

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 43, Page 42, Section 190.257, Line 43, by inserting after all of said line the
3 following:
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5 "190.839. Sections 190.800 to 190.839 shall expire on September 30, [2021] 2022."; and
6

7 Further amend said bill, Page 46, Section 197.135, Line 47, by inserting after all of said line the
8 following:
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10 "198.439. Sections 198.401 to 198.436 shall expire on September 30, [2021] 2022.

11 208.437. 1. A Medicaid managed care organization reimbursement allowance period as
12 provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of
13 June. The department shall notify each Medicaid managed care organization with a balance due on
14 the thirtieth day of June of each year the amount of such balance due. If any managed care
15 organization fails to pay its managed care organization reimbursement allowance within thirty days
16 of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance
17 may remain unpaid during an appeal.

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

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

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

35 5. Sections 208.431 to 208.437 shall expire on September 30, [2021] 2022.

36 208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections

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208.453 to 208.480 shall expire on September 30, ~~[2021]~~ 2022."; and

Further amend said bill, Page 54, Section 338.010, Line 105, by inserting after all of said line the following:

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

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

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

(3) September 30, ~~[2021]~~ 2022.

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

2. Sections 338.500 to 338.550 shall expire on September 30, ~~[2021]~~ 2022."; and

Further amend said bill, Page 59, Section 579.076, Line 12, by inserting after all of said line the following:

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

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

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

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

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

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the intellectually disabled or

1 developmentally disabled in this state.

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

4 4. For purposes of determining rates of payment under the medical assistance program for
5 providers of services of intermediate care facilities for the intellectually disabled, the assessment
6 imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be
7 reflected as timely as practicable in rates of payment applicable within the assessment period,
8 contingent, for payments by governmental agencies, on all federal approvals necessary by federal
9 law and regulation for federal financial participation in payments made for beneficiaries eligible for
10 medical assistance under Title XIX of the federal Social Security Act, 42 U.S.C. Section 1396, et
11 seq., as amended.

12 5. Assessments shall be submitted by or on behalf of each provider of services of
13 intermediate care facilities for the intellectually disabled on a monthly basis to the director of the
14 department of mental health or his or her designee and shall be made payable to the director of the
15 department of revenue.

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

19 7. Assessment payments shall be deposited in the state treasury to the credit of the
20 "Intermediate Care Facility Intellectually Disabled Reimbursement Allowance Fund", which is
21 hereby created in the state treasury. All investment earnings of this fund shall be credited to the
22 fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in
23 the intermediate care facility intellectually disabled reimbursement allowance fund at the end of the
24 biennium shall not revert to the general revenue fund but shall accumulate from year to year. The
25 state treasurer shall maintain records that show the amount of money in the fund at any time and the
26 amount of any investment earnings on that amount.

27 8. Each provider of services of intermediate care facilities for the intellectually disabled
28 shall keep such records as may be necessary to determine the amount of the assessment for which it
29 is liable under this section. On or before the forty-fifth day after the end of each month
30 commencing July 1, 2008, each provider of services of intermediate care facilities for the
31 intellectually disabled shall submit to the department of social services a report on a cash basis that
32 reflects such information as is necessary to determine the amount of the assessment payable for that
33 month.

34 9. Every provider of services of intermediate care facilities for the intellectually disabled
35 shall submit a certified annual report of net operating revenues from the furnishing of services of
36 intermediate care facilities for the intellectually disabled. The reports shall be in such form as may
37 be prescribed by rule by the director of the department of mental health. Final payments of the
38 assessment for each year shall be due for all providers of services of intermediate care facilities for
39 the intellectually disabled upon the due date for submission of the certified annual report.

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

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

47 12. In the event a provider objects to the estimate described in subsection 11 of this section,
48 or any other decision of the department of mental health related to this section, the provider of
49 services may request a hearing. If a hearing is requested, the director of the department of mental

1 health shall provide the provider of services an opportunity to be heard and to present evidence
2 bearing on the amount due for an assessment or other issue related to this section within thirty days
3 after collection of an amount due or receipt of a request for a hearing, whichever is later. The
4 director shall issue a final decision within forty-five days of the completion of the hearing. After
5 reconsideration of the assessment determination and a final decision by the director of the
6 department of mental health, an intermediate care facility for the intellectually disabled provider's
7 appeal of the director's final decision shall be to the administrative hearing commission in
8 accordance with sections 208.156 and 621.055.

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

12 14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or
13 nonprofit status of any intermediate care facility for the intellectually disabled granted by state law.

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

22 16. The provisions of this section shall expire on September 30, ~~[2021]~~ 2022."; and
23

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