

FIRST REGULAR SESSION

# HOUSE BILL NO. 459

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SCHAAF (Sponsor), COOPER, SATER, WETER, NANCE, FRANZ, DENISON, SCHOELLER, ICET, SCHARNHORST, WILDBERGER, DOUGHERTY, KIRKTON, CARTER, ATKINS, McCLANAHAN, JONES (63), GRISAMORE AND SCHAD (Co-sponsors).

1223L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 190, RSMo, by adding thereto fifteen new sections relating to a federal reimbursement allowance for air and ground ambulance services.

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

Section A. Chapter 190, RSMo, is amended by adding thereto fifteen new sections, to  
2 be known as sections 190.800, 190.803, 190.806, 190.809, 190.812, 190.815, 190.818, 190.821,  
3 190.824, 190.827, 190.830, 190.833, 190.836, 190.839, and 190.842, to read as follows:

**190.800. 1. Each ground ambulance service, except for any state-owned and  
2 -operated ambulances, shall, in addition to all other fees and taxes now required or paid,  
3 pay an ambulance service reimbursement allowance for the privilege of engaging in the  
4 business of providing ambulance services in this state.**

**5 2. For the purpose of this section, the following terms shall mean:**

**6 (1) "Ambulance", any privately owned vehicle that is specially designed,  
7 constructed or modified, staffed, or equipped for, and is intended or used, maintained, or  
8 operated for the transportation of persons who are sick, injured, wounded, or otherwise  
9 incapacitated or helpless, or who require the presence of medical equipment being used on  
10 such individuals, but does not include any motor vehicle specially designed, constructed,  
11 or converted for the regular transportation of persons who are disabled, handicapped,  
12 normally using a wheelchair, or otherwise not acutely ill;**

**13 (2) "Ambulance service", a person or entity that provides emergency or  
14 nonemergency ambulance transportation and services, or both, in compliance with sections**

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.

15 190.001 to 190.245, and the rules promulgated by the department under sections 190.001  
16 to 190.245;

17 (3) "Engaging in the business of providing ambulance services in this state",  
18 accepting payment for such services.

190.803. Each ambulance service's reimbursement allowance shall be based on a  
2 formula set forth in rules and regulations promulgated by the department of social services  
3 as provided in section 190.836.

190.806. 1. Each ambulance service shall keep such records as may be necessary  
2 to determine the amount of its reimbursement allowance. On or before the first day of  
3 October of each year, every ambulance service shall submit to the department of social  
4 services a statement that accurately reflects such information as is necessary to determine  
5 that ambulance service's reimbursement allowance.

6 2. If an ambulance service does not have a third prior year desk-reviewed cost  
7 report, elements of the reimbursement allowance shall be based on determinations by the  
8 department of social services in accordance with rules established under section 190.839.

190.809. 1. The director of the department of social services shall make a  
2 determination as to the amount of ambulance service reimbursement allowance due from  
3 each ambulance service.

4 2. The director of the department of social services shall notify each ambulance  
5 service of the annual amount of its reimbursement allowance on or before the first day of  
6 October each year. Such amount may be paid in monthly increments over the balance of  
7 the reimbursement allowance period.

8 3. The department of social services is authorized to offset the federal  
9 reimbursement allowance owed by an ambulance service against any MO HealthNet  
10 payment due that ambulance service, if the ambulance service requests such an offset. The  
11 amounts to be offset shall result, so far as practicable, in withholding from the ambulance  
12 service an amount substantially equivalent to the assessment to be due from the ambulance  
13 service. The office of administration and state treasurer are authorized to make any fund  
14 transfers necessary to execute the offset.

190.812. 1. Each ambulance service reimbursement allowance determination shall  
2 be final after receipt of written notice from the department of social services, unless the  
3 ambulance service files a protest with the director of the department of social services  
4 setting forth the grounds on which the protest is based, within thirty days from the date  
5 of receipt of written notice from the department of social services to the ambulance service.

6 2. If a timely protest is filed, the director of the department of social services shall  
7 reconsider the determination and, if the ambulance service has so requested, the director

8 or the director's designee shall grant the ambulance service a hearing to be held within  
9 forty-five days after the protest is filed, unless extended by agreement between the  
10 ambulance service and the director. The director shall issue a final decision within  
11 forty-five days of the completion of the hearing. After reconsideration of the  
12 reimbursement allowance determination and a final decision by the director of the  
13 department of social services, an ambulance service's appeal of the director's final decision  
14 shall be to the administrative hearing commission in accordance with sections 208.156 and  
15 621.055, RSMo.

190.815. The director of the department of social services shall prescribe by rule  
2 the form and content of any document required to be filed under sections 190.800 to  
3 190.839.

190.818. 1. The ambulance service reimbursement allowance owed or, if an offset  
2 has been requested, the balance, if any, after such offset, shall be remitted by the  
3 ambulance service to the department of social services. The remittance shall be made  
4 payable to the director of the department of revenue. The amount remitted shall be  
5 deposited in the state treasury to the credit of the "Ambulance Service Reimbursement  
6 Allowance Fund", which is hereby created for the sole purpose of providing payment to  
7 ambulance services and disbursing up to five percent of the federal funds deposited to the  
8 ambulance service reimbursement allowance fund each year, not to exceed one million five  
9 hundred thousand dollars, to the credit of the ambulance service quality of care fund,  
10 subject to appropriation. The "Ambulance Service Quality of Care Fund" is hereby  
11 created in the state treasury. All investment earnings of the ambulance service quality of  
12 care fund shall be credited to the ambulance service quality of care fund. The unexpended  
13 balance in the ambulance service quality of care fund at the end of the biennium is exempt  
14 from the provisions of section 33.080, RSMo. The unexpended balance shall not revert to  
15 the general revenue fund, but shall accumulate in the ambulance service quality of care  
16 fund from year to year. All investment earnings of the ambulance service reimbursement  
17 allowance fund shall be credited to the ambulance service reimbursement allowance fund.

18 2. An offset as authorized by this section or a payment to the ambulance service  
19 reimbursement allowance fund shall be accepted as payment of the ambulance service's  
20 obligation imposed by section 190.800.

21 3. The state treasurer shall maintain records that show the amount of money in the  
22 ambulance service reimbursement allowance fund at any time and the amount of any  
23 investment earnings on that amount. The department of social services shall disclose such  
24 information to any interested party upon written request.

25           **4. The unexpended balance in the ambulance service reimbursement allowance**  
26 **fund at the end of the biennium is exempt from the provisions of section 33.080, RSMo.**  
27 **The unexpended balance shall not revert to the general revenue fund, but shall accumulate**  
28 **in the ambulance service reimbursement allowance fund from year to year.**

**190.821. 1. An ambulance service reimbursement allowance period as provided in**  
2 **sections 190.800 to 190.839 shall be from the first day of October to the thirtieth day of**  
3 **September. The department shall notify each ambulance service with a balance due on the**  
4 **thirtieth day of September of each year the amount of such balance due. If any ambulance**  
5 **service fails to pay its ambulance service reimbursement allowance within thirty days of**  
6 **such notice, the reimbursement allowance shall be delinquent. The reimbursement**  
7 **allowance may remain unpaid during an appeal or as allowed in section 190.812.**

8           **2. Except as otherwise provided in this section, if any reimbursement allowance**  
9 **imposed under section 190.800 for a previous reimbursement allowance period is unpaid**  
10 **and delinquent, the department of social services may proceed to enforce the state's lien**  
11 **against the property of the ambulance service and to compel the payment of such**  
12 **reimbursement allowance in the circuit court having jurisdiction in the county where the**  
13 **ambulance service is located. In addition, the director of the department of social services**  
14 **or the director's designee may cancel or refuse to issue, extend, or reinstate a MO**  
15 **HealthNet provider agreement to any ambulance service which fails to pay such delinquent**  
16 **reimbursement allowance required by section 190.800 unless under appeal as allowed in**  
17 **section 190.812.**

18           **3. Except as otherwise provided in this section, failure to pay a delinquent**  
19 **reimbursement allowance imposed under section 190.800 shall be grounds for denial,**  
20 **suspension, or revocation of a license granted under this chapter. The director of the**  
21 **department of social services may deny, suspend, or revoke the license of any ambulance**  
22 **service which fails to pay a delinquent reimbursement allowance unless under appeal as**  
23 **allowed in section 190.812.**

**190.824. Nothing in sections 190.800 to 190.839 shall be deemed to affect or in any**  
2 **way limit the tax-exempt or nonprofit status of any ambulance service granted by state law.**

**190.827. The department of social services shall make payments to those ambulance**  
2 **services that have a valid MO HealthNet provider agreement with the department. Any**  
3 **per diem rate, or its equivalent, used to compute such payments shall be equal to or greater**  
4 **than the ambulance service's per diem rate in effect on January 1, 2009, for those**  
5 **ambulance services with a permanent rate established in accordance with regulations**  
6 **promulgated by the department of social services. Those ambulance services without a**  
7 **permanent rate or with an interim rate as of January 1, 2009, shall be subject to having**

8 their permanent rate established in accordance with regulations promulgated by the  
9 department of social services in effect on January 1, 2009. Once the permanent rate is  
10 established, any per diem rate, or its equivalent, used to compute such payments shall be  
11 equal to or greater than the permanent rate established according to regulations in effect  
12 on January 1, 2009. The ambulance service reimbursement allowance shall not be used to  
13 supplant, and shall be in addition to, general revenue payments to ambulance services.

190.830. If the family support division is unable to make a determination regarding  
2 MO HealthNet eligibility for a patient within sixty days of the submission of a completed  
3 application for medical assistance for services of an ambulance service, the patient shall  
4 be MO HealthNet eligible until the application is approved or denied. However, in no  
5 event shall benefits be construed to commence prior to the date of application.

190.833. The requirements of sections 190.800 to 190.836 shall apply only as long  
2 as the revenues generated under section 190.800 are eligible for federal financial  
3 participation as provided in sections 190.800 to 190.839 and payments are made under  
4 section 190.800. For the purpose of this section, "federal financial participation" is the  
5 federal government's share of Missouri's expenditures under the MO HealthNet program.  
6 Notwithstanding anything in this section to the contrary, in the event federal financial  
7 participation is either denied, discontinued, reduced in excess of five percent per year, or  
8 no longer available for the revenues generated under section 190.800, the director of the  
9 department of social services shall cause disbursement of all funds held in the ambulance  
10 service reimbursement allowance fund to be made to all ambulance services in accordance  
11 with regulations promulgated by the department of social services, along with a full  
12 accounting of such disbursements, within forty-five days of receipt of notice thereof by the  
13 department of social services.

190.836. The nursing home reimbursement allowance provided in section 190.800  
2 shall not be imposed prior to the effective date of rules promulgated by the department of  
3 social services, but in no event prior to October 1, 2009.

190.839. No rules implementing sections 190.800 to 190.839 may be filed with the  
2 secretary of state without first being provided to interested parties registered on a list of  
3 such parties to be maintained by the director of the department of social services. Rules  
4 shall be provided to all interested parties seventy-two hours prior to being filed with the  
5 secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010,  
6 RSMo, that is created under the authority delegated in sections 190.800 to 190.839 shall  
7 become effective only if it complies with and is subject to all of the provisions of chapter  
8 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to 190.839 and  
9 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general

10 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
11 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
12 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be  
13 invalid and void.

190.842. Sections 190.800 to 190.842 shall expire on September 30, 2015.

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