

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1873

## 93RD GENERAL ASSEMBLY

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Reported from the Committee on Senior Citizens Advocacy March 30, 2006 with recommendation that House Committee Substitute for House Bill No. 1873 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules April 5, 2006 with recommendation that House Committee Substitute for House Bill No. 1873 Do Pass with no time limit for debate.

Taken up for Perfection April 12, 2006. House Committee Substitute for House Bill No. 1873 ordered Perfected and printed.

STEPHEN S. DAVIS, Chief Clerk

5131L.03P

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### AN ACT

To repeal section 208.930, RSMo, and to enact in lieu thereof one new section relating to personal care assistance services, with an emergency clause.

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

Section A. Section 208.930, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.930, to read as follows:

208.930. 1. As used in this section, the term "department" shall mean the department of health and senior services.

2. Subject to appropriations, the department may provide financial assistance for consumer-directed personal care assistance services through eligible vendors, as provided in sections 208.900 through 208.927, to each person who was participating as a non-Medicaid eligible client pursuant to sections 178.661 through 178.673, RSMo, [on June 30, 2005,] and who:

- (1) Makes application to the department;
- (2) Demonstrates financial need and eligibility under subsection 3 of this section;
- (3) Meets all the criteria set forth in sections 208.900 through 208.927, except for subdivision (5) of subsection 1 of section 208.903;

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.

12 (4) Has been found by the department of social services not to be eligible to participate  
13 under guidelines established by the Medicaid state plan; and

14 (5) Does not have access to affordable employer-sponsored health care insurance or other  
15 affordable health care coverage for personal care assistance services as defined in section  
16 208.900. For purposes of this section, "access to affordable employer-sponsored health care  
17 insurance or other affordable health care coverage" refers to health insurance requiring a monthly  
18 premium less than or equal to one hundred thirty-three percent of the monthly average premium  
19 required in the state's current Missouri consolidated health care plan.

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21 Payments made by the department under the provisions of this section shall be made only after  
22 all other available sources of payment have been exhausted.

23 3. (1) In order to be eligible for financial assistance for consumer-directed personal care  
24 assistance services under this section, a person shall demonstrate financial need, which shall be  
25 based on the adjusted gross income **of the person seeking financial assistance and such**  
26 **person's spouse**, and the assets of the person seeking financial assistance and such person's  
27 spouse.

28 (2) In order to demonstrate financial need, a person seeking financial assistance under  
29 this section [and such person's spouse must] **shall** have an adjusted gross income, less  
30 disability-related, medical, **and reasonable living** expenses, as approved by the department, that  
31 is equal to or less than three hundred percent of the federal poverty level **and, if married, shall**  
32 **not have a combined adjusted gross income of more than one hundred twenty-five**  
33 **thousand dollars**. The adjusted gross income shall be based on [the most recent income tax  
34 return] **the documentation listed in subsection 4 of this section**.

35 (3) No person seeking financial assistance for personal care services under this section  
36 and such person's spouse shall have assets in excess of two hundred fifty thousand dollars.

37 4. The department shall require applicants and the [applicant's spouse,] **applicants'**  
38 **spouses** and consumers and the [consumer's spouse] **consumers' spouses** to provide  
39 documentation **for assets**. **The department shall require applicants and consumers to**  
40 **provide documentation** for income[, assets,] and disability-related, medical, **and reasonable**  
41 **living** expenses, **as determined by the department**, for the purpose of determining financial  
42 need and eligibility for the program. [In addition to the most recent income tax return,] Such  
43 documentation may include, but shall not be limited to:

44 (1) **Most recent income tax return for the applicant and the applicant's spouse and**  
45 **the consumer and the consumer's spouse;**

46 (2) Current wage stubs for the applicant or consumer [and the applicant's or consumer's  
47 spouse];

48            [(2)] (3) A current W-2 form for the applicant or consumer [and the applicant's or  
49 consumer's spouse];

50            [(3)] (4) Statements from the applicant's or consumer's [and the applicant's or consumer's  
51 spouse's] **employer or** employers;

52            [(4)] (5) Wage matches with the division of employment security;

53            [(5)] (6) Bank statements; and

54            [(6)] (7) Evidence of disability-related, medical, **and reasonable living** expenses, **as**  
55 **determined by the department**, and proof of payment.

56            5. A personal care assistance services plan shall be developed by the department  
57 pursuant to section 208.906 for each person who is determined to be eligible and in financial  
58 need under the provisions of this section. The plan developed by the department shall include  
59 the maximum amount of financial assistance allowed by the department, subject to appropriation,  
60 for such services.

61            6. Each consumer who participates in the program is responsible for a monthly premium  
62 equal to [the average premium required for the Missouri consolidated health care plan; provided  
63 that the total premium described in this section shall not exceed five percent of the consumer's  
64 and the consumer's spouse's adjusted gross income for the year involved] **the following:**

65            (1) **For adjusted gross incomes below one hundred fifty percent of the federal**  
66 **poverty level, no monthly premium;**

67            (2) **For adjusted gross incomes between one hundred fifty and one hundred eighty-**  
68 **five percent of the federal poverty level, one percent of adjusted gross income;**

69            (3) **For adjusted gross incomes between one hundred eighty-five and two hundred**  
70 **twenty-five percent of the federal poverty level, three percent of adjusted gross income;**

71            (4) **For adjusted gross incomes between two hundred twenty-five and three**  
72 **hundred percent of the federal poverty level, five percent of adjusted gross income.**

73            7. (1) Nonpayment of the premium required in subsection 6 shall result in the denial or  
74 termination of assistance, unless the person demonstrates good cause for such nonpayment.

75            (2) No person denied services for nonpayment of a premium shall receive services unless  
76 such person shows good cause for nonpayment and makes payments for past-due premiums as  
77 well as current premiums.

78            (3) Any person who is denied services for nonpayment of a premium and who does not  
79 make any payments for past-due premiums for sixty consecutive days shall have their enrollment  
80 in the program terminated.

81            (4) No person whose enrollment in the program is terminated for nonpayment of a  
82 premium when such nonpayment exceeds sixty consecutive days shall be reenrolled unless such

83 person pays any past-due premiums as well as current premiums prior to being reenrolled.  
84 Nonpayment shall include payment with a returned, refused, or dishonored instrument.

85 8. (1) Consumers determined eligible for personal care assistance services under the  
86 provisions of this section shall be reevaluated annually to verify their continued eligibility and  
87 financial need. The amount of financial assistance for consumer-directed personal care  
88 assistance services received by the consumer shall be adjusted or eliminated based on the  
89 outcome of the reevaluation. Any adjustments made shall be recorded in the consumer's personal  
90 care assistance services plan.

91 (2) In performing the annual reevaluation of financial need, the department shall  
92 annually send a reverification eligibility form letter to the consumer requiring the consumer to  
93 respond within [ten] **thirty** days of receiving the letter and to provide income and  
94 disability-related, medical, **and reasonable living** expense verification documentation. If the  
95 department does not receive the consumer's response and documentation within the [ten-day]  
96 **thirty-day** period, the department shall send a letter notifying the consumer that he or she has  
97 [ten] **thirty** days to file an appeal or the case will be closed.

98 (3) The department shall require the consumer [and the consumer's spouse] to provide  
99 **verification** documentation for income and disability-related, medical [expense verification],  
100 **and reasonable living expenses as determined by the department** for purposes of the  
101 eligibility review. Such documentation may include but shall not be limited to the  
102 documentation listed in subsection 4 of this section.

103 9. (1) Applicants for personal care assistance services and consumers receiving such  
104 services pursuant to this section are entitled to a hearing with the department of social services  
105 if eligibility for personal care assistance services is denied, if the type or amount of services is  
106 set at a level less than the consumer believes is necessary, if disputes arise after preparation of  
107 the personal care assistance plan concerning the provision of such services, or if services are  
108 discontinued as provided in section 208.924. Services provided under the provisions of this  
109 section shall continue during the appeal process.

110 (2) A request for such hearing shall be made to the department of social services in  
111 writing in the form prescribed by the department of social services within ninety days after the  
112 mailing or delivery of the written decision of the department of health and senior services. The  
113 procedures for such requests and for the hearings shall be as set forth in section 208.080.

114 10. Unless otherwise provided in this section, all other provisions of sections 208.900  
115 through 208.927 shall apply to individuals who are eligible for financial assistance for personal  
116 care assistance services under this section.

117 11. The department may promulgate rules and regulations, including emergency rules,  
118 to implement the provisions of this section. Any rule or portion of a rule, as that term is defined

119 in section 536.010, RSMo, that is created under the authority delegated in this section shall  
120 become effective only if it complies with and is subject to all of the provisions of chapter 536,  
121 RSMo, and, if applicable, section 536.028, RSMo. Any provisions of the existing rules  
122 regarding the personal care assistance program promulgated by the department of elementary and  
123 secondary education in title 5, code of state regulations, division 90, chapter 7, which are  
124 inconsistent with the provisions of this section are void and of no force and effect.

125 [12. The provisions of this section shall expire on June 30, 2006.]

126 Section B. Because immediate action is necessary to ensure continued financial  
127 assistance for personal care services, section A of this act is deemed necessary for the immediate  
128 preservation of the public health, welfare, peace and safety, and is hereby declared to be an  
129 emergency act within the meaning of the constitution, and section A of this act shall be in full  
130 force and effect upon its passage and approval.

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