

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 322,  
2 Page 8, Section 208.065, Line 27, by inserting after all of said section and line the following:

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4 "208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy  
5 persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any  
6 payments to be made on the basis of the reasonable cost of the care or reasonable charge for the  
7 services as defined and determined by the MO HealthNet division, unless otherwise hereinafter  
8 provided, for the following:

9 (1) Inpatient hospital services, except to persons in an institution for mental diseases who are  
10 under the age of sixty-five years and over the age of twenty-one years; provided that the MO  
11 HealthNet division shall provide through rule and regulation an exception process for coverage of  
12 inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional  
13 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and  
14 provided further that the MO HealthNet division shall take into account through its payment system  
15 for hospital services the situation of hospitals which serve a disproportionate number of low-income  
16 patients;

17 (2) All outpatient hospital services, payments therefor to be in amounts which represent no  
18 more than eighty percent of the lesser of reasonable costs or customary charges for such services,  
19 determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97,  
20 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.), but the MO  
21 HealthNet division may evaluate outpatient hospital services rendered under this section and deny  
22 payment for services which are determined by the MO HealthNet division not to be medically  
23 necessary, in accordance with federal law and regulations;

24 (3) Laboratory and X-ray services;

25 (4) Nursing home services for participants, except to persons with more than five hundred  
26 thousand dollars equity in their home or except for persons in an institution for mental diseases who  
27 are under the age of sixty-five years, when residing in a hospital licensed by the department of health  
28 and senior services or a nursing home licensed by the department of health and senior services or  
29 appropriate licensing authority of other states or government-owned and -operated institutions which  
30 are determined to conform to standards equivalent to licensing requirements in Title XIX of the  
31 federal Social Security Act (42 U.S.C. Section 301, et seq.), as amended, for nursing facilities. The  
32 MO HealthNet division may recognize through its payment methodology for nursing facilities those  
33 nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division  
34 when determining the amount of the benefit payments to be made on behalf of persons under the age  
35 of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under  
36 the age of twenty-one as a classification separate from other nursing facilities;

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1 (5) Nursing home costs for participants receiving benefit payments under subdivision (4) of  
2 this subsection for those days, which shall not exceed twelve per any period of six consecutive  
3 months, during which the participant is on a temporary leave of absence from the hospital or nursing  
4 home, provided that no such participant shall be allowed a temporary leave of absence unless it is  
5 specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave  
6 of absence" shall include all periods of time during which a participant is away from the hospital or  
7 nursing home overnight because he is visiting a friend or relative;

8 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or  
9 elsewhere;

10 (7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an  
11 advanced practice registered nurse; except that no payment for drugs and medicines prescribed on  
12 and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice  
13 registered nurse may be made on behalf of any person who qualifies for prescription drug coverage  
14 under the provisions of P.L. 108-173;

15 (8) Emergency ambulance services and, effective January 1, 1990, medically necessary  
16 transportation to scheduled, physician-prescribed nonelective treatments;

17 (9) Early and periodic screening and diagnosis of individuals who are under the age of  
18 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other  
19 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services  
20 shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal  
21 regulations promulgated thereunder;

22 (10) Home health care services;

23 (11) Family planning as defined by federal rules and regulations; provided, however, that  
24 such family planning services shall not include abortions unless such abortions are certified in  
25 writing by a physician to the MO HealthNet agency that, in the physician's professional judgment,  
26 the life of the mother would be endangered if the fetus were carried to term;

27 (12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined  
28 in Title XIX of the federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

29 (13) Outpatient surgical procedures, including presurgical diagnostic services performed in  
30 ambulatory surgical facilities which are licensed by the department of health and senior services of  
31 the state of Missouri; except, that such outpatient surgical services shall not include persons who are  
32 eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal  
33 Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public  
34 Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

35 (14) Personal care services which are medically oriented tasks having to do with a person's  
36 physical requirements, as opposed to housekeeping requirements, which enable a person to be treated  
37 by his or her physician on an outpatient rather than on an inpatient or residential basis in a hospital,  
38 intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an  
39 individual not a member of the participant's family who is qualified to provide such services where  
40 the services are prescribed by a physician in accordance with a plan of treatment and are supervised  
41 by a licensed nurse. Persons eligible to receive personal care services shall be those persons who  
42 would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility.  
43 Benefits payable for personal care services shall not exceed for any one participant one hundred  
44 percent of the average statewide charge for care and treatment in an intermediate care facility for a  
45 comparable period of time. Such services, when delivered in a residential care facility or assisted  
46 living facility licensed under chapter 198 shall be authorized on a tier level based on the services the  
47 resident requires and the frequency of the services. A resident of such facility who qualifies for  
48 assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the

1 tier level with the fewest services. The rate paid to providers for each tier of service shall be set  
2 subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for  
3 assistance under section 208.030 and meets the level of care required in this section shall, at a  
4 minimum, if prescribed by a physician, be authorized up to one hour of personal care services per  
5 day. Authorized units of personal care services shall not be reduced or tier level lowered unless an  
6 order approving such reduction or lowering is obtained from the resident's personal physician. Such  
7 authorized units of personal care services or tier level shall be transferred with such resident if he or  
8 she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers  
9 from the federal Department of Health and Human Services. If the Centers for Medicare and  
10 Medicaid Services determines that such provision does not comply with the state plan, this provision  
11 shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether  
12 the relevant waivers are approved or a determination of noncompliance is made;

13 (15) Mental health services. The state plan for providing medical assistance under Title XIX  
14 of the Social Security Act, 42 U.S.C. Section 301, as amended, shall include the following mental  
15 health services when such services are provided by community mental health facilities operated by  
16 the department of mental health or designated by the department of mental health as a community  
17 mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the  
18 comprehensive children's mental health service system established in section 630.097. The  
19 department of mental health shall establish by administrative rule the definition and criteria for  
20 designation as a community mental health facility and for designation as an alcohol and drug abuse  
21 facility. Such mental health services shall include:

22 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,  
23 rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by  
24 a mental health professional in accordance with a plan of treatment appropriately established,  
25 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client  
26 services management;

27 (b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative,  
28 and palliative interventions rendered to individuals in an individual or group setting by a mental  
29 health professional in accordance with a plan of treatment appropriately established, implemented,  
30 monitored, and revised under the auspices of a therapeutic team as a part of client services  
31 management;

32 (c) Rehabilitative mental health and alcohol and drug abuse services including home and  
33 community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions  
34 rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse  
35 professional in accordance with a plan of treatment appropriately established, implemented,  
36 monitored, and revised under the auspices of a therapeutic team as a part of client services  
37 management. As used in this section, mental health professional and alcohol and drug abuse  
38 professional shall be defined by the department of mental health pursuant to duly promulgated rules.  
39 With respect to services established by this subdivision, the department of social services, MO  
40 HealthNet division, shall enter into an agreement with the department of mental health. Matching  
41 funds for outpatient mental health services, clinic mental health services, and rehabilitation services  
42 for mental health and alcohol and drug abuse shall be certified by the department of mental health to  
43 the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation  
44 of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by  
45 which rates for services may be jointly developed;

46 (16) Such additional services as defined by the MO HealthNet division to be furnished under  
47 waivers of federal statutory requirements as provided for and authorized by the federal Social  
48 Security Act (42 U.S.C. Section 301, et seq.) subject to appropriation by the general assembly;

1 (17) The services of an advanced practice registered nurse with a collaborative practice  
2 agreement to the extent that such services are provided in accordance with chapters 334 and 335, and  
3 regulations promulgated thereunder;

4 (18) Nursing home costs for participants receiving benefit payments under subdivision (4) of  
5 this subsection to reserve a bed for the participant in the nursing home during the time that the  
6 participant is absent due to admission to a hospital for services which cannot be performed on an  
7 outpatient basis, subject to the provisions of this subdivision:

8 (a) The provisions of this subdivision shall apply only if:

9 a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO  
10 HealthNet certified licensed beds, according to the most recent quarterly census provided to the  
11 department of health and senior services which was taken prior to when the participant is admitted to  
12 the hospital; and

13 b. The patient is admitted to a hospital for a medical condition with an anticipated stay of  
14 three days or less;

15 (b) The payment to be made under this subdivision shall be provided for a maximum of three  
16 days per hospital stay;

17 (c) For each day that nursing home costs are paid on behalf of a participant under this  
18 subdivision during any period of six consecutive months such participant shall, during the same  
19 period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise  
20 available temporary leave of absence days provided under subdivision (5) of this subsection; and

21 (d) The provisions of this subdivision shall not apply unless the nursing home receives notice  
22 from the participant or the participant's responsible party that the participant intends to return to the  
23 nursing home following the hospital stay. If the nursing home receives such notification and all  
24 other provisions of this subsection have been satisfied, the nursing home shall provide notice to the  
25 participant or the participant's responsible party prior to release of the reserved bed;

26 (19) Prescribed medically necessary durable medical equipment. An electronic web-based  
27 prior authorization system using best medical evidence and care and treatment guidelines consistent  
28 with national standards shall be used to verify medical need. Proof of medical necessity certified by  
29 the participant's treating physician and dated prior to the date the medical necessity request is  
30 submitted shall be required. The department shall not reimburse a provider until proof of medical  
31 necessity certified by the participant's treating physician is received. The department shall either  
32 approve or deny all prior authorization requests within ten business days of receiving such request.  
33 If the department denies a prior authorization request, any appeal of such denial shall be completed  
34 within forty-five business days;

35 (20) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated  
36 program of active professional medical attention within a home, outpatient and inpatient care which  
37 treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary  
38 team. The program provides relief of severe pain or other physical symptoms and supportive care to  
39 meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses  
40 which are experienced during the final stages of illness, and during dying and bereavement and  
41 meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418.  
42 The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and  
43 board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five  
44 percent of the rate of reimbursement which would have been paid for facility services in that nursing  
45 home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239  
46 (Omnibus Budget Reconciliation Act of 1989);

47 (21) Prescribed medically necessary dental services. Such services shall be subject to  
48 appropriations. An electronic web-based prior authorization system using best medical evidence and

1 care and treatment guidelines consistent with national standards shall be used to verify medical need;

2 (22) Prescribed medically necessary optometric services. Such services shall be subject to  
3 appropriations. An electronic web-based prior authorization system using best medical evidence and  
4 care and treatment guidelines consistent with national standards shall be used to verify medical need;

5 (23) Blood clotting products-related services. For persons diagnosed with a bleeding  
6 disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section  
7 338.400, such services include:

8 (a) Home delivery of blood clotting products and ancillary infusion equipment and supplies,  
9 including the emergency deliveries of the product when medically necessary;

10 (b) Medically necessary ancillary infusion equipment and supplies required to administer the  
11 blood clotting products; and

12 (c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home  
13 health care agency trained in bleeding disorders when deemed necessary by the participant's treating  
14 physician;

15 (24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report  
16 the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the  
17 Medicare reimbursement rates and compared to the average dental reimbursement rates paid by  
18 third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide  
19 to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for  
20 third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation  
21 and the division shall include in its annual budget request to the governor the necessary funding  
22 needed to complete the four-year plan developed under this subdivision.

23 2. Additional benefit payments for medical assistance shall be made on behalf of those  
24 eligible needy children, pregnant women and blind persons with any payments to be made on the  
25 basis of the reasonable cost of the care or reasonable charge for the services as defined and  
26 determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

27 (1) Dental services;

28 (2) Services of podiatrists as defined in section 330.010;

29 (3) Optometric services as defined in section 336.010;

30 (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids,  
31 and wheelchairs;

32 (5) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated  
33 program of active professional medical attention within a home, outpatient and inpatient care which  
34 treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary  
35 team. The program provides relief of severe pain or other physical symptoms and supportive care to  
36 meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses  
37 which are experienced during the final stages of illness, and during dying and bereavement and  
38 meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418.  
39 The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and  
40 board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five  
41 percent of the rate of reimbursement which would have been paid for facility services in that nursing  
42 home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239  
43 (Omnibus Budget Reconciliation Act of 1989);

44 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a  
45 coordinated system of care for individuals with disabling impairments. Rehabilitation services must  
46 be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan  
47 developed, implemented, and monitored through an interdisciplinary assessment designed to restore  
48 an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet

1 division shall establish by administrative rule the definition and criteria for designation of a  
2 comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any  
3 rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority  
4 delegated in this subdivision shall become effective only if it complies with and is subject to all of  
5 the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
6 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to  
7 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
8 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
9 August 28, 2005, shall be invalid and void.

10 3. The MO HealthNet division may require any participant receiving MO HealthNet benefits  
11 to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as  
12 defined by rule duly promulgated by the MO HealthNet division, for all covered services except for  
13 those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections  
14 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social  
15 Security Act (42 U.S.C. Section 1396, et seq.) and regulations thereunder. When substitution of a  
16 generic drug is permitted by the prescriber according to section 338.056, and a generic drug is  
17 substituted for a name-brand drug, the MO HealthNet division may not lower or delete the  
18 requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security  
19 Act. A provider of goods or services described under this section must collect from all participants  
20 the additional payment that may be required by the MO HealthNet division under authority granted  
21 herein, if the division exercises that authority, to remain eligible as a provider. Any payments made  
22 by participants under this section shall be in addition to and not in lieu of payments made by the state  
23 for goods or services described herein except the participant portion of the pharmacy professional  
24 dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may  
25 collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse  
26 to provide a service if a participant is unable to pay a required payment. If it is the routine business  
27 practice of a provider to terminate future services to an individual with an unclaimed debt, the  
28 provider may include uncollected co-payments under this practice. Providers who elect not to  
29 undertake the provision of services based on a history of bad debt shall give participants advance  
30 notice and a reasonable opportunity for payment. A provider, representative, employee, independent  
31 contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant.  
32 This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the  
33 Centers for Medicare and Medicaid Services does not approve the [Missouri] MO HealthNet state  
34 plan amendment submitted by the department of social services that would allow a provider to deny  
35 future services to an individual with uncollected co-payments, the denial of services shall not be  
36 allowed. The department of social services shall inform providers regarding the acceptability of  
37 denying services as the result of unpaid co-payments.

38 4. The MO HealthNet division shall have the right to collect medication samples from  
39 participants in order to maintain program integrity.

40 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1  
41 of this section shall be timely and sufficient to enlist enough health care providers so that care and  
42 services are available under the state plan for MO HealthNet benefits at least to the extent that such  
43 care and services are available to the general population in the geographic area, as required under  
44 subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal regulations promulgated  
45 thereunder.

46 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health  
47 centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L.  
48 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated

1 thereunder.

2 7. Beginning July 1, 1990, the department of social services shall provide notification and  
3 referral of children below age five, and pregnant, breast-feeding, or postpartum women who are  
4 determined to be eligible for MO HealthNet benefits under section 208.151 to the special  
5 supplemental food programs for women, infants and children administered by the department of  
6 health and senior services. Such notification and referral shall conform to the requirements of  
7 Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8 8. Providers of long-term care services shall be reimbursed for their costs in accordance with  
9 the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. Section 1396a, as  
10 amended, and regulations promulgated thereunder.

11 9. Reimbursement rates to long-term care providers with respect to a total change in  
12 ownership, at arm's length, for any facility previously licensed and certified for participation in the  
13 MO HealthNet program shall not increase payments in excess of the increase that would result from  
14 the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. Section 1396a  
15 (a)(13)(C).

16 10. The MO HealthNet division, may enroll qualified residential care facilities and assisted  
17 living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

18 11. Any income earned by individuals eligible for certified extended employment at a  
19 sheltered workshop under chapter 178 shall not be considered as income for purposes of determining  
20 eligibility under this section."; and

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22  
23 Further amend said bill by amending the title, enacting clause, and intersectional references  
24 accordingly.