

SECOND REGULAR SESSION

# HOUSE BILL NO. 2129

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES COOPER (Sponsor), DOUGHERTY, McDONALD, ROORDA,  
LeVOTA, CUNNINGHAM AND BIVINS (Co-sponsors).

4917L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 143.790, RSMo, and to enact in lieu thereof two new sections relating to a debt setoff for unpaid healthcare expenses.

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

Section A. Section 143.790, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.789 and 143.790, to read as follows:

**143.789. The director of the department shall have the authority to impose an offset against a refund owed to any taxpayer for the following items and in the following order of priority:**

**(1) Delinquent taxes owed by the taxpayer to the state of Missouri;**

**(2) Debts owed by such taxpayer to any state agency;**

**(3) Child support obligations, owed by such taxpayer, which are enforced by the division of family services on behalf of a person who is receiving support enforcement services under section 454.425;**

**(4) Collection assistance fees authorized under section 143.790; and**

**(5) Eligible claims under section 143.790.**

143.790. 1. [Any hospital or health care provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208, RSMo, and the health insurance for uninsured children under sections 208.631 to 208.657, RSMo, at the time such health care services were administered, and such person has

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.

7 failed to pay for such services for a period greater than ninety days, may submit a claim to the  
8 director of the department of health and senior services for the unpaid health care services. The  
9 director of the department of health and senior services shall review such claim. If the claim  
10 appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt  
11 of the department of health and senior services for purposes of sections 143.782 to 143.788, and  
12 the director may certify the debt to the department of revenue in order to set off the debtor's  
13 income tax refund. Once the debt has been certified, the director of the department of health and  
14 senior services shall submit the debt to the department of revenue under the setoff procedure  
15 established under section 143.783.

16         2. At the time of certification, the director of the department of health and senior services  
17 shall supply any information necessary to identify each debtor whose refund is sought to be set  
18 off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such  
19 debtor.

20         3. If a debtor identified by the director of the department of health and senior services  
21 is determined by the department of revenue to be entitled to a refund, the department of revenue  
22 shall notify the department of health and senior services that a refund has been set off on behalf  
23 of the department of health and senior services for purposes of this section and shall certify the  
24 amount of such setoff, which shall not exceed the amount of the claimed debt certified. When  
25 the refund owed exceeds the claimed debt, the department shall send the excess amount to the  
26 debtor within a reasonable time after such excess is determined.

27         4. The department of revenue shall notify the debtor by certified mail the taxpayer whose  
28 refund is sought to be set off that such setoff will be made. The notice shall contain the  
29 provisions contained in subsection 3 of section 143.794, including the opportunity for a hearing  
30 to contest the setoff provided therein, and shall otherwise substantially comply with the  
31 provisions of subsection 3 of section 143.784.

32         5. Once a debt has been set off and finally determined under the applicable provisions  
33 of sections 143.782 to 143.788, and the department of health and senior services has received  
34 the funds transferred from the department of revenue, the department of health and senior  
35 services shall settle with each hospital or health care provider for the amounts that the  
36 department of revenue set off for such party. At the time of each settlement, each hospital or  
37 health care provider shall be charged for administration expenses which shall not exceed twenty  
38 percent of the collected amount.

39         6. Lottery prize payouts made under section 313.321, RSMo, shall also be subject to the  
40 setoff procedures established in this section and any rules and regulations promulgated thereto.

41         7. The director of the department of revenue shall have priority to offset any delinquent  
42 tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency

43 debt or to meet a child support obligation that is enforced by the division of family services on  
44 behalf of a person who is receiving support enforcement services under section 454.425, RSMo.

45 **8.] As used in this section, the following terms shall mean:**

46 **(1) "Appeals committee", a committee consisting of at least three people appointed**  
47 **by a provider to hear patient appeals of review officer rulings:**

48 **(a) That the provider has a valid claim;**

49 **(b) Regarding the amount of the claim;**

50 **(c) That a claim qualifies as an eligible claim under this section;**

51 **(2) "Collection assistance fee", a fee in the amount of seven dollars payable to the**  
52 **department for each debt setoff being processed and an additional seventeen dollars**  
53 **payable to the claim clearinghouse for each debt being processed by the claim**  
54 **clearinghouse shall be recovered from each eligible claim to recover the costs incurred in**  
55 **collecting debts under this section;**

56 **(3) "Court", the supreme court, court of appeals, or any circuit court of the state;**

57 **(4) "Department", the department of revenue;**

58 **(5) "Claim", a claim by a provider to receive payment of fifty dollars or more for**  
59 **health care services provided by such provider to a patient which has not been paid in**  
60 **whole or in part by the patient or third party payer for more than ninety days after the**  
61 **date the patient was first billed for such health care services;**

62 **(6) "Claim clearinghouse", an entity that submits eligible claims on behalf of a**  
63 **provider in accordance with this section. A claim clearinghouse shall be an entity**  
64 **designated by the Missouri ambulance services industry, acceptable to the department and**  
65 **registered with the department as a claim clearinghouse. Once a claim clearinghouse**  
66 **registers with, and is approved by, the department under this subsection, no other claim**  
67 **clearinghouse may register to submit debts for collection under this section;**

68 **(7) "Health care services", any services that a provider renders to a patient in the**  
69 **course of such provider's furnishing of ambulance services. Health care services shall**  
70 **include, but not be limited to, treatment of patients and transporting of patients incidental,**  
71 **or pursuant, to the delivery of ambulance services by a provider or in furtherance of the**  
72 **purposes for which such provider is organized and licensed;**

73 **(8) "Patient", an individual who has received health care services from a provider**  
74 **and who was not, at the time such health care services were provided, eligible to receive**  
75 **benefits under the state's medical assistance program for needy persons under chapter 208**  
76 **and the health insurance for uninsured children under sections 208.631 to 208.657;**

77 **(9) "Provider", any provider of ambulance services licensed by the Missouri**  
78 **department of health and senior services in accordance with chapter 190;**

79           (10) "Refund", a patient's Missouri income tax refund which the department  
80 determines to be due pursuant to the provisions of this chapter;

81           (11) "Review officer", a person designated by a provider to review claims, at the  
82 request of a patient, to determine whether such provider has a valid claim, the amount of  
83 such claim, and whether such claim qualifies as an eligible claim under this section.

84           2. Prior to submission of a claim to the claim clearinghouse, a provider shall send  
85 written notice to a patient that such provider intends to submit a claim to the claim  
86 clearinghouse for collection by setoff under this section. The notice shall:

87           (1) Provide the basis for the claim;

88           (2) State that the provider intends to request that the department apply the  
89 patient's refund against the claim;

90           (3) State that a collection assistance fee will be added to the claim if it is submitted  
91 for setoff;

92           (4) Inform the patient of the right to contest the validity or amount of such claim  
93 by filing a request for a review with the provider; and

94           (5) State the time limit and procedure for requesting such review, and that failure  
95 to request a review within thirty days following receipt of the notice required under this  
96 section shall result in submission of the claim to the claim clearinghouse for setoff of the  
97 debt by the department.

98           3. Upon receipt of the notice required under subsection 2 of this section, any patient  
99 seeking review of a claim with the provider shall file a written request for review within  
100 thirty days of receipt of such notice. A request for a review shall be deemed filed when  
101 properly addressed and delivered to the United States Postal Service for mailing with  
102 postage prepaid. A review officer shall be appointed by the provider to review such claim.  
103 In reviewing a claim, any issue that has previously been litigated in a court proceeding  
104 shall not be considered by the review officer. If the patient seeks a review of the claim and  
105 the review officer finds either that the claim is invalid or the claim does not qualify as an  
106 eligible claim under this section, the review officer's determination shall be final and  
107 binding on the provider and such provider shall have no right to appeal such  
108 determination. If all or part of the claim is found by the review officer to be valid and  
109 eligible for setoff under this section, the review officer shall notify the provider and the  
110 patient of such fact. Such notice shall:

111           (1) Inform the patient that the patient has the right to appeal the review officer's  
112 determination by filing an appeal with the appeals committee;

113           (2) State the time limit and procedure for requesting such an appeal; and

114           (3) State that failure to request the appeal within thirty days following receipt of  
115 the notice required under this subsection shall result in submission of the claim to the claim  
116 clearinghouse for setoff of the debt by the department.

117           4. Upon receipt of the notice required under subsection 3 of this section, any patient  
118 seeking an appeal of a determination of a review officer under subsection 4 of this section  
119 shall file a written request for such appeal within thirty days following receipt of such  
120 notice. An appeal shall be deemed filed when properly addressed and delivered to the  
121 United States Postal Service for mailing with postage prepaid. An appeal of a review  
122 officer's determination shall be heard by an appeals committee. In an appeal under this  
123 section, any issue that has been previously litigated in a court proceeding shall not be  
124 considered. A decision made after an appeal under this section shall determine whether  
125 a claim is owed to the provider, the amount of the claim, and whether the claim is an  
126 eligible claim under this section. If the appeals committee finds a claim to be invalid or  
127 otherwise ineligible under this section, the decision of the appeals committee shall be final  
128 and binding on the provider and may not be appealed by the provider. If a claim is found  
129 by the appeals committee to be valid and eligible for setoff under this section, the provider  
130 shall submit the claim to the claim clearinghouse for setoff by the department.

131           5. Any provider may submit a claim to the claim clearinghouse for review. If the  
132 claim clearinghouse receives sufficient evidence that a provider has fully complied with the  
133 notice requirements provided under this section and finds the claim valid, the claim shall  
134 be deemed eligible for setoff by the department under this section and shall be forwarded  
135 to the department.

136           6. If a provider is found to have failed to comply with any applicable requirements  
137 contained in this section, such provider shall send the patient the entire amount of the  
138 claim setoff by the department plus an amount equal to the collection assistance fee.

139           7. If the department determines that a patient identified by a provider in an eligible  
140 claim filed with the department is entitled to a refund, the department shall notify the  
141 claim clearinghouse that a refund is available for setoff and the amount of such refund.

142           8. At that time, the department shall also notify the patient by regular mail that  
143 setoff against his or her tax refund has been authorized under this section. The notice shall  
144 include the following information:

145           (1) The amount of the eligible claim and the name of the provider seeking setoff;

146           (2) That a setoff to the patient's refund against the eligible claim has been  
147 performed;

148           (3) Any amount of the refund remaining after the offset of the eligible claim; and

(4) The patient's right to request a hearing to contest the setoff, including information regarding how to make such a request, which shall include but not be limited to:

(a) The name and mailing address of the department for purposes of requesting such a hearing;

(b) A statement regarding all information that the patient must include for the hearing;

(c) A statement that the patient's failure to apply for such a hearing, in writing, within thirty days of the notice provided under this subsection, shall be deemed a waiver of the opportunity to contest the setoff and shall cause the refund to be reduced by the amount of the eligible claim and the collection assistance fee.

9. If an application for hearing by the department alleges a defense to the nature or amount of the claim upon which the setoff is based which requires an evidentiary hearing, the department shall promptly conduct such hearing in accordance with the provisions of chapter 536. If the eligible claim is based on a court or administrative order, the patient shall be entitled to assert only those defenses which arose subsequent to such court or administrative order, and no issue may be raised at the hearing which has previously been litigated. If no factual issue has been raised by an application for a hearing contesting a setoff or the eligible claim upon which the setoff is based, or the only issues raised have been previously litigated, the department may enter its order without conducting an evidentiary hearing, and such order shall be a final decision entitled to judicial review as provided in sections 536.100 to 536.140. Appeals from actions taken at the hearing allowed under this section shall be in accordance with the provisions of chapter 536.

10. Only after all applicable provisions of this section have been satisfied, the department shall pay to the claim clearinghouse requesting a setoff under this section the amount that the department has setoff for such provider, which shall include the collection assistance allocable to the claim clearing. In the event the department is unable to setoff the entire eligible claim and collection assistance fee under this section, the setoff of the collection assistance fee shall have priority over the setoff of the eligible claim.

11. In addition to refunds, lottery prize payouts made under section 313.321 shall be subject to the setoff procedures established in this section.

12. The director of the department of revenue and the director of the department of health and senior services shall promulgate rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become

185 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
186 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
187 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
188 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
189 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
190 after August 28, 2007, shall be invalid and void.

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