

FIRST REGULAR SESSION

HOUSE BILL NO. 40

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), LEMBKE, AVERY, DEMPSEY, SCHAAF, McGHEE, DUSENBERG, WOOD, WRIGHT, SANDER, SATER, SILVEY, SCHNEIDER, SWINGER, YOUNG, BRUNS, STEVENSON, MOORE, WALTON, SMITH (150), MEINERS, YAEGER AND SCHOELLER (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0478L.01I

AN ACT

To repeal sections 135.096, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and to enact in lieu thereof five new sections relating to long-term care insurance.

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

Section A. Sections 135.096, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 135.096, 208.690, 208.692, 208.694, and 208.696, to read as follows:

135.096. 1. In order to promote personal financial responsibility for long-term health care in this state, for all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included the individual's itemized deductions. **For all taxable years beginning after December 31, 2006, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions.** A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the

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 proportion of such individual's payment of all qualified long-term care insurance premiums. The
13 director of the department of revenue shall place a line on all Missouri individual income tax
14 returns for the deduction created by this section.

15 2. For purposes of this section, "qualified long-term care insurance" means any policy
16 which meets or exceeds the provisions of sections 376.1100 to 376.1118, RSMo, and the rules
17 and regulations promulgated pursuant to such sections for long-term care insurance.

**208.690. 1. This act shall be known and may be cited as the "Missouri Long-Term
2 Care Partnership Act".**

3 **2. The director of the Missouri department of social services shall, in conjunction**
4 **with the director of the Missouri department of insurance, coordinate a qualified state**
5 **long-term care insurance partnership program to provide incentives for the purchase of**
6 **private long-term care insurance to finance long-term care. Under such program, an**
7 **individual may purchase a qualified state long-term care insurance partnership policy in**
8 **accordance with the requirements of Section 1917(b) of the federal Social Security Act, as**
9 **amended, and any applicable federal guidelines to provide a mechanism for individuals to**
10 **qualify for coverage of the cost of their long-term care needs under the state Medicaid**
11 **program without first being required to substantially exhaust their resources. The**
12 **program shall be established by filing an amendment to the state Medicaid plan with the**
13 **Secretary of the federal Department of Health and Human Services.**

208.692. The department of social services may promulgate rules in accordance
2 **with the requirements of Section 1917(b) of the federal Social Security Act, as amended,**
3 **and applicable federal guidelines to implement the provisions of sections 208.690 to**
4 **208.699. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
5 **that is created under the authority delegated in this section shall become effective only if**
6 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
7 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
8 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
9 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
10 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
11 **adopted after August 28, 2007, shall be invalid and void.**

208.694. 1. The director of the department of insurance may certify qualified state
2 **long-term care insurance partnership policies that meet the applicable provisions of the**
3 **NAIC Long-Term Care Insurance Model Act and Regulation as specified in 42 U.S.C.**
4 **Section 1917 (b) and Section 6021 of the Federal Deficit Reduction Act of 2005.**

5 **2. The director of the department of insurance may promulgate rules to implement**
6 **applicable provisions of a qualified state long-term care partnership in accordance with**

7 the requirements of Section 1917(b) of the federal Social Security Act, as amended, and any
8 applicable federal guidelines. Any rule or portion of a rule, as that term is defined in
9 section 536.010, RSMo, that is created under the authority delegated in this section shall
10 become effective only if it complies with and is subject to all of the provisions of chapter
11 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
12 RSMo, are nonseverable and if any of the powers vested with the general assembly
13 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
14 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
15 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and
16 void.

208.696. The director of the department of insurance, in conjunction with the
2 director of the department of social services, shall submit a report on the progress and
3 effectiveness of the program to the general assembly on September 1, 2008, and on January
4 first each year thereafter.

[660.546. 1. The department of social services shall coordinate a
2 program entitled the "Missouri Partnership for Long-term Care" whereby private
3 insurance and Medicaid funds shall be combined to finance long-term care.
4 Under such program, an individual may purchase a precertified long-term care
5 insurance policy in an amount commensurate with his resources as defined
6 pursuant to the Medicaid program. Notwithstanding any provision of law to the
7 contrary, the resources of such an individual, to the extent such resources are
8 equal to the amount of long-term care insurance benefit payments as provided in
9 section 660.547, shall not be considered by the department of social services in
10 a determination of:

- 11 (1) His eligibility for Medicaid;
- 12 (2) The amount of any Medicaid payment.

13 Any subsequent recovery of a payment for medical services by the state shall be
14 as provided by federal law.

15 2. Notwithstanding any provision of law to the contrary, for purposes of
16 recovering any medical assistance paid on behalf of an individual who was
17 allowed an asset or resource disregard based on such long-term care insurance
18 policy, the definition of estate shall be expanded to include any other real or
19 personal property and other assets in which the individual has any legal title or
20 interest at the time of death, to the extent of such interest, including such assets
21 conveyed to a survivor, heir, or assign of the deceased individual through joint
22 tenancy, tenancy in common, survivorship, life estate, living trust or other
23 arrangement.]
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[660.547. The department of social services shall request appropriate
2 waiver or waivers from the Secretary of the federal Department of Health and
3 Human Services to permit the use of long-term care insurance for the

4 preservation of resources pursuant to section 660.546. Such preservation shall
5 be provided, to the extent approved by the federal Department of Health and
6 Human Services, for any purchaser of a precertified long-term care insurance
7 policy delivered, issued for delivery or renewed within five years after receipt of
8 the federal approval of the waiver, and shall continue for the life of the original
9 purchaser of the policy, provided that he maintains his obligations pursuant to the
10 precertified long-term care insurance policy. Insurance benefit payments made
11 on behalf of a claimant, for payment of services which would be covered under
12 section 208.152, RSMo, shall be considered to be expenditures of resources as
13 required under chapter 208, RSMo, for eligibility for medical assistance to the
14 extent that such payments are:

- 15 (1) For services Medicaid approves or covers for its recipients;
- 16 (2) In an amount not in excess of the charges of the health services
17 provider;
- 18 (3) For nursing home care, or formal services delivered to insureds in the
19 community as part of a care plan approved by a coordination, assessment and
20 monitoring agency licensed pursuant to chapter 198, RSMo; and
- 21 (4) For services provided after the individual meets the coverage
22 requirements for long-term care benefits established by the department of social
23 services for this program.

24 The director of the department of social services shall adopt regulations in
25 accordance with chapter 536, RSMo, to implement the provisions of sections
26 660.546 to 660.557, relating to determining eligibility of applicants for Medicaid
27 and the coverage requirements for long-term care benefits.]

28 [660.549. The department of social services shall establish an outreach
2 program to educate consumers to:

- 3 (1) The mechanisms for financing long-term; and
- 4 (2) The asset protection provided under sections 660.546 to 660.557.]

5 [660.551. 1. The department of insurance shall precertify long-term care
2 insurance policies which are issued by insurers who, in addition to complying
3 with other relevant laws and regulations:

- 4 (1) Alert the purchaser to the availability of consumer information and
5 public education provided by the division of aging and the department of
6 insurance pursuant to sections 660.546 to 660.557;
- 7 (2) Offer the option of home- and community-based services in lieu of
8 nursing home care;
- 9 (3) Offer automatic inflation protection or optional periodic per diem
10 upgrades until the insured begins to receive long-term care benefits; provided,
11 however, that such inflation protection or upgrades shall not be required of life
12 insurance policies or riders containing accelerated long-term care benefits;

(4) Provide for the keeping of records and an explanation of benefits reports to the insured and the department of insurance on insurance payments which count toward Medicaid resource exclusion; and

(5) Provide the management information and reports necessary to document the extent of Medicaid resource protection offered and to evaluate the Missouri partnership for long-term care including, but not limited to, the information listed in section 660.553.

Included among those policies precertified under this section shall be life insurance policies which offer long-term care either by rider or integrated into the life insurance policy.

2. No policy shall be precertified pursuant to sections 660.546 to 660.557, if it requires prior hospitalization or a prior stay in a nursing home as a condition of providing benefits.

3. The department of insurance may adopt regulations to carry out the provisions of sections 660.546 to 660.557.]

[660.553. The department of insurance shall provide public information to assist individuals in choosing appropriate insurance coverage, and shall establish an outreach program to educate consumers as to:

(1) The need for long-term; and

(2) The availability of long-term care insurance.]

[660.555. The director of the department of insurance each year, on January first shall report in writing to the department of social services the following information:

(1) The success in implementing the provisions of sections 660.546 to 660.557;

(2) The number of policies precertified pursuant to sections 660.546 to 660.557;

(3) The number of individuals filing consumer complaints with respect to precertified policies; and

(4) The extent and type of benefits paid, in the aggregate, under such policies that could count toward Medicaid resource protection.]

[660.557. The director of the department of social services shall request the federal approvals necessary to carry out the purposes of sections 660.546 to 660.557. Each year on January first, the director of the department of social services shall report in writing to the general assembly on the progress of the program. Such report will include, but not be limited to:

(1) The success in implementing the provisions of sections 660.546 to 660.557;

(2) The number of policies precertified pursuant to sections 660.546 to 660.557;

- 10 (3) The number of individuals filing consumer complaints with respect
11 to precertified policies;
12 (4) The extent and type of benefits paid, in the aggregate, under such
13 policies that could count toward Medicaid resource protection;
14 (5) Estimates of impact on present and future Medicaid expenditures;
15 (6) The cost effectiveness of the program; and
16 (7) A recommendation regarding the appropriateness of continuing the
17 program.]

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