

FIRST EXTRAORDINARY SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3
91ST GENERAL ASSEMBLY

Reported from the Committee on Children, Families and Health, September 6, 2001, with recommendation that the House Committee Substitute for House Bill No. 3 Do Pass.

TED WEDEL, Chief Clerk

2382L.02C

AN ACT

To repeal sections 135.095, 208.010 and 208.151, RSMo, and to enact in lieu thereof ten new sections relating to a pharmaceutical investment program, with an emergency clause and penalty provision.

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

Section A. Sections 135.095, 208.010 and 208.151, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.095, 208.010, 208.151, 208.550, 208.553, 208.556, 208.559, 208.562, 208.565 and 208.568, to read as follows:

135.095. For all tax years beginning on or after January 1, 1999, but before [January 1, 2005] **December 31, 2001**, a resident individual who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such individual's income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 director of the department of revenue. Such credit shall be considered an overpayment of tax and
15 shall be refundable even if the amount of the credit exceeds an individual's tax liability.

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant
2 to this law, it shall be the duty of the division of family services to consider and take into account
3 all facts and circumstances surrounding the claimant, including his or her living conditions,
4 earning capacity, income and resources, from whatever source received, and if from all the facts
5 and circumstances the claimant is not found to be in need, assistance shall be denied. In
6 determining the need of a claimant, the costs of providing medical treatment which may be
7 furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount
8 of benefits, when added to all other income, resources, support, and maintenance shall provide
9 such persons with reasonable subsistence compatible with decency and health in accordance with
10 the standards developed by the division of family services; provided, when a husband and wife
11 are living together, the combined income and resources of both shall be considered in
12 determining the eligibility of either or both. "Living together" for the purpose of this chapter is
13 defined as including a husband and wife separated for the purpose of obtaining medical care or
14 nursing home care, except that the income of a husband or wife separated for such purpose shall
15 be considered in determining the eligibility of his or her spouse, only to the extent that such
16 income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the
17 division) of such husband or wife living separately. In determining the need of a claimant in
18 federally aided programs there shall be disregarded such amounts per month of earned income
19 in making such determination as shall be required for federal participation by the provisions of
20 the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When
21 federal law or regulations require the exemption of other income or resources, the division of
22 family services may provide by rule or regulation the amount of income or resources to be
23 disregarded.

24 2. Benefits shall not be payable to any claimant who:

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
26 away or sold a resource within the time and in the manner specified in this subdivision. In
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
29 subsection, and subsection 5 of this section) any resource or interest therein owned by such
30 individual or spouse within the twenty-four months preceding the initial investigation, or at any
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such
32 resource or interest within such period of time at less than fair market value of such resource or
33 interest for the purpose of establishing eligibility for benefits, including but not limited to
34 benefits based on December, 1973, eligibility requirements, as follows:

35 (a) Any transaction described in this subdivision shall be presumed to have been for the
36 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such
37 individual furnishes convincing evidence to establish that the transaction was exclusively for
38 some other purpose;

39 (b) The resource shall be considered in determining eligibility from the date of the
40 transfer for the number of months the uncompensated value of the disposed of resource is
41 divisible by the average monthly grant paid or average Medicaid payment in the state at the time
42 of the investigation to an individual or on his or her behalf under the program for which benefits
43 are claimed, provided that:

44 a. When the uncompensated value is twelve thousand dollars or less, the resource shall
45 not be used in determining eligibility for more than twenty-four months; or

46 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall
47 not be used in determining eligibility for more than sixty months;

48 (2) The provisions of subdivision (1) of subsection 2 of this section shall not apply to
49 a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the
50 claimant furnishes convincing evidence that the uncompensated value of the disposed of resource
51 or any part thereof is no longer possessed or owned by the person to whom the resource was
52 transferred;

53 (3) Has received, or whose spouse with whom he or she is living has received, benefits
54 to which he or she was not entitled through misrepresentation or nondisclosure of material facts
55 or failure to report any change in status or correct information with respect to property or income
56 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be
57 ineligible for such period of time from the date of discovery as the division of family services
58 may deem proper; or in the case of overpayment of benefits, future benefits may be decreased,
59 suspended or entirely withdrawn for such period of time as the division may deem proper;

60 (4) Owns or possesses resources in the sum of one thousand **five hundred** dollars or
61 more; provided, however, that if such person is married and living with spouse, he or she, or
62 they, individually or jointly, may own resources not to exceed two thousand **five hundred**
63 dollars; and provided further, that in the case of a temporary assistance for needy families
64 claimant, the provision of this subsection shall not apply;

65 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
66 excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to
67 subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053,
68 RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the
69 value of such property, as determined by the division of family services, less encumbrances of
70 record, exceeds twenty-nine thousand dollars, or if married and actually living together with

71 husband or wife, if the value of his or her property, or the value of his or her interest in property,
72 together with that of such husband and wife, exceeds such amount;

73 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
74 child or children in the home owns or possesses property of any kind or character, or has an
75 interest in property for which he or she is a record or beneficial owner, the value of such
76 property, as determined by the division of family services and as allowed by federal law or
77 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home
78 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract
79 pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of
80 section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law
81 or regulation and for a period not to exceed six months, such other real property which the family
82 is making a good-faith effort to sell, if the family agrees in writing with the division of family
83 services to sell such property and from the net proceeds of the sale repay the amount of
84 assistance received during such period. If the property has not been sold within six months, or
85 if eligibility terminates for any other reason, the entire amount of assistance paid during such
86 period shall be a debt due the state;

87 (7) Is an inmate of a public institution, except as a patient in a public medical institution.

88 3. In determining eligibility and the amount of benefits to be granted pursuant to
89 federally aided programs, the income and resources of a relative or other person living in the
90 home shall be taken into account to the extent the income, resources, support and maintenance
91 are allowed by federal law or regulation to be considered.

92 4. In determining eligibility and the amount of benefits to be granted pursuant to
93 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
94 prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and
95 subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or
96 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
97 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as
98 defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter
99 marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable
100 prearranged funeral or burial contract receives any public assistance benefits pursuant to this
101 chapter and if the purchaser of such contract or his or her successors in interest cancel or amend
102 the contract so that any person will be entitled to a refund, such refund shall be paid to the state
103 of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with
104 any remainder to be paid to those persons designated in chapter 436, RSMo.

105 5. In determining the total property owned pursuant to subdivision (5) of subsection 2
106 of this section, or resources, of any person claiming or for whom public assistance is claimed,

107 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
108 any two or more policies or contracts, or any combination of policies and contracts, which
109 provides for the payment of one thousand five hundred dollars or less upon the death of any of
110 the following:

111 (1) A claimant or person for whom benefits are claimed; or

112 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
113 she is living.

114

115 If the value of such policies exceeds one thousand five hundred dollars, then the total value of
116 such policies may be considered in determining resources; except that, in the case of temporary
117 assistance for needy families, there shall be disregarded any prearranged funeral or burial
118 contract, or any two or more contracts, which provides for the payment of one thousand five
119 hundred dollars or less per family member.

120 6. Beginning September 30, 1989, when determining the eligibility of institutionalized
121 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for
122 in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall
123 comply with the provisions of the federal statutes and regulations. As necessary, the division
124 shall by rule or regulation implement the federal law and regulations which shall include but not
125 be limited to the establishment of income and resource standards and limitations. The division
126 shall require:

127 (1) That at the beginning of a period of continuous institutionalization that is expected
128 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
129 an assessment by the division of family services of total countable resources owned by either or
130 both spouses;

131 (2) That the assessed resources of the institutionalized spouse and the community spouse
132 may be allocated so that each receives an equal share;

133 (3) That upon an initial eligibility determination, if the community spouse's share does
134 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the
135 community spouse a resource allowance to increase the community spouse's share to twelve
136 thousand dollars;

137 (4) That in the determination of initial eligibility of the institutionalized spouse, no
138 resources attributed to the community spouse shall be used in determining the eligibility of the
139 institutionalized spouse, except to the extent that the resources attributed to the community
140 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
141 1396r-5;

142 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this

143 subsection shall be increased by the percentage increase in the consumer price index for all urban
144 consumers between September, 1988, and the September before the calendar year involved; and

145 (6) That beginning the month after initial eligibility for the institutionalized spouse is
146 determined, the resources of the community spouse shall not be considered available to the
147 institutionalized spouse during that continuous period of institutionalization.

148 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods
149 required and for the reasons specified in 42 U.S.C. Section 1396p.

150 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
151 the provisions of section 208.080.

152 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
153 this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the
154 home of the applicant or recipient when the home is providing shelter to the applicant or
155 recipient, or his or her spouse or dependent child. The division of family services shall establish
156 by rule or regulation in conformance with applicable federal statutes and regulations a definition
157 of the home and when the home shall be considered a resource that shall be considered in
158 determining eligibility.

159 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient
160 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary
161 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts
162 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title
163 XVIII Medicare Part B, except the applicable Title XIX cost sharing.

164 11. A "community spouse" is defined as being the noninstitutionalized spouse.

208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and
2 to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security
3 Act (42 U.S.C. Section 301 et seq.) as amended, the following needy persons shall be eligible
4 to receive medical assistance to the extent and in the manner hereinafter provided:

5 (1) All recipients of state supplemental payments for the aged, blind and disabled;

6 (2) All recipients of aid to families with dependent children benefits, including all
7 persons under nineteen years of age who would be classified as dependent children except for
8 the requirements of subdivision (1) of subsection 1 of section 208.040;

9 (3) All recipients of blind pension benefits;

10 (4) All persons who would be determined to be eligible for old age assistance benefits,
11 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards
12 in effect December 31, 1973, or less restrictive standards as established by rule of the division
13 of family services, who are sixty-five years of age or over and are patients in state institutions
14 for mental diseases or tuberculosis;

15 (5) All persons under the age of twenty-one years who would be eligible for aid to
16 families with dependent children except for the requirements of subdivision (2) of subsection 1
17 of section 208.040, and who are residing in an intermediate care facility, or receiving active
18 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as
19 amended;

20 (6) All persons under the age of twenty-one years who would be eligible for aid to
21 families with dependent children benefits except for the requirement of deprivation of parental
22 support as provided for in subdivision (2) of subsection 1 of section 208.040;

23 (7) All persons eligible to receive nursing care benefits;

24 (8) All recipients of family foster home or nonprofit private child-care institution care,
25 subsidized adoption benefits and parental school care wherein state funds are used as partial or
26 full payment for such care;

27 (9) All persons who were recipients of old age assistance benefits, aid to the permanently
28 and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to
29 meet the eligibility requirements, except income, for these assistance categories, but who are no
30 longer receiving such benefits because of the implementation of Title XVI of the federal Social
31 Security Act, as amended;

32 (10) Pregnant women who meet the requirements for aid to families with dependent
33 children, except for the existence of a dependent child in the home;

34 (11) Pregnant women who meet the requirements for aid to families with dependent
35 children, except for the existence of a dependent child who is deprived of parental support as
36 provided for in subdivision (2) of subsection 1 of section 208.040;

37 (12) Pregnant women or infants under one year of age, or both, whose family income
38 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the
39 federal poverty level as established and amended by the federal Department of Health and
40 Human Services, or its successor agency;

41 (13) Children who have attained one year of age but have not attained six years of age
42 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget
43 Reconciliation Act of 1989). The division of family services shall use an income eligibility
44 standard equal to one hundred thirty-three percent of the federal poverty level established by the
45 Department of Health and Human Services, or its successor agency;

46 (14) Children who have attained six years of age but have not attained nineteen years of
47 age. For children who have attained six years of age but have not attained nineteen years of age,
48 the division of family services shall use an income assessment methodology which provides for
49 eligibility when family income is equal to or less than equal to one hundred percent of the federal
50 poverty level established by the Department of Health and Human Services, or its successor

51 agency. As necessary to provide Medicaid coverage under this subdivision, the department of
52 social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a
53 (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen
54 years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more
55 liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42
56 U.S.C. 1396a;

57 (15) The following children with family income which does not exceed two hundred
58 percent of the federal poverty guideline for the applicable family size:

59 (a) Infants who have not attained one year of age with family income greater than one
60 hundred eighty-five percent of the federal poverty guideline for the applicable family size;

61 (b) Children who have attained one year of age but have not attained six years of age
62 with family income greater than one hundred thirty-three percent of the federal poverty guideline
63 for the applicable family size; and

64 (c) Children who have attained six years of age but have not attained nineteen years of
65 age with family income greater than one hundred percent of the federal poverty guideline for the
66 applicable family size. Coverage under this subdivision shall be subject to the receipt of
67 notification by the director of the department of social services and the revisor of statutes of
68 approval from the secretary of the U.S. Department of Health and Human Services of
69 applications for waivers of federal requirements necessary to promulgate regulations to
70 implement this subdivision. The director of the department of social services shall apply for
71 such waivers. The regulations may provide for a basic primary and preventive health care
72 services package, not to include all medical services covered by section 208.152, and may also
73 establish co-payment, coinsurance, deductible, or premium requirements for medical assistance
74 under this subdivision. Eligibility for medical assistance under this subdivision shall be available
75 only to those infants and children who do not have or have not been eligible for
76 employer-subsidized health care insurance coverage for the six months prior to application for
77 medical assistance. Children are eligible for employer-subsidized coverage through either
78 parent, including the noncustodial parent. The division of family services may establish a
79 resource eligibility standard in assessing eligibility for persons under this subdivision. The
80 division of medical services shall define the amount and scope of benefits which are available
81 to individuals under this subdivision in accordance with the requirement of federal law and
82 regulations. Coverage under this subdivision shall be subject to appropriation to provide services
83 approved under the provisions of this subdivision;

84 (16) The division of family services shall not establish a resource eligibility standard in
85 assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The
86 division of medical services shall define the amount and scope of benefits which are available

87 to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in
88 accordance with the requirements of federal law and regulations promulgated thereunder except
89 that the scope of benefits shall include case management services;

90 (17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal
91 care shall be made available to pregnant women during a period of presumptive eligibility
92 pursuant to 42 U.S.C. Section 1396r-1, as amended;

93 (18) A child born to a woman eligible for and receiving medical assistance under this
94 section on the date of the child's birth shall be deemed to have applied for medical assistance and
95 to have been found eligible for such assistance under such plan on the date of such birth and to
96 remain eligible for such assistance for a period of time determined in accordance with applicable
97 federal and state law and regulations so long as the child is a member of the woman's household
98 and either the woman remains eligible for such assistance or for children born on or after January
99 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon
100 notification of such child's birth, the division of family services shall assign a medical assistance
101 eligibility identification number to the child so that claims may be submitted and paid under such
102 child's identification number;

103 (19) Pregnant women and children eligible for medical assistance pursuant to
104 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical
105 assistance benefits be required to apply for aid to families with dependent children. The division
106 of family services shall utilize an application for eligibility for such persons which eliminates
107 information requirements other than those necessary to apply for medical assistance. The
108 division shall provide such application forms to applicants whose preliminary income
109 information indicates that they are ineligible for aid to families with dependent children.
110 Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed
111 of the aid to families with dependent children program and that they are entitled to apply for such
112 benefits. Any forms utilized by the division of family services for assessing eligibility under this
113 chapter shall be as simple as practicable;

114 (20) Subject to appropriations necessary to recruit and train such staff, the division of
115 family services shall provide one or more full-time, permanent case workers to process
116 applications for medical assistance at the site of a health care provider, if the health care provider
117 requests the placement of such case workers and reimburses the division for the expenses
118 including but not limited to salaries, benefits, travel, training, telephone, supplies, and
119 equipment, of such case workers. The division may provide a health care provider with a
120 part-time or temporary case worker at the site of a health care provider if the health care provider
121 requests the placement of such a case worker and reimburses the division for the expenses,
122 including but not limited to the salary, benefits, travel, training, telephone, supplies, and

123 equipment, of such a case worker. The division may seek to employ such case workers who are
124 otherwise qualified for such positions and who are current or former welfare recipients. The
125 division may consider training such current or former welfare recipients as case workers for this
126 program;

127 (21) Pregnant women who are eligible for, have applied for and have received medical
128 assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be
129 considered eligible for all pregnancy-related and postpartum medical assistance provided under
130 section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

131 (22) Case management services for pregnant women and young children at risk shall be
132 a covered service. To the greatest extent possible, and in compliance with federal law and
133 regulations, the department of health and senior services shall provide case management services
134 to pregnant women by contract or agreement with the department of social services through local
135 health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo,
136 or a city health department operated under a city charter or a combined city-county health
137 department or other department of health and senior services designees. To the greatest extent
138 possible the department of social services and the department of health and senior services shall
139 mutually coordinate all services for pregnant women and children with the crippled children's
140 program, the prevention of mental retardation program and the prenatal care program
141 administered by the department of health and senior services. The department of social services
142 shall by regulation establish the methodology for reimbursement for case management services
143 provided by the department of health and senior services. For purposes of this section, the term
144 "case management" shall mean those activities of local public health personnel to identify
145 prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program,
146 refer them to local physicians or local health departments who provide prenatal care under
147 physician protocol and who participate in the Medicaid program for prenatal care and to ensure
148 that said high-risk mothers receive support from all private and public programs for which they
149 are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

150 (23) By January 1, 1988, the department of social services and the department of health
151 and senior services shall study all significant aspects of presumptive eligibility for pregnant
152 women and submit a joint report on the subject, including projected costs and the time needed
153 for implementation, to the general assembly. The department of social services, at the direction
154 of the general assembly, may implement presumptive eligibility by regulation promulgated
155 pursuant to chapter 207, RSMo;

156 (24) All recipients who would be eligible for aid to families with dependent children
157 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

158 (25) All persons who would be determined to be eligible for old age assistance benefits,

permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973[, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services] ; **except that, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a (r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level.** If federal law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii);

(27) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance

195 for six calendar months following the month of such ineligibility as long as such family includes
196 a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical
197 assistance during the entire six-month period described in this section and which meets reporting
198 requirements and income tests established by the division and continues to include a child as
199 provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six
200 months. The division of medical services may provide by rule the scope of medical assistance
201 coverage to be granted to such families.

202 4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act,
203 as amended, any individual who, for the month of August, 1972, was eligible for or was
204 receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV
205 of such act and who, for such month, was entitled to monthly insurance benefits under Title II
206 of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter
207 prior to October, 1974, if such individual would have been eligible for such aid or assistance for
208 such month had the increase in monthly insurance benefits under Title II of such act resulting
209 from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C.
210 301 et seq.), as amended, not been applicable to such individual.

211 5. When any individual has been determined to be eligible for medical assistance, such
212 medical assistance will be made available to him for care and services furnished in or after the
213 third month before the month in which he made application for such assistance if such individual
214 was, or upon application would have been, eligible for such assistance at the time such care and
215 services were furnished; provided, further, that such medical expenses remain unpaid.

208.550. As used in sections 208.550 to 208.568, the following terms mean:

2 (1) "Commission", the commission for the pharmaceutical investment program for
3 seniors established in section 208.553;

4 (2) "Division", the division of aging within the department of health and senior
5 services;

6 (3) "Household income", the amount of income as defined in section 135.010,
7 RSMo. For purposes of this section, household income shall be the household income of
8 the applicant for the previous calendar year;

9 (4) "Medicaid", the program for medical assistance established pursuant to Title
10 XIX of the federal Social Security Act and administered by the department of social
11 services;

12 (5) "Missouri resident", an individual who establishes residence for a period of
13 twelve months in a settled or permanent home or domicile within the state of Missouri with
14 the intention of remaining in this state. An individual is a resident of this state until the
15 individual establishes a permanent residence outside this state;

16 (6) "Prescription drug", a prescription drug as defined in 13 CSR 70-20. The
17 current limitations or restrictions placed on certain pharmaceuticals by the department
18 of social services shall remain and the department may define additional restrictions by
19 rule;

20 (7) "Program", the pharmaceutical investment program for seniors (PIPS)
21 established pursuant to this section;

22 (8) "Third-party administrator", a private party contracted to administer the
23 pharmaceutical investment program for seniors established in section 208.556, with duties
24 that may include, but shall not be limited to, devising applications, enrolling members,
25 administration of prescription drug benefits, and implementation of cost-control measures,
26 including such programs as disease management programs, early refill edits, and fraud
27 and abuse detection system and auditing programs.

208.553. 1. There is hereby established the "Commission for the Pharmaceutical
2 Investment Program for Seniors" within the division of aging in the department of health
3 and senior services to assist in the operation of the pharmaceutical investment program for
4 seniors established in section 208.556. The commission shall consist of the following eleven
5 members:

6 (1) The lieutenant governor, who shall act as chair in his or her capacity as
7 advocate for the elderly;

8 (2) Two members of the senate, with one member from the majority party
9 appointed by the president pro tem of the senate and one member of the minority party
10 appointed by the president pro tem of the senate with the concurrence of the minority floor
11 leader of the senate;

12 (3) Two members of the house of representatives, with one member from the
13 majority party appointed by the speaker of the house of representatives and one member
14 of the minority party appointed by the speaker of the house of representatives with the
15 concurrence of the minority floor leader of the house of representatives;

16 (4) The director of the division of medical services in the department of social
17 services;

18 (5) The director of the division of aging in the department of health and senior
19 services; and

20 (6) The following four members appointed by the governor with the advice and
21 consent of the senate:

22 (a) A pharmacist;

23 (b) A physician specializing in the treatment of seniors;

24 (c) A representative from a senior advocacy group; and

25 (d) A representative from an area agency on aging.

26

27 The commission may employ an executive director and such professional, clerical, and
28 research personnel as may be necessary to assist in the performance of the commission's
29 duties.

30 2. The commission:

31 (1) May establish guidelines, policies, and procedures necessary to establish the
32 pharmaceutical investment program for seniors;

33 (2) Shall hold quarterly meetings within fifteen days of the submission of each
34 quarterly report required in subsection 13 of section 208.556, and other meetings as
35 deemed necessary to make recommendations to the division for appropriate cost-control
36 measures;

37 (3) May establish guidelines and collect information and data to promote and
38 facilitate the program;

39 (4) May, after implementation of the program, evaluate and make
40 recommendations regarding the creation of a senior prescription drug benefit available to
41 seniors who are not eligible for the program due to income that does not meet the program
42 requirements.

43 3. The members of the commission shall receive no compensation for their service
44 on the commission, but shall be reimbursed for ordinary and necessary expenses incurred
45 in the performance of their duties as a member of the commission.

208.556. 1. There is hereby established the "Pharmaceutical Investment Program
2 for Seniors" by the division of aging within the department of health and senior services
3 to help defray the costs of prescription drugs for elderly Missouri residents. The program
4 shall be governed by the commission for the pharmaceutical investment program for
5 seniors established in section 208.553. The commission shall solicit requests for proposals
6 from private contractors for the third-party administration of the program.

7 2. Administration of the program shall include, but not be limited to, devising
8 program applications, enrolling participants, administration of prescription drug benefits,
9 and implementation of cost-control measures, including such strategies as disease
10 management programs, early refill edits, and fraud and abuse detection system, and
11 auditing programs. The commission shall select a bid from the request for proposals;
12 however, if no bids are received, the program shall be administered collaboratively by the
13 department of health and senior services and the department of social services.

14 3. Any Missouri resident who is sixty-five years of age or older, who has not had
15 access to employer-subsidized health care insurance that offers a pharmacy benefit for six

16 months prior to application, who is not currently ineligible pursuant to subsection 4 of this
17 section, and who has a household income at or below seventeen thousand dollars for an
18 individual or twenty-three thousand dollars for a married couple is eligible to participate
19 in the program.

20 4. Any person who is receiving Medicaid benefits shall not be eligible to participate
21 in the program. The pharmaceutical investment program for seniors is a payer of last
22 resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan,
23 as defined in section 376.1350, RSMo, including a Medicare supplement or
24 Medicare+Choice plan, or through a self-funded employee benefit plan, the pharmaceutical
25 investment program for seniors shall pay only for eligible costs not provided by such
26 coverage.

27 5. Applicants for the program shall submit an annual application to the division,
28 or the division's designee, that attests to the age, residence, and annual household income
29 for an individual or couple, if married. The third-party administrator shall prescribe the
30 form of the application for enrollment in the program, which shall be approved by the
31 division. The commission shall develop and implement a means test by which applicants
32 must demonstrate that they meet the income requirements of the program.

33 6. Nothing in this section shall be construed as requiring an applicant to accept
34 Medicaid benefits in lieu of participation in this program.

35 7. The following deductibles shall apply to enrollees in the program:

36 (1) For an individual with a household income at or below twelve thousand dollars,
37 the deductible shall be two hundred fifty dollars;

38 (2) For a married couple with a household income at or below seventeen thousand
39 dollars, the deductible shall be two hundred fifty dollars for each person;

40 (3) For an individual with a household income between twelve thousand one dollars
41 and seventeen thousand dollars, the deductible shall be five hundred dollars; and

42 (4) For a married couple with a household income between seventeen thousand one
43 dollars and twenty-three thousand dollars, the deductible shall be five hundred dollars for
44 each person.

45 8. All household income levels established for the pharmaceutical investment
46 program for seniors shall be adjusted annually by an amount equal to the annual cost of
47 living adjustment for the federal poverty level established by the Department of Health and
48 Human Services.

49 9. For prescription drugs, enrollees shall pay a forty percent coinsurance. The
50 division may implement a higher coinsurance at the recommendation of the commission.
51 Such coinsurance may be adjusted annually by the general assembly through the

52 appropriation process and shall be used to reduce the state's cost for the program. In
53 addition, each enrollee with an annual household income at or below twelve thousand
54 dollars for an individual or seventeen thousand dollars for a married couple shall pay an
55 annual twenty-five dollar coinsurance and each enrollee with a household income between
56 twelve thousand one dollars and seventeen thousand dollars for an individual or between
57 seventeen thousand one dollars and twenty-three thousand dollars for a married couple
58 shall pay an annual thirty-five dollar coinsurance to offset the administrative costs of the
59 program.

60 10. The total annual expenditures for each enrollee in this program may be up to
61 but shall not exceed five thousand dollars.

62 11. In providing program benefits, the department may enter into a contract with
63 a private individual, corporation or agency to implement the program.

64 12. The division shall utilize area agencies on aging, senior citizens centers, and
65 other senior focused entities to provide outreach, enrollment referral assistance, and
66 education services to potentially eligible seniors for the pharmaceutical investment
67 program for seniors. The division and third-party administrators shall be responsible for
68 informing eligible seniors on the availability of and providing information about
69 pharmaceutical company benefits which may be applicable.

70 13. The commission shall submit quarterly reports to the governor, the senate
71 appropriations committee, the house of representatives budget committee, the speaker of
72 the house of representatives, the president pro tem of the senate, and the division that
73 include:

74 (1) Quantified data as to the number of program applicants;

75 (2) An estimate of whether the current rate of expenditures will exceed the existing
76 appropriation for the program in the current fiscal year; and

77 (3) Information regarding the commission's recommendations for changes to
78 coinsurance, deductibles, and benefit caps for enrollees in the program.

79 14. The program established in this section is not an entitlement. Benefits shall be
80 limited to the level supported by the moneys explicitly appropriated pursuant to this
81 section. If in any fiscal year the commission projects that the total cost of the program will
82 exceed the amount currently appropriated for the program, the commission shall
83 implement cost-control measures to reduce the projected cost. Such cost-control measures
84 may include, but are not limited to, increasing the coinsurance outlined in subsection 9 of
85 this section. The division may request a supplemental appropriation to meet the projected
86 costs, but must implement cost-containment measures to reduce the projected cost to the
87 current appropriated amount. The pharmaceutical investment program for seniors is a

88 payer of last resort. If the federal government establishes a pharmaceutical assistance
89 program that covers program eligible seniors under Medicare or another program, the
90 pharmaceutical insurance program for seniors shall cover only eligible costs not covered
91 by the federal program.

92 15. The commission may promulgate rules to implement the provisions of sections
93 208.550 to 208.568. No rule or portion of a rule promulgated pursuant to the authority of
94 sections 208.550 to 208.568 shall become effective unless it has been promulgated pursuant
95 to chapter 536, RSMo.

96 16. Any person who knowingly makes any false statements, falsifies or permits to
97 be falsified any records, or engages in conduct in an attempt to defraud the program is
98 guilty of a misdemeanor and shall forfeit all rights to which he or she may be entitled
99 hereunder.

208.559. 1. The pharmaceutical investment program for seniors shall be fully
2 operational no later than July 1, 2002. The division shall accept applications for
3 enrollment during an initial open enrollment period from April 1, 2002, through May 30,
4 2002. A second initial enrollment period shall be held from November 1, 2002, through
5 December 15, 2002, to allow persons who did not enroll during the April through May 2002
6 enrollment period to enroll with the program for calendar year 2003. Current enrollees
7 in the program shall not be required to reenroll during the second initial enrollment period
8 for calendar year 2003. Beginning with the enrollment period for calendar year 2004, open
9 enrollment periods for the program shall be held from November first through December
10 fifteenth of the calendar year immediately preceding the calendar year for which
11 participation is sought.

12 2. A person may apply for participation in the program outside the enrollment
13 periods listed in subsection 1 of this section within thirty days of such person attaining the
14 age or income eligibility requirements of the program established in section 208.556.

208.562. 1. Generic prescription drugs shall be used for the program when
2 available. An enrollee may receive a name brand drug when a generic drug is available
3 only if both the physician and enrollee request that the name brand drug be dispensed and
4 the enrollee pays the coinsurance on the generic drug plus the difference in cost between
5 the name brand drug and the generic drug.

6 2. Pharmacists participating in the pharmaceutical investment program for seniors
7 shall be reimbursed for the cost of based on the following formula:

8 (1) For generic prescription drugs, the average wholesale cost minus twenty
9 percent, plus a four dollar and nine cent dispensing fee; and

10 (2) For name brand prescription drugs, the average wholesale cost minus ten and

11 **forty-three one hundredths percent, plus a four dollar and nine cent dispensing fee.**

208.565. 1. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the pharmaceutical investment program for seniors. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission.

2. All participating pharmaceutical manufacturers shall agree to provide rebates under the program. The division shall negotiate annually with participating manufacturers for the amount of such rebates; provided that rebates for brand name prescription drugs shall not be less than fifteen percent and rebates for generic prescription drugs shall not be less than eleven percent. Participating pharmaceutical manufacturers shall make quarterly rebate payments to the program for the total number of dosage units of each form and strength of a prescription drug which the division reports as reimbursed to providers of prescription drugs; except that, such payments shall not be due until thirty days after the manufacturer's receipt of utilization data from the division, including the number of dosage units reimbursed to providers of prescription drugs during the quarter for which payment is due.

3. All rebates received through the program shall be used toward refunding the program. If a pharmaceutical manufacturer refuses to participate in the rebate program, such refusal shall not affect the manufacturer's status under the current Medicaid program.

208.568. 1. There is hereby created in the state treasury the "Pharmaceutical Investment Program for Seniors Fund", which shall consist of all moneys deposited in the fund pursuant to sections 208.550 to 208.565 and all moneys which may be appropriated to it by the general assembly, from federal or other sources.

2. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely by the commission for the pharmaceutical investment program for seniors and the division of aging for the implementation of the pharmaceutical investment program for seniors established in sections 208.550 to 208.565.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

Section B. Because immediate action is necessary to ensure the timely provision of prescription drugs to the elderly, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.