

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1129
95TH GENERAL ASSEMBLY

2380L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 208, RSMo, by adding thereto nine new sections relating to an in-home services federal reimbursement allowance.

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

Section A. Chapter 208, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 208.1000, 208.1005, 208.1010, 208.1015, 208.1020, 208.1025, 208.1030,
3 208.1035, and 208.1040, to read as follows:

**208.1000. 1. In addition to all other fees and taxes required or paid, a tax is hereby
2 imposed upon in-home services providers for the privilege of providing in-home services
3 under this chapter. The tax is imposed upon payments received by an in-home services
4 provider for the provision of in-home services under this chapter.**

5 **2. For purposes of sections 208.1000 to 208.1040, the following terms shall mean:**

6 **(1) "Engaging in the business of providing in-home services", all payments received
7 by an in-home services provider for the provision of in-home services under this chapter;**

8 **(2) "In-home services", homemaker services, personal care services, chore services,
9 respite services, consumer-directed services, and services, when provided in the
10 individual's home and under a plan of care created by a physician, necessary to keep
11 children out of hospitals. In-home services shall not include home health services as
12 defined by federal law;**

13 **(3) "In-home services provider", any provider or vendor, as defined in section
14 208.900, of compensated in-home services under this chapter and contracted with the
15 department of social services.**

**208.1005. 1. Each in-home services provider in this state providing in-home
2 services under this chapter, shall, in addition to all other fees and taxes now required or**

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.

3 paid, pay an in-home services reimbursement allowance for the privilege of engaging in the
4 business of providing in-home services in this state.

5 2. Each in-home services provider's tax shall be based on a formula set forth in
6 rules promulgated by the department of social services. Any rule or portion of a rule, as
7 that term is defined in section 536.010, RSMo, that is created under the authority delegated
8 in this section shall become effective only if it complies with and is subject to all of the
9 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section
10 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general
11 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to
12 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
13 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
14 invalid and void.

15 3. The director of the department of social services or the director's designee may
16 prescribe the form and contents of any forms or other documents required by sections
17 208.1000 to 208.1040.

18 4. Notwithstanding any other provision of law to the contrary, appeals regarding
19 the promulgation of rules under this section shall be made to the circuit court of Cole
20 County. The circuit court of Cole County shall hear the matter as the court of original
21 jurisdiction.

208.1010. 1. Each in-home services provider subject to sections 208.1000 to
2 208.1040 shall register with the department of health and senior services. For purposes of
3 assessing the tax under sections 208.1000 to 208.1040, the department of health and senior
4 services shall make available to the department of social services a list of all registrants
5 under this subsection.

6 2. Each in-home services provider subject to sections 208.1000 to 208.1040 shall
7 keep such records as may be necessary to determine the total payments received for the
8 provision of in-home services under this chapter, by the in-home services provider.

9 3. The director of the department of social services may prescribe the form and
10 contents of any forms or other documents required by this section.

11 4. Each in-home services provider shall report the total payments received for the
12 provision of in-home services under this chapter to the department of social services.

208.1015. The tax imposed by sections 208.1000 to 208.1040 shall become effective
2 upon authorization by the federal Centers for Medicare & Medicaid Services for a federal
3 reimbursement allowance for in-home services.

208.1020. 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax rate quarterly on a prospective basis. The department of social services may adjust more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided under this chapter, or the payments received for such services. The department of social services may define such adjustment criteria by rule.

4. In determining the tax due, the first twenty-five thousand dollars generated in gross income, as reported in section 208.1010, shall be disregarded.

208.1025. The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

208.1030. 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Reimbursement Allowance Fund" which is hereby created to provide payments for in-home services provided under this chapter. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 208.1025 or a payment to the in-home services reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 208.1000.

3. The state treasurer shall maintain records showing the amount of money in the in-home services reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

208.1035. 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 208.1000 to 208.1040 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 208.1000.

3. Failure to pay the tax imposed by section 208.1000 shall be grounds for denial, suspension, or revocation of a license granted to such in-home services provider or failure to renew a provider agreement for services under this chapter. The department of social services may request the regulatory board for the in-home services provider to deny, suspend, or revoke the license of any in-home services provider that fails to pay such tax.

208.1040. 1. The in-home services tax required by sections 208.1000 to 208.1040 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided under this chapter, is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2011. The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 208.1000 to 208.1040 shall expire on September 1, 2011.

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