or insurance.

Persons eligible for services under the current Missouri Senior Rx Program on December 13, 2005, will continue to be eligible for those services until January 1, 2006. The provisions of the current Missouri Senior Rx Program will expire following notice to the Revisor of Statutes by the Missouri Senior Rx Program's Advisory Commission that the Medicare Modernization Act of 2003 has been fully implemented.

PERSONAL CARE ASSISTANCE PROGRAM

The substitute transfers the Personal Care Assistance Program for Disabled Persons from the Department of Elementary and Secondary Education to the Department of Health and Senior Services which will provide financial assistance to physically disabled persons for personal care assistance services through eligible vendors. The requirements for eligibility and annual eligibility review

are specified; and upon determination of eligibility, the department must develop a personal care assistance services plan for each disabled person.

Disabled persons receiving personal care assistance are responsible for the supervision of the attendant, while the vendor is responsible for the Medicaid reimbursement process, including filing claims and mailing individual payments directly to the assistant.

The services are not authorized if the primary benefit of the services is to the household unit and the household may reasonably be expected to share or do for one another when they live in the same household. A personal care assistant who is listed on any of the Family Care Safety Registry's background checklists cannot be employed unless a good cause waiver is first obtained from the department.

The Department of Social Services will conduct hearings for the personal care assistance program.

The duties of certain persons to report instances where it is reasonably believed that a disabled person has been neglected, abused, or their property or funds have been misappropriated are specified. The duties of the department's case manager to investigate instances of abuse are also specified. A mandated reporter who fails to report abuse will be guilty of a class A misdemeanor. An employee disqualification list will be maintained by the department for attendants who commit fraudulent acts.

MISCELLANEOUS PROVISIONS

The substitute removes provisions specifying certain costs reports for future nursing facility reimbursement rebasing that were to be effective starting July 1, 2005, and then successively on July 1, 2006, and July 1, 2007.

The Medicaid Reform Commission consisting of 10 members, five from the House of Representatives and five from the Senate, is established to study and review the current Medicaid Program and make recommendations for reforms. The directors of the departments of Social Services, Health and Senior Services, and Mental Health will serve as ex-officio members. The commission must make recommendations to the General Assembly by January 1, 2006, on reforming, redesigning, and restructuring a new innovative healthcare delivery Medicaid system to replace the current system which will sunset on June 30, 2008.

The substitute provides that the adoption subsidy may not be granted to children who reside in a household with an income that does not exceed 200% of the federal poverty level or who are eligible for Title IV-E adoption assistance.

FISCAL NOTE: Estimated Income on General Revenue Fund of More than \$93,730,236 in FY 2006, More than \$43,242,069 in FY 2007, and More than \$20,140,292 in FY 2008. Subject to appropriations. Estimated Income on Other State Funds of Unknown in FY 2006, FY 2007, and FY 2008. Subject to appropriations. Oversight assumes unknown revenues are greater than unknown costs.

PROPOSERS: Supporters say that the bill will allow changes to the Missouri Medicaid Program that will ensure the program keeps up with changes in the delivery of health care and sets the groundwork for implementing the prescription drug coverage provisions in federal law. There are several areas in the Medicaid Program that can be improved to ensure that those who need help are able to get it.

Testifying for the bill were Senator Purgason; Representative Stefanick; Phil Melugin; Mary Mullings; Shelly Tripp; Sherry Davis; Crystal Brown; and Rita Pearson.

OPPOSERS: Those who oppose the bill say that it will result in cost-shifting and will cause the loss of jobs in the state. The bill will put holes in the safety net for vulnerable populations. There are other viable solutions other than cutting eligibility or benefits which will result in declines in overall health of Missourians.

Testifying against the bill were Representative Storch; Midwest Foster Care and Adoption Association; AARP; Darren Mead; Susan Remelius; Dawn Zeterberg; Paraquad; Missouri Association of Osteopathic Physicians; Missouri NEA; Missouri Association of Homes for the Aging; Tom Kruckemeyer; Missouri Budget Project; National Epilepsy Foundation of America; Epilepsy Foundation of America St. Louis Region; Epilepsy Foundation of America Kansas and Western Missouri; Kathy Gerst; Donna Nichols; National Alliance for the Mentally Ill of Missouri; Grass Roots Organization; Metropolitan Congregation United-Greater St. Louis; Marshelle Vickers; Shawn Vickers; Services for Independent Living; Shawn Spradling; Shannon Aller; West Central Independent Living Solutions; Independent Living Center Southeast Missouri; Missouri Association for Social Welfare; Missouri Catholic Conference; Alice Kitchen; and Andrew Haffner.

OTHERS: Others testifying on the bill say it is a companion bill to budgetary reductions. Missouri is not the only state grappling with the increasing cost of the Medicaid Program. Many of the changes have been proposed in the past. Moving the personal care assistance program from the Department of Elementary and Secondary Education to the Department of Health and Senior Services will increase efficiency and consistency in the delivery of services.

Others testifying on the bill were Department of Elementary and Secondary Education; Department of Health and Senior Services;

Department of Social Services; and Mickey Wilson, Oversight Division.

Amy Woods, Senior Legislative Analyst