

SECOND REGULAR SESSION

# HOUSE BILL NO. 2538

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PETERS.

6218H.01I

JOSEPH ENGLER, Chief Clerk

## AN ACT

To repeal sections 208.080 and 208.156, RSMo, and to enact in lieu thereof two new sections relating to administrative remedies in MO HealthNet cases.

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

Section A. Sections 208.080 and 208.156, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 208.080 and 208.156, to read as follows:

208.080. 1. Any applicant for or recipient of benefits or services provided by law by  
2 the family support division, children's division, ~~[or]~~ MO HealthNet division, **or Missouri**  
3 **Medicaid audit and compliance unit** may appeal to the director of the respective division **or**  
4 **unit** from a decision in any of the following cases:

5 (1) If his or her right to make application for any such benefits or services is denied;  
6 or

7 (2) If his or her application is disallowed in whole or in part, or is not acted upon  
8 within a reasonable time after it is filed; or

9 (3) If it is proposed to cancel or modify benefits or services; or

10 (4) If he or she is adversely affected by any determination of the family support  
11 division, children's division, ~~[or]~~ MO HealthNet division, **or Missouri Medicaid audit and**  
12 **compliance unit** in the administration of the programs administered by such divisions **or**  
13 **unit**; or

14 (5) If a determination is made pursuant to subsection 2 of section 208.180 that  
15 payment of benefits on behalf of a dependent child shall not be made to the relative with  
16 whom he or she lives.

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.

17           2. If a division **or unit** proposes to terminate or modify the payment of benefits or the  
18 providing of services to the recipient or a division **or unit** has terminated or modified the  
19 payment of benefits or providing of services to the recipient and the recipient appeals, the  
20 decision of the director as to the eligibility of the recipient at the time such action was  
21 proposed or taken shall be based on the facts shown by the evidence presented at the hearing  
22 of the appeal to have existed at the time such action to terminate or modify was proposed or  
23 was taken.

24           3. In the case of a proposed action by the family support division, children's division,  
25 ~~[or]~~ MO HealthNet division, **or Missouri Medicaid audit and compliance unit** to reduce,  
26 modify, or discontinue benefits or services to a recipient, the recipient of such benefits or  
27 services shall have ten days from the date of the mailing of notice of the proposed action to  
28 reduce, modify, or discontinue benefits or services within which to request an appeal to the  
29 director of the division **or unit**. In the notice to the recipient of such proposed action, the  
30 appropriate division **or unit** shall notify the recipient of all his or her rights of appeal under  
31 this section. Proper blank forms for appeal to the director of the division **or unit** shall be  
32 furnished by the appropriate division **or unit** to any aggrieved recipient. Every such appeal to  
33 the director of the division **or unit** shall be transmitted by the appropriate division **or unit**  
34 immediately upon the same being filed with the appropriate division **or unit**. If an appeal is  
35 requested, benefits or services shall continue undiminished or unchanged until such appeal is  
36 heard and a decision has been rendered thereon, except that in an aid to families with  
37 dependent children case the recipient may request that benefits or services not be continued  
38 undiminished or unchanged during the appeal.

39           4. When a case has been closed or modified and no appeal was requested prior to  
40 closing or modification, the recipient shall have ninety days from the date of closing or  
41 modification to request an appeal to the director of the division **or unit**. Each recipient who  
42 has not requested an appeal prior to the closing or modification of his or her case shall be  
43 notified at the time of such closing or modification of his or her right to request an appeal  
44 during this ninety-day period. Proper blank forms for requesting an appeal to the director of  
45 the division **or unit** shall be furnished by the appropriate division **or unit** to any aggrieved  
46 applicant. Every such request made in any manner for an appeal to the director of the division  
47 **or unit** shall be transmitted by the appropriate division **or unit** to the director of the division  
48 **or unit** immediately upon the same being filed with the appropriate division **or unit**. If an  
49 appeal is requested in the ninety-day period subsequent to the closing or modification,  
50 benefits or services shall not be continued at their prior level during the pendency of the  
51 appeal.

52           5. In the case of a rejection of an application for benefits or services, the aggrieved  
53 applicant shall have ninety days from the date of the notice of the action in which to request

54 an appeal to the director of the division **or unit**. In the rejection notice the applicant for  
55 benefits or services shall be notified of all of his or her rights of appeal under this section.  
56 Proper blank forms for requesting an appeal to the director of the division **or unit** shall be  
57 furnished by the appropriate division **or unit** to any aggrieved applicant. Any such request  
58 made in any manner for an appeal shall be transmitted by the appropriate division **or unit** to  
59 the director of the division **or unit**, immediately upon the same being filed with the  
60 appropriate division **or unit**.

61         6. If the division **or unit** has rejected an application for benefits or services and the  
62 applicant appeals, the decision of the director as to the eligibility of the applicant at the time  
63 such rejection was made shall be based upon the facts shown by the evidence presented at the  
64 hearing of the appeal to have existed at the time the rejection was made.

65         7. The director of the division **or unit** shall give the applicant for benefits or services  
66 or the recipient of benefits or services reasonable notice of, and an opportunity for, a fair  
67 hearing in the county of his or her residence at the time the adverse action was taken. The  
68 hearing shall be conducted by the director of the division **or unit** or such director's designee.  
69 Every applicant or recipient, on appeal to the director of the division **or unit**, shall be entitled  
70 to be present at the hearing, in person and by attorney or representative, and shall be entitled  
71 to introduce into the record of such hearing any and all evidence, by witnesses or otherwise,  
72 pertinent to such applicant's or recipient's eligibility between the time he or she applied for  
73 benefits or services and the time the application was denied or the benefits or services were  
74 terminated or modified, and all such evidence shall be taken down, preserved, and shall  
75 become a part of the applicant's or recipient's appeal record. Upon the record so made, the  
76 director of the division **or unit** shall determine all questions presented by the appeal, and shall  
77 make such decision as to the granting of benefits or services as in his or her opinion is  
78 justified and is in conformity with the provisions of the law. The director shall clearly state  
79 the reasons for his or her decision and shall include a statement of findings of fact and  
80 conclusions of law pertinent to the questions in issue.

81         8. All appeal requests may initially be made orally or in any written form, but all such  
82 requests shall be transcribed on forms furnished by the division **or unit** and signed by the  
83 aggrieved applicant or recipient or his or her representative prior to the commencement of the  
84 hearing.

208.156. 1. The family support division or the MO HealthNet division shall provide  
2 for granting an opportunity for a fair hearing under section 208.080 to any applicant or  
3 recipient whose claim for medical assistance is denied or is not acted upon with reasonable  
4 promptness.

5         2. Any person authorized under section 208.153 to provide services for which benefit  
6 payments are authorized under section 208.152 whose claim for reimbursement for such

7 services is denied or is not acted upon with reasonable promptness shall be entitled to a  
8 hearing before the administrative hearing commission pursuant to the provisions of chapter  
9 621.

10 3. Any person authorized under section 208.153 to provide services for which benefit  
11 payments are authorized under section 208.152 who is denied participation in any program or  
12 programs established under the provisions of chapter 208 shall be entitled to a hearing before  
13 the administrative hearing commission pursuant to the provisions of chapter 621.

14 4. Any person authorized under section 208.153 to provide services for which benefit  
15 payments are authorized under section 208.152 who is aggrieved by any rule or regulation  
16 promulgated by the department of social services or any division **or unit** therein shall be  
17 entitled to a hearing before the administrative hearing commission pursuant to the provisions  
18 of chapter 621.

19 5. Any person authorized under section 208.153 to provide services for which benefit  
20 payments are authorized under section 208.152 who is aggrieved by any rule or regulation,  
21 contractual agreement, or decision, as provided for in section 208.166, by the department of  
22 social services or any division **or unit** therein shall be entitled to a hearing before the  
23 administrative hearing commission pursuant to the provisions of chapter 621.

24 6. No provider of service may file a petition for a hearing before the administrative  
25 hearing commission unless the amount for which he **or she** seeks reimbursement exceeds five  
26 hundred dollars.

27 7. One or more providers of service as will fairly insure adequate representation of  
28 others having similar claims against the department of social services or any division **or unit**  
29 therein may institute the hearing on behalf of all in the class if there is a common question of  
30 law or fact affecting the several rights and a common relief is sought.

31 8. Any person authorized under section 208.153 to provide services for which benefit  
32 payments are authorized under section 208.152 and who is entitled to a hearing as provided  
33 for in the preceding sections shall have thirty days from the date of mailing or delivery of a  
34 decision of the department of social services or its designated division **or unit** in which to file  
35 his **or her** petition for review with the administrative hearing commission except that claims  
36 of less than five hundred dollars may be accumulated until they total that sum and at which  
37 time the provider shall have ninety days to file his **or her** petition.

38 9. When a person entitled to a hearing as provided for in this section applies to the  
39 administrative hearing commission for a stay order staying the actions of the department of  
40 social services or its divisions **or units**, the administrative hearing commission shall not grant  
41 such stay order until after a full hearing on such application. The application shall be  
42 advanced on the docket for immediate hearing and determination. The person applying for  
43 such stay order shall not be granted such stay order unless that person shall show that

44 immediate and irreparable injury, loss, or damage will result if such stay order is denied, or  
45 that such person has a reasonable likelihood of success upon the merits of his **or her** claim;  
46 and provided further that no stay order shall be issued without the person seeking such order  
47 posting a bond in such sum as the administrative hearing commission finds sufficient to  
48 protect and preserve the interest of the department of social services or its divisions **or units**.  
49 ~~[In no event may the administrative hearing commission grant such stay order where the~~  
50 ~~claim arises under a program or programs funded by federal funds or by any combination of~~  
51 ~~state and federal funds, unless it is specified in writing by the financial section of the~~  
52 ~~appropriate federal agency that federal financial participation will be continued under the stay~~  
53 ~~order.]~~

54 10. The other provisions of this section notwithstanding, a person receiving or  
55 providing benefits shall have the right to bring an action in appealing from the administrative  
56 hearing commission in the circuit court of Cole County, Missouri, or the county of his **or her**  
57 residence pursuant to section 536.050.

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