

HOUSE _____ **AMENDMENT NO.** _____**Offered By**

AMEND House Committee Substitute for Senate Bill No. 0090, Section 103.089, Page 3, Line 21, by inserting after all of said section and line the following:

“190.839. Sections 190.800 to 190.839 shall expire on September 30, [2011] 2015.”; and

Further amend said Bill, Section 192.300, Page 3, Line 30, by inserting after all of said section and line the following:

“198.439. Sections 198.401 to 198.436 shall expire on September 30, [2011] 2015.”

208.437. 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care

1 organization's delinquent reimbursement allowance unless under appeal.

2 4. Nothing in sections 208.431 to 208.437 shall be deemed to effect or in any way limit
3 the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract
4 under 42 U.S.C. Section 1396b(m) granted by state law.

5 5. Sections 208.431 to 208.437 shall expire on September 30, [2011] 2015.

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7 208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections
8 208.453 to 208.480 shall expire on September 30, [2011] 2015.

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10 338.550. 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety
11 days after any one or more of the following conditions are met:

12 (1) The aggregate dispensing fee as appropriated by the general assembly paid to
13 pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement
14 amount; or

15 (2) The formula used to calculate the reimbursement as appropriated by the general
16 assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to
17 the pharmacist in the aggregate than provided in fiscal year 2003; or

18 (3) September 30, [2011] 2015.

19
20 The director of the department of social services shall notify the revisor of statutes of the
21 expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550
22 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in
23 prescription drug sales that are delivered directly to patients within this state via common carrier,
24 mail or a carrier service.

25 2. Sections 338.500 to 338.550 shall expire on September 30, [2011] 2015.”; and

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27 Further amend said Bill, Section 376.1227, Page 5, Line 15, by inserting after all of said section
28 and line the following:

29 “633.401. 1. For purposes of this section, the following terms mean:

30 (1) "Engaging in the business of providing health benefit services", accepting payment for
31 health benefit services;

32 (2) "Intermediate care facility for the mentally retarded", a private or department of mental
33 health facility which admits persons who are mentally retarded or developmentally disabled for
34 residential habilitation and other services pursuant to chapter 630. Such term shall include
35 habilitation centers and private or public intermediate care facilities for the mentally retarded that
36 have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

1 (3) "Net operating revenues from providing services of intermediate care facilities for the
2 mentally retarded" shall include, without limitation, all moneys received on account of such
3 services pursuant to rates of reimbursement established and paid by the department of social
4 services, but shall not include charitable contributions, grants, donations, bequests and income
5 from nonservice related fund-raising activities and government deficit financing, contractual
6 allowance, discounts or bad debt;

7 (4) "Services of intermediate care facilities for the mentally retarded" has the same
8 meaning as the term used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as
9 amended, and as such qualifies as a class of health care services recognized in federal Public Law
10 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

11 2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the
12 mentally retarded shall, in addition to all other fees and taxes now required or paid, pay
13 assessments on their net operating revenues for the privilege of engaging in the business of
14 providing services of the intermediate care facilities for the mentally retarded or developmentally
15 disabled in this state.

16 3. Each facility's assessment shall be based on a formula set forth in rules and regulations
17 promulgated by the department of mental health.

18 4. For purposes of determining rates of payment under the medical assistance program for
19 providers of services of intermediate care facilities for the mentally retarded, the assessment
20 imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be
21 reflected as timely as practicable in rates of payment applicable within the assessment period,
22 contingent, for payments by governmental agencies, on all federal approvals necessary by federal
23 law and regulation for federal financial participation in payments made for beneficiaries eligible
24 for medical assistance under Title XIX of the federal Social Security Act.

25 5. Assessments shall be submitted by or on behalf of each provider of services of
26 intermediate care facilities for the mentally retarded on a monthly basis to the director of the
27 department of mental health or his or her designee and shall be made payable to the director of the
28 department of revenue.

29 6. In the alternative, a provider may direct that the director of the department of social
30 services offset, from the amount of any payment to be made by the state to the provider, the
31 amount of the assessment payment owed for any month.

32 7. Assessment payments shall be deposited in the state treasury to the credit of the
33 "Intermediate Care Facility Mentally Retarded Reimbursement Allowance Fund", which is hereby
34 created in the state treasury. All investment earnings of this fund shall be credited to the fund.
35 Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the
36 intermediate care facility mentally retarded reimbursement allowance fund at the end of the

1 biennium shall not revert to the general revenue fund but shall accumulate from year to year. The
2 state treasurer shall maintain records that show the amount of money in the fund at any time and
3 the amount of any investment earnings on that amount.

4 8. Each provider of services of intermediate care facilities for the mentally retarded shall
5 keep such records as may be necessary to determine the amount of the assessment for which it is
6 liable under this section. On or before the forty-fifth day after the end of each month commencing
7 July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded
8 shall submit to the department of social services a report on a cash basis that reflects such
9 information as is necessary to determine the amount of the assessment payable for that month.

10 9. Every provider of services of intermediate care facilities for the mentally retarded shall
11 submit a certified annual report of net operating revenues from the furnishing of services of
12 intermediate care facilities for the mentally retarded. The reports shall be in such form as may be
13 prescribed by rule by the director of the department of mental health. Final payments of the
14 assessment for each year shall be due for all providers of services of intermediate care facilities
15 for the mentally retarded upon the due date for submission of the certified annual report.

16 10. The director of the department of mental health shall prescribe by rule the form and
17 content of any document required to be filed pursuant to the provisions of this section.

18 11. Upon receipt of notification from the director of the department of mental health of a
19 provider's delinquency in paying assessments required under this section, the director of the
20 department of social services shall withhold, and shall remit to the director of the department of
21 revenue, an assessment amount estimated by the director of the department of mental health from
22 any payment to be made by the state to the provider.

23 12. In the event a provider objects to the estimate described in subsection 11 of this
24 section, or any other decision of the department of mental health related to this section, the
25 provider of services may request a hearing. If a hearing is requested, the director of the
26 department of mental health shall provide the provider of services an opportunity to be heard and
27 to present evidence bearing on the amount due for an assessment or other issue related to this
28 section within thirty days after collection of an amount due or receipt of a request for a hearing,
29 whichever is later. The director shall issue a final decision within forty-five days of the
30 completion of the hearing. After reconsideration of the assessment determination and a final
31 decision by the director of the department of mental health, an intermediate care facility for the
32 mentally retarded provider's appeal of the director's final decision shall be to the administrative
33 hearing commission in accordance with sections 208.156 and 621.055.

34 13. Notwithstanding any other provision of law to the contrary, appeals regarding this
35 assessment shall be to the circuit court of Cole County or the circuit court in the county in which
36 the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

1 14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or
2 nonprofit status of any intermediate care facility for the mentally retarded granted by state law.

3 15. The director of the department of mental health shall promulgate rules and regulations
4 to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010,
5 that is created under the authority delegated in this section shall become effective only if it
6 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
7 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
8 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
9 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
10 any rule proposed or adopted after August 28, 2008, shall be invalid and void.

11 16. The provisions of this section shall expire on September 30, [2011] 2015.”; and
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13 Further amend said bill by amending the title, enacting clause, and intersectional references
14 accordingly.