

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 43, Page 1, Section
2 A, Line 3, by inserting after all of said line the following:

3
4 "190.839. Sections 190.800 to 190.839 shall expire on September 30, ~~[2021]~~ 2022.

5 198.439. Sections 198.401 to 198.436 shall expire on September 30, ~~[2021]~~ 2022.

6 208.437. 1. A Medicaid managed care organization reimbursement allowance period as
7 provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of
8 June. The department shall notify each Medicaid managed care organization with a balance due on
9 the thirtieth day of June of each year the amount of such balance due. If any managed care
10 organization fails to pay its managed care organization reimbursement allowance within thirty days
11 of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance
12 may remain unpaid during an appeal.

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

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

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

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

31 208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections
32 208.453 to 208.480 shall expire on September 30, ~~[2021]~~ 2022.

33 338.550. 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety
34 days after any one or more of the following conditions are met:

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

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1 or

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

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

6
7 The director of the department of social services shall notify the revisor of statutes of the expiration
8 date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to
9 pharmacies domiciled or headquartered outside this state which are engaged in prescription drug
10 sales that are delivered directly to patients within this state via common carrier, mail or a carrier
11 service.

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

13
14 Further amend said bill, Page 2, Section 376.1228, Line 20, by inserting after all of said line the
15 following:

16
17 "633.401. 1. For purposes of this section, the following terms mean:

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

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

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

32 (4) "Services of intermediate care facilities for the intellectually disabled" has the same
33 meaning as the term services of intermediate care facilities for the mentally retarded, as used in Title
34 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of
35 health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution
36 and Provider-Specific Tax Amendments of 1991.

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

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

44 4. For purposes of determining rates of payment under the medical assistance program for
45 providers of services of intermediate care facilities for the intellectually disabled, the assessment
46 imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be
47 reflected as timely as practicable in rates of payment applicable within the assessment period,
48 contingent, for payments by governmental agencies, on all federal approvals necessary by federal
49 law and regulation for federal financial participation in payments made for beneficiaries eligible for

1 medical assistance under Title XIX of the federal Social Security Act, 42 U.S.C. Section 1396, et
2 seq., as amended.

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

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

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

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

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

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

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

38 12. In the event a provider objects to the estimate described in subsection 11 of this section,
39 or any other decision of the department of mental health related to this section, the provider of
40 services may request a hearing. If a hearing is requested, the director of the department of mental
41 health shall provide the provider of services an opportunity to be heard and to present evidence
42 bearing on the amount due for an assessment or other issue related to this section within thirty days
43 after collection of an amount due or receipt of a request for a hearing, whichever is later. The
44 director shall issue a final decision within forty-five days of the completion of the hearing. After
45 reconsideration of the assessment determination and a final decision by the director of the
46 department of mental health, an intermediate care facility for the intellectually disabled provider's
47 appeal of the director's final decision shall be to the administrative hearing commission in
48 accordance with sections 208.156 and 621.055.

49 13. Notwithstanding any other provision of law to the contrary, appeals regarding this

1 assessment shall be to the circuit court of Cole County or the circuit court in the county in which the
2 facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

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

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

13 16. The provisions of this section shall expire on September 30, ~~[2021]~~ 2022."; and
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15 Further amend said bill by amending the title, enacting clause, and intersectional references
16 accordingly.