

FIRST REGULAR SESSION

HOUSE BILL NO. 39

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor), LEMBKE, BAKER (25), SILVEY, BLAND, TILLEY, STORCH, SATER, KUESSNER, DIXON, MUSCHANY, AVERY, DEMPSEY, RUESTMAN, BRUNS, DAY, NANCE, FAITH, CUNNINGHAM (86), SANDER, FARES, DUSENBERG, WRIGHT, VIEBROCK, McGHEE, SWINGER, WALLACE, MUNZLINGER, STEVENSON, SMITH (150), WHORTON, ROORDA, MEINERS, TALBOY, HARRIS (110) AND SCHOELLER (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0458L.011

AN ACT

To repeal section 208.151, RSMo, and to enact in lieu thereof two new sections relating to medical assistance eligibility for certain persons, with an emergency clause and expiration date.

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

Section A. Section 208.151, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 208.146 and 208.151, to read as follows:

208.146. 1. Subject to appropriations and in accordance with the federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106-170, the medical assistance provided for in section 208.151 may be paid for a person who is employed and who:

(1) Except for earnings, meets the definition of disabled under the Supplemental Security Income Program or meets the definition of an employed individual with a medically improved disability under TWWIIA;

(2) Has earned income, as defined in subsection 2 of this section;

(3) Meets the asset limits in subsection 3 of this section;

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.

(4) Has net income, as defined in subsection 3 of this section, that does not exceed the limit for permanent and totally disabled (PTD) individuals to receive nonspenddown Medicaid under subdivision (24) of subsection 1 of section 208.151; and

(5) Has a gross income of two hundred fifty percent or less of the federal poverty level plus any gross income of the disabled person between two hundred fifty and three hundred fifty percent of the federal poverty level. For purposes of this subdivision, "gross income" includes all income of the person and the person's spouse that would be considered in determining Medicaid eligibility for permanent and totally disabled (PTD) individuals under subdivision (24) of subsection 1 of section 208.151. Individuals with gross incomes in excess of one hundred percent of the federal poverty level shall pay a premium for participation in accordance with subsection 4 of this section.

2. For income to be considered earned income for purposes of this section, the department of social services shall document that Medicare and Social Security taxes are withheld from such income. Self-employed persons shall provide proof of payment of Medicare and Social Security taxes for income to be considered earned.

3. (1) For purposes of determining eligibility under this section, the available asset limit and the definition of available assets shall be the same as those used to determine Medicaid eligibility for permanent and totally disabled (PTD) individuals under subdivision (24) of subsection 1 of section 208.151 except for:

(a) Medical savings accounts limited to deposits of earned income and earnings on such income while a participant in the program created under this section with a value not to exceed five thousand dollars per year;

(b) Independent living accounts limited to deposits of earned income and earnings on such income while a participant in the program created under this section with a value not to exceed five thousand dollars per year. For purposes of this section, an "independent living account" means an account established and maintained to provide savings for transportation, housing, home modification, and personal care services and assistive devices associated with such person's disability.

(2) To determine net income, the following shall be disregarded:

(a) All earned income of the disabled worker;

(b) The first sixty-five dollars and one-half of the remaining earned income of a nondisabled spouse's earned income;

(c) A twenty-dollar standard deduction;

(d) Health insurance premiums;

(e) All Supplemental Security Income (SSI) payments and the first two hundred fifty dollars of any Social Security Disability Insurance (SSDI) payments;

46 (f) A standard deduction for impairment-related employment expenses equal to
47 one-half of the disabled worker's earned income.

48 4. Any person whose gross income exceeds one hundred percent of the federal
49 poverty level shall pay a premium for participation in the medical assistance provided in
50 this section. Such premium shall be:

51 (1) For a person whose gross income is more than one hundred percent but less
52 than one hundred fifty percent of the federal poverty level, seven and one-half percent of
53 income at one hundred percent of the federal poverty level;

54 (2) For a person whose gross income equals or exceeds one hundred fifty percent
55 but is less than two hundred percent of the federal poverty level, seven and one-half
56 percent of income at one hundred fifty percent of the federal poverty level;

57 (3) For a person whose gross income equals or exceeds two hundred percent of the
58 federal poverty level, seven and one-half percent of income at two hundred percent of the
59 federal poverty level.

60 5. If an eligible person's employer offers employer-sponsored health insurance and
61 the department of social services determines that it is more cost effective, such person shall
62 participate in the employer-sponsored insurance. The department shall pay such person's
63 portion of the premiums, co-payments, and any other costs associated with participation
64 in the employer-sponsored health insurance.

208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and
2 to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security
3 Act (42 U.S.C. Section 301 et seq.) as amended, the following needy persons shall be eligible
4 to receive medical assistance to the extent and in the manner hereinafter provided:

5 (1) All recipients of state supplemental payments for the aged, blind and disabled;

6 (2) All recipients of aid to families with dependent children benefits, including all
7 persons under nineteen years of age who would be classified as dependent children except for
8 the requirements of subdivision (1) of subsection 1 of section 208.040;

9 (3) All recipients of blind pension benefits;

10 (4) All persons who would be determined to be eligible for old age assistance benefits,
11 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards
12 in effect December 31, 1973, or less restrictive standards as established by rule of the family
13 support division, who are sixty-five years of age or over and are patients in state institutions for
14 mental diseases or tuberculosis;

15 (5) All persons under the age of twenty-one years who would be eligible for aid to
16 families with dependent children except for the requirements of subdivision (2) of subsection 1
17 of section 208.040, and who are residing in an intermediate care facility, or receiving active

18 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as
19 amended;

20 (6) All persons under the age of twenty-one years who would be eligible for aid to
21 families with dependent children benefits except for the requirement of deprivation of parental
22 support as provided for in subdivision (2) of subsection 1 of section 208.040;

23 (7) All persons eligible to receive nursing care benefits;

24 (8) All recipients of family foster home or nonprofit private child-care institution care,
25 subsidized adoption benefits and parental school care wherein state funds are used as partial or
26 full payment for such care;

27 (9) All persons who were recipients of old age assistance benefits, aid to the permanently
28 and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to
29 meet the eligibility requirements, except income, for these assistance categories, but who are no
30 longer receiving such benefits because of the implementation of Title XVI of the federal Social
31 Security Act, as amended;

32 (10) Pregnant women who meet the requirements for aid to families with dependent
33 children, except for the existence of a dependent child in the home;

34 (11) Pregnant women who meet the requirements for aid to families with dependent
35 children, except for the existence of a dependent child who is deprived of parental support as
36 provided for in subdivision (2) of subsection 1 of section 208.040;

37 (12) Pregnant women or infants under one year of age, or both, whose family income
38 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the
39 federal poverty level as established and amended by the federal Department of Health and
40 Human Services, or its successor agency;

41 (13) Children who have attained one year of age but have not attained six years of age
42 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget
43 Reconciliation Act of 1989). The family support division shall use an income eligibility standard
44 equal to one hundred thirty-three percent of the federal poverty level established by the
45 Department of Health and Human Services, or its successor agency;

46 (14) Children who have attained six years of age but have not attained nineteen years of
47 age. For children who have attained six years of age but have not attained nineteen years of age,
48 the family support division shall use an income assessment methodology which provides for
49 eligibility when family income is equal to or less than equal to one hundred percent of the federal
50 poverty level established by the Department of Health and Human Services, or its successor
51 agency. As necessary to provide Medicaid coverage under this subdivision, the department of
52 social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a
53 (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen

54 years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more
55 liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42
56 U.S.C. 1396a;

57 (15) The family support division shall not establish a resource eligibility standard in
58 assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The
59 division of medical services shall define the amount and scope of benefits which are available
60 to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in
61 accordance with the requirements of federal law and regulations promulgated thereunder;

62 (16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal
63 care shall be made available to pregnant women during a period of presumptive eligibility
64 pursuant to 42 U.S.C. Section 1396r-1, as amended;

65 (17) A child born to a woman eligible for and receiving medical assistance under this
66 section on the date of the child's birth shall be deemed to have applied for medical assistance and
67 to have been found eligible for such assistance under such plan on the date of such birth and to
68 remain eligible for such assistance for a period of time determined in accordance with applicable
69 federal and state law and regulations so long as the child is a member of the woman's household
70 and either the woman remains eligible for such assistance or for children born on or after January
71 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon
72 notification of such child's birth, the family support division shall assign a medical assistance
73 eligibility identification number to the child so that claims may be submitted and paid under such
74 child's identification number;

75 (18) Pregnant women and children eligible for medical assistance pursuant to
76 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical
77 assistance benefits be required to apply for aid to families with dependent children. The family
78 support division shall utilize an application for eligibility for such persons which eliminates
79 information requirements other than those necessary to apply for medical assistance. The
80 division shall provide such application forms to applicants whose preliminary income
81 information indicates that they are ineligible for aid to families with dependent children.
82 Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed
83 of the aid to families with dependent children program and that they are entitled to apply for such
84 benefits. Any forms utilized by the family support division for assessing eligibility under this
85 chapter shall be as simple as practicable;

86 (19) Subject to appropriations necessary to recruit and train such staff, the family support
87 division shall provide one or more full-time, permanent case workers to process applications for
88 medical assistance at the site of a health care provider, if the health care provider requests the
89 placement of such case workers and reimburses the division for the expenses including but not

90 limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case
91 workers. The division may provide a health care provider with a part-time or temporary case
92 worker at the site of a health care provider if the health care provider requests the placement of
93 such a case worker and reimburses the division for the expenses, including but not limited to the
94 salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The
95 division may seek to employ such case workers who are otherwise qualified for such positions
96 and who are current or former welfare recipients. The division may consider training such
97 current or former welfare recipients as case workers for this program;

98 (20) Pregnant women who are eligible for, have applied for and have received medical
99 assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be
100 considered eligible for all pregnancy-related and postpartum medical assistance provided under
101 section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

102 (21) Case management services for pregnant women and young children at risk shall be
103 a covered service. To the greatest extent possible, and in compliance with federal law and
104 regulations, the department of health and senior services shall provide case management services
105 to pregnant women by contract or agreement with the department of social services through local
106 health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo,
107 or a city health department operated under a city charter or a combined city-county health
108 department or other department of health and senior services designees. To the greatest extent
109 possible the department of social services and the department of health and senior services shall
110 mutually coordinate all services for pregnant women and children with the crippled children's
111 program, the prevention of mental retardation program and the prenatal care program
112 administered by the department of health and senior services. The department of social services
113 shall by regulation establish the methodology for reimbursement for case management services
114 provided by the department of health and senior services. For purposes of this section, the term
115 "case management" shall mean those activities of local public health personnel to identify
116 prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program,
117 refer them to local physicians or local health departments who provide prenatal care under
118 physician protocol and who participate in the Medicaid program for prenatal care and to ensure
119 that said high-risk mothers receive support from all private and public programs for which they
120 are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

121 (22) By January 1, 1988, the department of social services and the department of health
122 and senior services shall study all significant aspects of presumptive eligibility for pregnant
123 women and submit a joint report on the subject, including projected costs and the time needed
124 for implementation, to the general assembly. The department of social services, at the direction

125 of the general assembly, may implement presumptive eligibility by regulation promulgated
126 pursuant to chapter 207, RSMo;

127 (23) All recipients who would be eligible for aid to families with dependent children
128 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

129 (24) (a) All persons who would be determined to be eligible for old age assistance
130 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.
131 Section 1396a(f), or less restrictive methodologies as contained in the Medicaid state plan as of
132 January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as
133 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if
134 authorized by annual appropriation;

135 (b) All persons who would be determined to be eligible for aid to the blind benefits
136 under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section
137 1396a(f), or less restrictive methodologies as contained in the Medicaid state plan as of January
138 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section
139 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty
140 level;

141 (c) All persons who would be determined to be eligible for permanent and total disability
142 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.
143 1396a(f); or less restrictive methodologies as contained in the Medicaid state plan as of January
144 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as
145 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if
146 authorized by annual appropriations. Eligibility standards for permanent and total disability
147 benefits shall not be limited by age.

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149 **Any income earned through certified extended employment at a sheltered workshop under**
150 **chapter 178, RSMo, shall not be considered as income for purposes of determining**
151 **eligibility under this subdivision;**

152 (25) Persons who have been diagnosed with breast or cervical cancer and who are
153 eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be
154 eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

155 2. Rules and regulations to implement this section shall be promulgated in accordance
156 with section 431.064, RSMo, and chapter 536, RSMo. Any rule or portion of a rule, as that term
157 is defined in section 536.010, RSMo, that is created under the authority delegated in this section
158 shall become effective only if it complies with and is subject to all of the provisions of chapter
159 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
160 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter

161 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are
162 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
163 or adopted after August 28, 2002, shall be invalid and void.

164 3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance
165 pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months
166 immediately preceding the month in which such family became ineligible for such assistance
167 because of increased income from employment shall, while a member of such family is
168 employed, remain eligible for medical assistance for four calendar months following the month
169 in which such family would otherwise be determined to be ineligible for such assistance because
170 of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42
171 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the
172 month in which such family becomes ineligible for such aid, because of hours of employment
173 or income from employment of the caretaker relative, shall remain eligible for medical assistance
174 for six calendar months following the month of such ineligibility as long as such family includes
175 a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical
176 assistance during the entire six-month period described in this section and which meets reporting
177 requirements and income tests established by the division and continues to include a child as
178 provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six
179 months. The division of medical services may provide by rule and as authorized by annual
180 appropriation the scope of medical assistance coverage to be granted to such families.

181 4. When any individual has been determined to be eligible for medical assistance, such
182 medical assistance will be made available to him or her for care and services furnished in or after
183 the third month before the month in which he made application for such assistance if such
184 individual was, or upon application would have been, eligible for such assistance at the time such
185 care and services were furnished; provided, further, that such medical expenses remain unpaid.

186 5. The department of social services may apply to the federal Department of Health and
187 Human Services for a Medicaid waiver amendment to the Section 1115 demonstration waiver
188 or for any additional Medicaid waivers necessary not to exceed one million dollars in additional
189 costs to the state. A request for such a waiver so submitted shall only become effective by
190 executive order not sooner than ninety days after the final adjournment of the session of the
191 general assembly to which it is submitted, unless it is disapproved within sixty days of its
192 submission to a regular session by a senate or house resolution adopted by a majority vote of the
193 respective elected members thereof.

194 6. Notwithstanding any other provision of law to the contrary, in any given fiscal year,
195 any persons made eligible for medical assistance benefits under subdivisions (1) to (22) of
196 subsection 1 of this section shall only be eligible if annual appropriations are made for such

197 eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section
198 1396a(a)(10)(A)(i).

Section B. Because immediate action is necessary to provide assistance to the employed
2 disabled, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect on July 1,
5 2006, upon its passage and approval, whichever later occurs.

Section C. Section 208.146 and the amendments to section 208.151 of section A of this
2 act shall expire three years after the effective date of this act.

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