Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.085 Cutting and Trimming of Vegetation on Right-of-Way. The commission is amending sections (1), (3), and (4).

PURPOSE: The primary purpose for this amendment is to comply with the Missouri Pesticide Use Act. Other purposes include a cash bond to be filed with the department prior to any work on the right-of-way and setting pruning operations to the National Arborist Association Standards.

(1) Permits. A permit is required to cut or trim any vegetation in front of any lawful sign. A separate permit is required for each sign structure. Permits to cut vegetation will be issued only for lawful signs which are at least five (5) years old. Permits to trim trees will be issued only after a lawful sign is at least two (2) years old. **A vegetation permit may be denied if the plan is deemed to be detrimental to the stability of the state right-of-way as determined by the roadside enhancement manager. In addition, the permit specialist or roadside enhancement manager may place stipulations or limitations on any vegetation trimming permit that protect natural or scenic features existing at the location of the proposed trimming.**

(A) Application. *[An excavation]* **A** permit application to do cutting and trimming shall be obtained from the *[district]* **area** office (see 7 CSR 10-6.010). Applicants shall serve a copy of their permit application upon adjacent property owners and shall provide proof of service at the time the application is filed in the *[district]* **area** office. Proof of service may be a copy of a certified return mail receipt. Objections by adjacent property owners may serve to limit the scope of the permit as prescribed in subsection (1)(C) of this rule.

(B) Fee. The cost of a permit for trimming and cutting is determined by the vegetation to be removed. All diameter measurements contained in this rule shall be measured at four and one-half feet (4 1/2') above ground level. There will no fee to trim trees in accordance with subsection (3)(F) of this rule or remove brush and trees with a diameter of less than six inches (6"), but a permit will still be required. The fee to remove each tree with a diameter equal to or greater than six inches (6") is one hundred dollars ($100) plus an additional one hundred dollars ($100) for every inch of diameter greater than six inches (6"). Measurements for diameter will be rounded down to the nearest inch. For example, the fee for trimming or removing a tree six and three-fourths inch (6 3/4") in diameter would be one hundred dollars ($100); the fee for a tree ten and one-half inches (10 1/2") in diameter would be five hundred dollars ($500). Also, a performance bond in an amount up to one thousand dollars ($1,000) shall be required if the district engineer or his/her representative deems it necessary to ensure restoration of highway right-of-way. Fees will be placed in a roadside enhancement fund and utilized by the department to plant trees and do other landscaping on highway right-of-way. **A cash bond equal to the amount of vegetation to be removed must be filed with the department prior to any work on the right-of-way. All fees must be paid prior to the commencement of any tree trimming.**

(D) Duration. All permits shall expire after *[thirty (30)]* **sixty (60)** days. *[Upon written request, extensions may be granted for an additional thirty (30) days, at the department's discretion. Only one (1) permit extension may be granted.]*

(3) Conditions. The following conditions shall apply to trimming and cutting of vegetation on highway right-of-way:

(D) Herbicides. Only herbicides approved by the district engineer may be used to trim or remove vegetation. **Only general use non-restricted herbicides may be used.** All herbicides must be used in strict accord with the manufacturer's instructions **on the label**. **Restricted use herbicides may not be used on right-of-way. Applicator must be a certified commercial applicator or under the supervision of a certified commercial applicator. The Missouri Department of Transportation (MoDOT) roadside enhancement manager or their authorized representative will approve the area to be sprayed before a permit is issued. Applicant must avoid desirable vegetation. Holder of the permit is liable for all damages or damage claims resulting from the herbicide application. Applicant must comply with the Missouri Pesticide Use Act, section 281.005 through 281.115, RSMo (as amended). In U.S. Forest Service areas, permit applicants must obtain written permission for use of herbicides from the district engineer. The fee for controlling the growth of a tree, with herbicides, is determined in the same manner as tree removal under subsection (1)(B). All trees controlled with herbicides, requiring a fee, shall be cut down and removed within sixty (60) days of treatment;**

(E) Indemnity. Applicants shall agree to indemnify and hold harmless the commission against any damage or harm to persons, including commission employees, or property which may occur as a result of or in the course of its cutting or trimming of vegetation and use of herbicides; *[and]*

(F) Trimming of Trees. Trees of any size may be trimmed in accordance with the following guidelines:

1. Trimming *[will not be allowed during the months of February, March and April; and]* **is permitted any time of year;**

2. *[Not more than one-third (1/3) of the total tree area should be pruned in a single operation.]* **A tree may not have more than one-third (1/3) of its canopy removed in a single pruning operation. For pruning operations, the "National Arborist Association Standards" shall be used as a guideline to insure trees are being pruned properly and all pruning must be done in accordance with "National Arborist Association Standards."** Pruning cuts should be made so that the tree may close the resulting wound as easily as possible. Generally, remove parts of a twig or branch at their origin. Remove tips of branches back to a good bud or to the next larger branch. The final pruning cut should be made along the natural branch collar and not flush with the trunk. **Any additional pruning of this magnitude cannot be repeated for three (3) full years (thirty-six (36) months) on hardwood species. A "Tree Pruning Chart" developed by MoDOT is used to determine the maximum amount of canopy that can be removed in a single pruning operation. A copy of the chart may be obtained by contacting the area permit specialist; and**

3. In situations where pruning is to be done on a stand of trees and it is not practical to distinguish individual trees from the stand, the stand of trees should be judged by the canopy height of the stand. The amount of tree height to be removed should be determined from the "Tree Pruning Chart" according to the canopy height of the stand of trees. Proper tree pruning practices are to be observed in reducing the height of the stand of trees, just as it would be for an individual tree. Brush over six feet (6') that is approved for removal should be cut first and the stump(s) treated with herbicides. Illustrations are available to assist in proper pruning. A copy may be obtained by contacting the area permit specialist; and

(G) Destruction of Vegetation. A vegetation permit will be revoked if an applicant destroys desired vegetation due to excessive trimming or inappropriate use of herbicides on vegetation. If the permit is revoked due to excessive trimming or

inappropriate use of herbicides, the department will retain and collect against any bonds filed.

(4) Appeal for Denial of Permit to Cut or Trim. If denied a permit to cut or trim, the applicant has twenty (20) working days to submit a written appeal to the division engineer, *[maintenance and traffic]* **Right-of-Way** *[d]***D**ivision, Missouri Highway**s** and Transportation Department, P.O. Box 270, Jefferson City, MO 65102.

*AUTHORITY: sections 226.150 and 226.585, RSMo [Supp. 1992] **1994** and 226.530, RSMo [1986] **Supp. 1998**. Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 4—Vendor Procedures

PROPOSED AMENDMENT

9 CSR 25-4.040 Recovery of Overpayments to Providers. The department is amending sections (1)–(6) and adding sections (7)–(12). The department proposes to amend this rule to correspond with changes in section 630.460, RSMo Supp. 1996.

PURPOSE: This amendment revises the interest rate relative to the collection of overpayment made by the department to providers.

(1) Providers that deliver care, treatment, habilitation or rehabilitation services to clients under contract with the department may receive *[payments in excess of or contrary to the provisions of the contract with]* **an overpayment which must be repaid to** the department. *[These overpayments are due immediately and must be repaid by the provider within forty five (45) days after the overpayment are discovered or reasonably should have been discovered.]* **An overpayment is any payment by the department which is—**

(A) Greater than the contracted rate for a service less any portion paid by or on behalf of a client;

(B) For services not provided;

(C) For services not authorized in the contract; or

(D) For services provided contrary to the provisions of the contract.

(2) *[Upon discovery of]* **On determination** an overpayment **has been made**, the department, shall notify the provider **by certified mail** of the **amount of the** overpayment**, the basis of the overpayment** and **request reimbursement.***[the date the overpayment was or should have been discovered. The department shall determine whether the overpayment shall be repaid by applying a credit against a future payment due to the provider or by the provider issuing a refund to the department.]* **The date on the certified mail return receipt shall be the official date of notice of overpayment.**

[(3) Within fifteen (15) days of receipt of the notice of overpayments, a provider may request the division director for a review of the overpayment. The division director, in consultation with the deputy director administration, shall review the overpayment within fifteen (15) days of the request for review. The criteria which the division director shall consider in conducting the review include:

(A) Whether the overpayment was properly and reasonably determined;

(B) Whether extraordinary circumstances caused or resulted in the overpayments; and

(C) Whether the clients being served by the provider would be adversely impacted.] **(3) If the provider concurs with the overpayment, the provider should promptly contact the department and make arrangements for repayment to avoid interest charges. Any overpayment not repaid within forty-five (45) days from the date of notice shall accrue interest charges on the unpaid balance from the date of notice of overpayment.**

(4) If *[any overpayment is not fully repaid within forty-five (45) days of the due date, the department shall assess interest on the unpaid balance. Interest shall be charged beginning with the forty-sixth (46th) day after the due date at the rate of one and five tenths percent (1.5%) per month.]* **the provider does not concur with the overpayment, the provider may request a review of the overpayment by the department. This request must be made within thirty (30) days of receipt of the notice of overpayment. The department shall review the overpayment within fifteen (15) days of the request for review. If requested by the provider, the review will be conducted in person and the department will notify the provider of the date, time and place for the review. The criteria for the review shall be to—**

(A) Verify the overpayment was properly determined in accordance with the terms of the provider contract;

(B) Verify the overpayment amount has been properly calculated;

(C) Examine and accept additional documentation or other material from the provider; and

(D) Upon completion of the review, the department shall notify the provider of the results of the review in writing.

(5) *[If any overpayment plus interest is not fully repaid within six (6) months of the due date, the department may certify the amount due to the Department of Revenue, the Office of the Attorney General, or take other collection actions.]* **When the overpayment amount has been finally determined and after any review, if requested, the department shall initiate appropriate collection actions. If any portion of the overpayment consists of Medicaid claim payments, these claims shall be subject to recovery provisions of the Medicaid program and shall be referred to the Department of Social Services, Division of Medical Services for collection. Overpayment amounts due and payable to the Department of Mental Health shall be collected in accordance with the following provisions.**

(6) *[Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.]* **Whether or not the provider requests a review, the department and the provider have forty-five (45) days from the date of notice of overpayment to negotiate a repayment plan. A repayment plan may allow for payments over a specific time period and shall not exceed twelve (12)**

months. The repayment plan must be in writing and be signed by the department and the provider. If a repayment plan is not adopted, the overpayment is immediately due and payable.

(7) The department shall specify the method of repayment which may include direct payment by the provider, deduction from future amounts due to the provider, or both. The department shall maintain a record of each overpayment in an account showing the amount due, payments received and interest charged.

(8) An overpayment account shall be considered to be delinquent if—

(A) The account is not subject to a repayment plan and it is not repaid within forty-five (45) days from the date of notice of overpayment; or

(B) The account is subject to a repayment plan and an installment payment is not received within thirty (30) days of the installment due date.

(9) The department may take appropriate actions to recover delinquent amounts due to the department, which may include:

(A) Sending notices to the provider requesting immediate payment;

(B) Deducting the overpayment from amounts due to the provider by the department; and

(C) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue.

(10) An overpayment account shall be considered to be in default if—

(A) The account is not subject to a repayment plan and is not fully repaid within six (6) months from the date of notice of the overpayments; or

(B) The account is subject to a repayment plan and is delinquent for more than three (3) months in installment payments.

(11) The department may take appropriate actions to seek recovery of overpayment accounts which are in default. These actions may include:

(A) Deducting the overpayment from amounts due to the provider by the department;

(B) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue; and

(C) Certifying the overpayment to general counsel or the Office of the Attorney General to seek a judgment for settlement of the amount due.

(12) Interest shall be charged on any overpayment balance not repaid within forty-five (45) days of the date of notice of overpayment. Interest shall accrue from the date of notice of overpayment and be calculated on a daily basis. The interest rate to be charged on overpayments may vary and will be set for each calendar year. The rate of interest shall be the annual rate determined by the Department of Revenue, as provided in section 32.085, RSMo plus three (3) percentage points. Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.

*AUTHORITY: section 630.050, RSMo [1994] **Supp. 1998**. Emergency rule filed Aug. 3, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Original rule filed Sept. 10, 1984, effective Dec. 13, 1984. Amended: Filed July 17, 1995, effective Feb. 25, 1996. Amended: Filed Sept. 1, 1999.*

PUBLIC ENTITY COST: This proposed amendment will result in a projected loss of $7,018 in state revenue to the state general revenue fund in FY 2000. Total loss in state revenue over the twenty year life of the rule is an estimated $90,930.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Jackie D. White, Deputy Director Administration, P.O. Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY COST
9 CSR 25-4.040 Recovery of Overpayments to Providers

Prepared August 17, 1999 by Department of Mental Health, Office of Administration
Affected Agencies: Department of Mental Health, Office of the Director

EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Loss of interest revenue	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771

EXPENDITURES	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Loss of interest revenue	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694

Total for 20 life of the rule: 172,206

Assumptions:

1. Inflation of 2.5% per year is compounded for salaries and 3% for expenses.
2. Based on H.B. 1081, A.L. 1996, section 630.460, RSMo was revised to reduce the rate of interest the department will charge on overpayments. The old rate was 1 and 1/2 percent per month (18% annually). This was changed to "a rate not to exceed the annual rate established pursuant to the provisions of 32.065, RSMo, plus three percentage points." This refers to the rate established by the Department of Revenue which for FY 1999 is 8%. The department is charging 11% (8% plus three percentage points.) Amounts above for FY 1996 through 1998 are actual amounts collected. The remaining amounts are estimates using only the 2.5% inflation assumption.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and Developmental Disabilities
Chapter 5—Standards

PROPOSED RULE

9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities

PURPOSE: The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD), is an organization of individuals with developmental disabilities and family members which shall conduct monitoring visits of individuals receiving services in facilities and agencies funded or certified by the Division of Mental Retardation and Developmental Disabilities. This monitoring shall be a component of the division's oversight of facilities, programs and services in accordance with section 633.0I0, RSMo. This rule defines terms, establishes principles and sets out the process by which MOAIDD conducts quality assurance reviews of agencies.

(1) The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) Board shall be established by the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities. The board shall be appointed by the division director.

(A) The MOAIDD Board shall be responsible for the development, modification, evaluation and continuing oversight of the consumer/family member monitoring system. The MOAIDD Board in cooperation with the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities, shall determine necessary administrative, staffing and procedural functions of the monitoring system and shall advise the division on policy matters.

(B) Membership of the MOAIDD Board shall consist of fifteen (15) individuals with developmental disabilities and/or their family members who reside in the state of Missouri and share involvement in the life of their family member with developmental disabilities. At no time shall less than two (2) members of the board be individuals with developmental disabilities. One (1) individual shall be selected to serve from each of the eleven (11) regions of the state. Four (4) additional individuals shall be selected from the state to serve as at-large members.

(C) Board members shall not serve more than two (2) consecutive three (3)-year terms. Following a one (1)-year period off the board, an individual may be eligible to serve again.

(D) The board shall establish a constitution and bylaws, approved by the division, that sets forth its responsibilities, operating procedures and membership guidelines.

(2) Terms defined in sections 630.005 and 633.005, RSMo, are incorporated by reference for use in this rule. As used in this rule, unless the context clearly indicates otherwise, the following terms also mean:

(A) Agency quality assurance and/or enhancement plan—a written document prepared by the regional center and provider agency to address quality assurance issues;

(B) MOAIDD is a self-governing, volunteer organization consisting of individuals with developmental disabilities and family members established by the Department of Mental Health, Division of Mental Retardation and Developmental Disabilities, to assess the quality of life for people receiving services through the division;

(C) Certification unit—the unit within the Department of Mental Health that administers the certification process described in 9 CSR 45-5.010 for certain provider agencies;

(D) MOAIDD monitoring team—a volunteer team consisting of a team leader and at least one (1) team member;

(E) MOAIDD monitoring team leader—an experienced team member who has received MOAIDD team leader training;

(F) MOAIDD monitoring team member—a trained volunteer who participates in a MOAIDD visit;

(G) MOAIDD visit—a visit by a MOAIDD monitoring team with an individual receiving services through the division in order to ensure health, safety and individual rights as well as enhance the quality of life for that individual;

(H) Overriding concern—a significant concern in the individual's life which is identified during a MOAIDD visit and is not a red or yellow flag but should be addressed;

(I) Recommendation—a suggestion provided by the MOAIDD monitoring team which is intended to enhance the individual's quality of life;

(J) Red flag—an immediate threat to the individual's health and/or safety; and

(K) Yellow flag—a significant, but not an immediate threat to an individual's health, safety or rights.

(3) This section prescribes two (2) sets of indicators referred to as red and yellow flags.

(A) The following conditions shall be recorded as red flags:

1. The monitors suspect, for whatever reason, that the individual's health and safety are at immediate risk. This could include situations in which agency staff are not sufficiently trained and/or knowledgeable about or do not deal with threatening health, dietary, medicinal needs or prescribed equipment such that it constitutes an imminent or immediate threat; and

2. The monitors suspect, for whatever reason, that the individual(s)—

A. Is being verbally, physically or sexually abused;

B. Is being neglected;

C. Is the victim of verbal manipulation or other type of psychological mistreatment; or

D. Has been mechanically, physically and/or chemically restrained.

(B) The following conditions, if the monitor believes constitute a significant but not immediate threat to a person's health, safety and rights, shall be recorded as yellow flags:

1. The individual does not have a physician or dentist and/or does not see them at least annually;

2. The individual has experienced emotional or physical trauma and his/her needs have not been addressed;

3. Safety devices (smoke detectors, fire extinguishers, locks, railings, etc.) are missing or in need of repair;

4. There are no procedures, or practice, for emergency situations;

5. Residence appears to be an unhealthy environment (e.g., dirty, strong odors, mildew, wiring is exposed, electrical fixtures and/or plumbing fixtures are broken, broken furniture, unhealthy clutter, heating or air conditioning is inadequate or non-functioning, etc.);

6. The individual's ordinary living activities are unreasonably limited or restricted;

7. The individual is not provided with needed information or training that would allow him/her greater independence;

8. Community access rarely occurs or is limited by insufficient staff and/or available transportation;

9. Staff lacks adequate training on health/medical issues, cardiopulmonary resuscitation, first aid, physical management, nutritional management, drug side effects, seizures and allergies;

10. Staff lacks a means of communication with the individual(s) they serve;

11. There is insufficient staff or staff is unfamiliar with the individual, resulting in staff not meeting the needs of the individual;

12. There is evidence that the individual is, or has been, restricted from activities;

13. Staff is unfamiliar or untrained regarding the specific needs of the individual(s) they support (e.g., behavior, verbal, physical, psychological or recognition of abuse and neglect);

14. Medication is not stored or managed in a safe manner;

15. The individual is restricted from seeing family, friends or guardian;

16. The individual is not treated in a respectful manner by staff/administration;

17. Adaptive equipment is unavailable, broken or restricted from use; and

18. Other items, which may not be significant individually but cumulatively, represent a threat to the safety, health or rights of the individual.

(4) MOAIDD visits shall proceed according to the requirements set forth in this section.

(A) MOAIDD staff shall select at least one (1) individual from each residence where an agency provides residential service and shall notify the agency and regional center of the intent to visit.

(B) With the individual's permission, pre-visit surveys returnable within thirty (30) days, shall be sent to the individual's family/guardian, residential provider, service coordinator and, when appropriate, daily activities provider.

(C) A MOAIDD monitoring team shall conduct the visit and issue a written report within seventy-two (72) hours to the MOAIDD coordinator for further processing.

(D) The MOAIDD staff shall distribute the final report within thirty (30) days of the visit to the individual visited, guardian, agency, regional center director, district deputy director, certification unit (if the agency is Medicaid-waiver certified), members of the monitoring team and other persons designated by the individual visited or the individual's guardian.

(E) If the monitoring team identifies red flags, the team shall proceed as follows:

1. The team leader shall immediately contact the MOAIDD coordinator and remain on-site to provide additional information should this be necessary. The team leader shall leave the site only after the regional center director or designee arrives;

2. The MOAIDD coordinator shall immediately contact the regional center director or designee and the agency director and request that they go to the location where the red flag has been reported. Should the red flag result in an abuse and/or neglect investigation, the report of findings shall be recorded in the department's Incident and Investigation Tracking System. If the initial inquiry into the red flag does not warrant an abuse and/or neglect investigation, the regional center shall submit a written report of findings within two (2) working days of the inquiry to the MOAIDD coordinator and, if the agency is certified, to the certification unit; and

3. The regional center director shall incorporate in the agency's quality assurance plan the action steps which result from an investigation or inquiry. If the agency is certified and there are enforcement issues, the regional center director shall notify the certification unit.

(F) If the MOAIDD visit team identifies yellow flags, the team shall proceed as follows:

1. The team leader shall notify the MOAIDD coordinator within seventy-two (72) hours;

2. The MOAIDD coordinator shall contact the regional center director or designee and agency director to advise of yellow flag(s) and answer questions regarding visit findings;

3. The MOAIDD coordinator shall issue written notification of the yellow flag issues within two (2) working days following contact with the regional center and agency; and

4. The regional center director shall incorporate in the agency's quality assurance plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If the agency is certified and there are enforcement issues the regional center shall notify the certification unit.

(G) If the MOAIDD monitoring team reports overriding concerns and/or recommendations, the regional center director shall incorporate in the agency's quality assurance and/or enhancement plan the action steps resulting from the concerns and recommendations. The regional center director shall provide a written report to the MOAIDD coordinator indicating action taken. If the agency is certified the regional center shall notify the certification unit of the action taken to address the overriding concerns and/or recommendations.

AUTHORITY: section 633.010, RSMo 1994. Original rule filed Sept. 1, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Mental Health, Attn: Jackie Coleman, Division of Mental Retardation and Developmental Disabilities, P.O. Box 687, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Liquor Control
Chapter 2—Rules and Regulations

PROPOSED AMENDMENT

11 CSR 70-2.190 Unlawful Discrimination and Price Scheduling. The division is amending section (2).

PURPOSE: This amendment adds a new paragraph 3. to 11. CSR 70-2.190(2)(E) that will afford the wholesalers the option to sell price posted items in packaged case quantities that deviate from the standard case quantities.

(2) Pricing Rules to Prohibit Discrimination.

(E) Case Size. For the purpose of this regulation, a case of intoxicating liquor or a case of wine is declared to be a cardboard, wooden or other container, containing bottles of equal size filled with intoxicating liquor or wine of the same brand, age and proof. The following table depicts the number of bottles considered to be a case of various bottle sizes for both the English and metric systems of measure, for price scheduling purposes:

Size of Bottle	Number of Bottles per Case
Less than 6.3 oz	48, 60, 96, 120, 144, 192 or 240
8 oz up to, but not including, 10 oz	48
10 oz up to, but not including, 21 oz	24
21 oz up to, but not including, 43 oz	12
43 oz up to, but not including, 85 oz	6
85 oz up to and including 128 oz	3, 4 or 6

1. The Universal Coding of Alcoholic Beverages for Products by container size shall be used to code the bottle size. An item is declared to be either a bottle or a case of intoxicating liquor or wine scheduled as required.

2. All sizes less than one-half (1/2) pint or eight (8) ounces under the English system of measure shall be defined as miniatures to be sold to airlines and railroads. Under the metric system of measure, miniatures to be sold to airlines and railroads are defined as fifty (50) milliliters (1.7 ounces) for spirituous liquors and one hundred (100) milliliters (3.4 ounces) for vinous liquors. Case sizes for miniatures shall be 240, 192, 144, 120, 96, 60 and 48 bottles. Miniatures shall be sold in only one (1) case size for each bottle size sold.

3. If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one (1) but either more or less than the case quantity for the bottle size listed in subpart (2)(E)2., a wholesaler may sell that package for a total price that reflects the same per bottle price as the per bottle price in the posted case price, if the wholesaler's invoice specifies the quantity in the package.

*AUTHORITY: section 311.660, RSMo [Supp. 1989] **1994**. This version of rule filed Dec. 22, 1975, effective Jan. 1, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 17, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Liquor Control, Hope Whitehead, State Supervisor, P.O. Box 837, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RULE

12 CSR 10-23.446 Notice of Lien

PURPOSE: This rule outlines the requirements for the perfection of a lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor and provides for a transition period which permits the current certificate of title and lien perfection procedure to continue.

(1) A lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor is perfected when a notice of lien meeting the requirements in section (2) is delivered to the director of revenue, whether or not the ownership thereof is being transferred. Delivery to the director of revenue may be physical delivery of the notice of lien to the director by mail or to the director or agent of the director in a Department of Revenue office. A received date stamp placed on the notice of lien by the director or his agent will be prima facie proof of the date of delivery. No title fee or ownership document is required to be submitted to the director of revenue by the lienholder with a notice of lien, and if the ownership is not being transferred, the lienholder may also submit the application for title, the ownership document and fee on behalf of the owner to have a new title produced reflecting the lien.

(2) A notice of lien for a motor vehicle, trailer, all terrain vehicle, boat or outboard motor may be either a form provided by the director of revenue entitled "Notice of Lien" or the lienholder's copy of the application for title and registration, and in either case containing the following information:

(A) Name and address of owner(s);

(B) Vehicle description, by make, model and vehicle identification number;

(C) Purchase date; and

(D) Name and address of lienholder(s).

(3) As used in this rule, the term "boat" includes all motorboats, vessels or watercraft as the terms are defined in section 306.010, RSMo.

AUTHORITY: sections 301.600 and 306.400, RSMo Supp. 1999. Emergency rule filed Aug. 18, 1999, effective Aug. 28, 1999, expires Feb. 23, 2000. Original rule filed Aug. 18, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost the state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

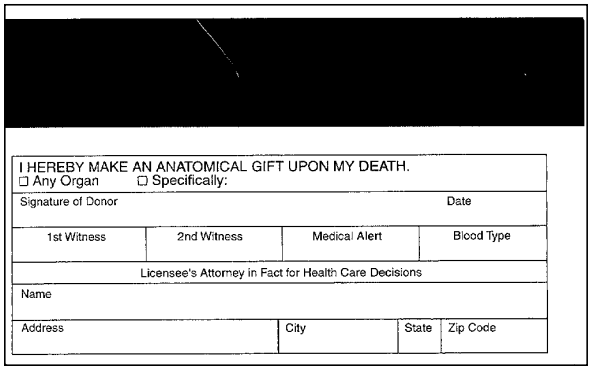
Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED AMENDMENT

12 CSR 10-24.430 *Back of* Driver*[s]* License *[Back Label]*. The director proposes to amend the information on the back of the driver license.

PURPOSE: This proposed amendment amends the information that is on the back of the driver license.

(1) The attached *[form shall be placed]* **information, incorporated by reference, is** on the back of a person's driver*[s]* license to be used for designating anatomical gifts and the name and address of the person designated as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions.



*AUTHORITY: section 302.181, RSMo Supp. [1995] **1998**. Original rule filed Sept. 15, 1995, effective March 30, 1996. Amended: Filed Aug. 26, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax

PROPOSED RULE

12 CSR 10-111.010 Machinery and Equipment Exemptions

PURPOSE: Section 144.030.2(4) and (5), RSMo, exempts from taxation certain machinery, equipment, parts, materials and supplies. This rule explains what elements must be met in order to qualify for these exemptions.

(1) In general, the purchase of machinery, equipment, parts, and the materials and supplies solely required for the installation or construction of such machinery, equipment and parts, are exempt from sales tax if they are for replacement or for a new or expanded plant and they are directly used in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption.

(2) Definition of Terms.

(A) Establish a new manufacturing plant—The complete and final construction of a facility and all of its component parts. Construction shall be deemed completed within a reasonable period of time after production begins.

(B) Expand existing manufacturing plant—The purchase of additional machinery, equipment and parts as a result of the physical enlargement of an existing manufacturing, fabricating or mining facility; or the addition of machinery, equipment and parts constituting improvements that result in an actual or potential: i) increase in production volume at the plant, ii) increase in employment at the plant, or iii) increase in the number of types or models of products produced at the plant. This actual or potential increase is measured in relation to the actual or potential production volume, employment or types or models of products produced at the plant before the machinery, equipment and parts were originally put into use at the plant. Documentation which may be provided to establish the requisite intent for potential increase in production include, but are not limited to, the following: capital expenditure authorization requests, production records, production plans, purchase invoices, work authorizations, plant equipment cost savings analysis or reports and asset justification reports.

(C) Fabrication—The process of transforming an item into a higher stage of development. It does not imply or signify manufacturing, but the meaning of the term is limited to cutting, carving, dressing, shaping; advancing an elementary shape to a higher stage of development; reworking and cutting shapes to required length.

(D) Machinery and equipment—Devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets other than land and buildings for purposes of business and accounting practices.

(E) Manufacturing—i) the alteration or physical change of an object or material to produce an article with a use, identity and value different from the use, identity and value of the original; or ii) a process which changes and adapts something practically unsuitable for any common use into something suitable for common use; or iii) the production of new and different articles, by the use of machinery, labor and skill, in forms suitable for new applications; or iv) a process that makes more than a superficial transformation in quality and adaptability and creates an end product quite different from the original; or v) requires the manipulation of an item in such a way as to create a new and distinct item, with a value and identity completely different from the original. Manufacturing does not include processes that restore articles to their original condition (e.g., cleaning, repairing); processes that maintain a product (e.g., refrigeration); or processes that do not result in a change in the articles being processed (e.g., inspecting, sorting).

(F) Mining—The process of extracting from the earth precious or valuable metals, minerals or ores. This process includes quarrying, but does not include equipment used for water-well drilling or reclamation performed to restore previously mined land to its original state.

(G) Parts—Articles of tangible personal property that are components of machinery or equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Items that are consumed in a single processing and benefit only one production cycle are materials and supplies, not parts. Items such as: nuts, bolts, hoses, hose clamps, chains, belts, gears, drill bits, grinding heads, blades, and bearings, would ordinarily be considered as parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as lubricants, paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property, are not parts. These items would be considered as materials and supplies within the meaning of the exemptions.

(H) Producing—Includes the meanings of "manufacturing" and "fabricating," and is used in connection with the creation of intangibles that are taxable but which are not manufactured or fabricated in the sense those terms are commonly understood, e.g., information organized by computer and then sold on tangible media.

(I) Product which is intended to be sold ultimately for final use or consumption—Tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state, which is intended at the time of manufacturing, mining or fabrication to be sold at retail. Property or services cannot be considered to be "subject to" the tax of a state unless the property or services are actually to be sold at retail in that state or delivered to a retail customer in that state.

(3) Basic Application of Exemption.

(A) Direct use—In determining whether machinery, equipment and parts are used directly in producing a product, Missouri has adopted the integrated plant theory that permits a broad construction of the machinery, equipment and parts exemptions. The language "used directly in" exempts purchases of articles that are both essential and comprise an integral part of the manufacturing process. It is not sufficient to meet only one of these requirements. For example, items used in material storage or handling before the manufacturing process begins may be essential to the process, but are not an integral part of the manufacturing process and are therefore not used "directly" in manufacturing. The factors which determine whether an article is directly used are: whether the item is essential or necessary to the process; how close, causally, is the item to the production process; and whether the item operates har-

moniously with other machinery to make an integrated and synchronized system. The direct use requirement is not limited to those items of machinery, equipment and parts that produce a direct physical change in the composition of the raw materials or work in process.

(B) New or expanded plant exemption—Pursuant to section 144.030.2(5), RSMo, purchases of machinery, equipment and parts to establish a new or to expand an existing manufacturing, mining or fabricating plant in Missouri which are used directly in manufacturing, mining or fabricating a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such machinery and equipment are not subject to tax.

(C) Purchase by other than end user—The exemptions for machinery, equipment and parts in section 144.030.2(4) and (5), RSMo, do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and parts in an exempt fashion. All that is required is that the machinery, equipment and parts are used in a tax-exempt manner. These exemptions "flow through" to the owner. For example, a real property improvement contractor may purchase exempt from tax the machinery, equipment, parts, materials and supplies solely required for installation or construction of such replacement items, if such items are to be used in a tax-exempt manner by the owner.

(D) Replacement—To be exempt under section 144.030.2(4), RSMo, the machinery, equipment and parts must replace an existing piece of machinery, equipment or parts. This can include machinery, equipment, or repair and maintenance parts that are identical to the items they replace, as well as items that are different from the ones they replace, such as replacement machinery, equipment or parts added for the purpose of improving or modifying the existing devices. The replacement machinery, equipment and parts must be used in a process that produces a product intended to be sold ultimately for final use or consumption.

(E) Replacement machinery, equipment and parts—Pursuant to section 144.030.2(4), RSMo, purchases of replacement machinery, equipment and parts which are used directly in manufacturing, mining, fabricating or producing a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such replacement machinery, equipment and parts are not subject to tax.

(F) Use for nonexempt purposes—In order for the machinery and equipment to be exempt from tax it need not be used exclusively or primarily for an exempt purpose. The purchaser must intend at the time of purchase to use and actually make material use of the machinery and equipment in an exempt capacity to qualify. The fact that it may also be used for nonexempt purposes will not prevent the purchase of the item from qualifying for the exemption. If several like items are purchased, some for exempt purposes and some for nonexempt purposes, only the number of items essential for the exempt use qualify for the exemption.

(4) Examples.

(A) A manufacturing company builds a physical addition to its existing building. It purchases new machinery to set up another assembly line to be located in the new addition. The new machinery may be purchased under the expanded plant exemption.

(B) A fabricating company purchases additional machinery to establish a second assembly line but it does not physically expand its existing building. Production capability is increased from five thousand (5,000) units a day to seven thousand five hundred (7,500) units per day. The machinery may be purchased under the expanded plant exemption.

(C) A manufacturing company purchases additional machinery to establish a second assembly line. It does not increase its existing building nor does it increase its production volume. The additional machinery does result in the hiring of three (3) additional employees. The machinery may be purchased under the expanded plant exemption.

(D) A manufacturing company purchases various parts including replacement parts, new parts for the purpose of modifying existing equipment to make it more efficient, and related materials and supplies to install the parts. The replacement parts, the new parts for modifying the equipment and the materials and supplies for the installation of these parts may be purchased under the replacement machinery, equipment and parts exemption.

(E) A fabricating company intends to build a new plant and have it up and running within a year. Some of the equipment that was originally intended to be part of the new plant does not arrive until three (3) months after the plant is completed. This equipment would be covered by the new plant exemption, because it was originally intended to be part of the new plant.

(F) A manufacturing company purchases various pieces of testing equipment for different purposes, including: i) to ensure that the seller's product meets the tolerances claimed in its marketing literature, ii) to meet the customers' specification requirements mandated by the sales agreement, and iii) to perform research and development on potential future products. The testing equipment for the first two (2) situations are directly used to manufacture a product intended to be sold ultimately for final use or consumption and would qualify for exemption. The testing equipment for research and development is not directly used in manufacturing a product intended to be sold ultimately at retail and, therefore, would not qualify for exemption.

(G) A ceramic greenware manufacturer purchases six (6) initial greenware mug molds, which it is going to use to manufacture greenware mugs to be resold. All six (6) greenware mug molds would be exempt.

(H) A rock quarry purchases equipment to remove earth and overburden to expose the rock and to remove rock from the ground. It purchased separate equipment to crush the rock into gravel as a marketable product to be sold at retail. The equipment used to remove the overburden and rock from the ground would qualify as exempt mining equipment and the equipment used to crush the rock into gravel would qualify as exempt manufacturing equipment.

(I) A taxpayer operates a concrete manufacturing plant. It purchases three (3) replacement concrete mixing trucks and also adds four (4) additional concrete mixing trucks to expand its fleet. Taxpayer also purchased dump trucks to haul concrete slabs that had been manufactured in its plant. The replacement and new additional concrete mixing trucks are directly used in manufacturing and would qualify for the replacement machinery and equipment exemption in section 144.030.2(4), RSMo, and the expanded plant exemption in section 144.030.2(5), RSMo, respectively. The dump trucks would not qualify for exemption because they are not directly used in the manufacturing process. However, if the dump trucks were used in the plant to transport the slabs during the manufacturing process from one processing area to another within the manufacturing plant, these exemptions would apply.

(J) A taxpayer creates and sells a nontaxable information service product. To develop its product, taxpayer purchases computer hardware and software. Because taxpayer produces a nontaxable service product, it is not manufacturing a product intended to be sold ultimately for final use or consumption and, therefore its purchases of computer equipment are not exempt from tax.

(K) A taxpayer has exempt machinery and equipment used directly in manufacturing a taxable product. Taxpayer purchases: i) fuels, lubricants, and coolants for operation of the machinery and equipment; ii) paint and adhesives which will adhere to the surface of the machinery and equipment; and iii) replacement hoses and belts for the machinery and equipment. The fuels, lubricants, coolants, paint and adhesives added to the machinery and equipment for operation are not parts within the meaning of the exemptions. These items are materials and supplies. They are exempt only if used for installation or construction of exempt machinery, equipment and parts. The hoses and belts may be purchased exempt from tax because they qualify as replacement parts.

(L) A manufacturing company has two (2) sets of storage devices. The first set stores work in process between two (2) separate production areas. The second set stores the finished goods after the manufacturing process has been completed. The first set of storage devices is used directly in manufacturing and thus falls within the exemption. The second set of devices is not directly used in manufacturing and is subject to tax.

(M) A manufacturing company uses pneumatic powered tools directly on its assembly line. It also has hand tools used to repair or adjust the machines throughout the plant. The pneumatic powered tools are exempt as machinery and equipment directly used in manufacturing. The hand tools do not qualify as machinery and equipment directly used in manufacturing and are taxable.

(N) A commercial photo developer uses "crop cards" to hold individual negatives in the film developing process which are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are consumable supplies, not parts or equipment, and therefore are subject to tax.

(O) A steel company manufactures steel products. It purchases train carloads of steel beams that are used in the plant to produce the products. The crane used to unload the steel beams at the plant is part of the integrated and synchronized system and is used directly in the manufacturing process. As long as there is a continuous progression from raw materials to finished product and there are no extended interruptions in the manufacturing process, the integrated and synchronized system begins when raw materials enter the plant site and ends when the finished product leaves the plant site.

(P) A taxpayer sells and installs computer hardware and software and provides information technology services to its customers. The hardware and software are tangible personal property subject to sales tax. The technology services are not subject to tax in Missouri but are subject to tax and the taxpayer remits sales tax to Texas. The taxpayer's purchase of machinery and equipment to develop its products and services is intended to manufacture a taxable product or a taxable service intended to be sold ultimately for final use or consumption. The purchase of machinery and equipment is exempt from tax.

(Q) A manufacturer purchases four (4) forklifts for use in its plant. The manufacturer intends to use two (2) forklifts to move work in process between two (2) manufacturing steps and the other two (2) for loading the finished product from its warehouse onto trucks. Even though all four (4) forklifts may be rotated between the functions, only the two (2) forklifts essential to the manufacturing process are exempt.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Aug. 31, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 19—Energy Assistance

PROPOSED AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Division of Family Services proposes to amend section (3) to reflect changes made in income levels based on Federal poverty guidelines.

PURPOSE: This amendment is being made to adjust the monthly income amounts on the LIHEAP Income Ranges Chart.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a*[n]* LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

[LIHEAP Income Ranges Chart

Monthly Income Amounts

Household Size	*Income Range*	*Income Range*	*Income Range*	*Income Range*	*Income Range*
1	*$0–168*	*$169–336*	*$337–504*	*$505–672*	*$673–839*
2	*$0–226*	*$227–452*	*$453–678*	*$679–904*	*$905–1130*
3	*$0–262*	*$263–524*	*$525–786*	*$787–1048*	*$1049–1308*
4	*$0–315*	*$316–630*	*$631–945*	*$946–1260*	*$1261–1576*
5	*$0–369*	*$370–738*	*$739–1107*	*$1108–1476*	*$1477–1845*
6	*$0–423*	*$424–846*	*$847–1269*	*$1270–1692*	*$1693–2113*
7	*$0–476*	*$477–952*	*$953–1428*	*$1429–1904*	*$1905–2381*
8	*$0–530*	*$531–1060*	*$1061–1590*	*$1591–2120*	*$2121–2650*
9	*$0–584*	*$585–1168*	*$1169–1752*	*$1753–2336*	*$2337–2918*
10	*$0–637*	*$638–1274*	*$1275–1911*	*$1912–2548*	*$2549–3186*
11	*$0–691*	*$692–1382*	*$1383–2073*	*$2074–2764*	*$2765–3455*
12	*$0–745*	*$746–1490*	*$1491–2235*	*$2236–2980*	*$2981–3723*
13	*$0–798*	*$799–1596*	*$1597–2394*	*$2395–3192*	*$3193–3991*
14	*$0–852*	*$853–1704*	*$1705–2556*	*$2557–3408*	*$3409–4260*
15	*$0–906*	*$907–1812*	*$1813–2718*	*$2719–3624*	*$3625–4531*
16	*$0–959*	*$960–1918*	*$1919–2877*	*$2878–3836*	*$3837–4796*
17	*$0–1013*	*$1014–2026*	*$2027–3039*	*$3040–4052*	*$4053–5065*
18	*$0–1067*	*$1068–2134*	*$2135–3201*	*$3202–4268*	*$4269–5333*
19	*$0–1120*	*$1121–2240*	*$2241–3360*	*$3361–4480*	*$4481–5601*
20	*$0–1174*	*$1175–2348*	*$2349–3522*	*$3523–4697*	*$4698–5870]*

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	$0–172	$173–344	$345–516	$517–688	$689–858
2	$0–230	$231–460	$461–690	$691–920	$921–1,152
3	$0–266	$267–532	$533–798	$799–1,064	$1,065–1330
4	$0–320	$321–640	$641–960	$961–1,280	$1,281–1,600
5	$0–374	$375–748	$749–1,122	$1,123–1,496	$1,497–1,871
6	$0–428	$429–856	$857–1,284	$1,285–1,712	$1,713–2,141
7	$0–482	$483–964	$965–1,446	$1,447–1,928	$1,929–2,411
8	$0–536	$537–1,072	$1,073–1,608	$1,609–2,144	$2,145–2,681
9	$0–590	$591–1,180	$1,181–1,770	$1,771–2,360	$2,361–2,952
10	$0–644	$645–1,288	$1,289–1,932	$1,933–2,576	$2,577–3,222
11	$0–698	$699–1,396	$1,397–2,094	$2,095–2,792	$2,793–3,492
12	$0–752	$753–1,504	$1,505–2,256	$2,257–3,008	$3,009–3,762
13	$0–807	$808–1,614	$1,615–2,421	$2,422–3,228	$3,229–4,033
14	$0–861	$862–1,722	$1,723–2,583	$2,584–3,444	$3,445–4,303
15	$0–915	$916–1,830	$1,831–2,745	$2,746–3,660	$3,661–4,573
16	$0–969	$970–1,938	$1,939–2,907	$2,908–3,876	$3,877–4,843
17	$0–1,023	$1,024–2,046	$2,047–3,069	$3,070–4,092	$4,093–5,114
18	$0–1,077	$1,078–2,154	$2,155–3,231	$3,232–4,308	$4,309–5,384
19	$0–1,131	$1,132–2,262	$2,263–3,393	$3,394–4,524	$4,525–5,654
20	$0–1,185	$1,186–2,370	$2,371–3,555	$3,556–4,740	$4,741–5,924

AUTHORITY: section 207.020, RSMo 1994. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Sept. 2, 1999, effective Oct. 1, 1999, expires March 28, 2000. Amended: Filed Sept. 2, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Family Services, P.O. Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 80—Maternity Home Tax Credit

PROPOSED AMENDMENT

13 CSR 40-80.010 Maternity Home Tax Credit. The division is amending sections (1), (2), (8) and (9), adding section (5) and renumber the remaining sections.

PURPOSE: This amended rule describes the procedures for the implementation of section 135.600, RSMo Supp. 1997, Maternity Home Tax Credit, to reflect the requirements of SB 159.

(1) Pursuant to section 135.600, RSMo, the following terms shall mean:

(A) "Contribution," a donation of cash, stock, bonds or other marketable securities, or real property;

[(A)] **(B)** "Maternity home," a residential facility located in this state which is exempt from income taxation under the United States *Internal Revenue Code* and is established for the purpose of providing housing and assistance to pregnant women who are carrying their pregnancies to term.

1. Any maternity home in Missouri serving women "under age eighteen (18)" must be licensed by the Division of Family Services pursuant to sections 210.481–210.536, RSMo;

[(B)] **(C)** "State tax liability," in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of Chapter 143, RSMo, Chapter 147, RSMo, Chapter 148, RSMo, and Chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of Chapter 143, RSMo;

[(C)] **(D)** "Taxpayer," person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of Chapter 143, RSMo, or corporation subject to the annual corporation franchise tax imposed by the provisions of Chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of Chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to Chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of Chapter 143, RSMo.

(2) Contribution(s) to a maternity home(s) must be equal or exceed **in value** one hundred dollars ($100) in a taxpayer's taxable year in order to qualify for a tax credit. A contribution may be cumulative to meet the one hundred dollar ($100)-minimum **value** to a maternity home or homes. The maximum amount to be contributed and to apply to a tax credit of qualifying contributions is fifty thousand dollars ($50,000) per taxpayer per taxable year.

(A) Tax credits for contributions to eligible maternity homes may be claimed for contributions made on or after January 1, *[1998]* **2000**; and

(B) Shall apply to all tax years after December 31, *[1997]* **1999**.

(5) Except for any excess credit which is carried over pursuant to section (4) of this rule, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a maternity home or homes in such taxpayer's taxable year has a value of at least one hundred dollars ($100).

[(5)] **(6)** The cumulative amount of tax credits which may be claimed, by all taxpayers contributing to maternity homes, in any one (1) fiscal year, shall not exceed two (2) million dollars.

[(6)] **(7)** Procedures to become an eligible maternity home and to apply for a tax credit.

(A) Annually, the director of the Department of Social Services or the director's designee will determine which facilities in Missouri may be classified as maternity homes. A facility must meet the definition stated in section (1) of this rule. In order for the director of the Department of Social Services to make such determinations the following information must be submitted:

1. Complete legal name of organization;
2. Complete address and telephone number;
3. Facility director's name;
4. A copy of certificate of incorporation;
5. Verification of **Internal Revenue Service (**IRS**)** tax exempt status; and
6. A brief program description to include ages of women served and capacity.

(B) All information should be submitted to: Division of Family Services, Residential Program Unit, P.O. Box 88, Jefferson City, MO 65103.

(C) Eligibility will need to be established annually for all unlicensed maternity homes. For calendar year 1998, the above information will be accepted by the Missouri Division of Family Services until October 1, 1998, to allow maternity homes to establish their eligibility and utilize the tax credit for their contributors. Beginning January 1, 1999, unlicensed maternity homes must submit the above information no later than January 31, of each calendar year, in order to maintain their eligibility for the maternity home tax credit.

(D) Maternity homes that are currently licensed by the Division of Family Services need not submit the information in subsection (6)(A) as this information will have been provided as a requirement for licensure. Licensed maternity homes will be automatically added to the approved maternity home listing.

[(7)] **(8)** Within thirty (30) days of receipt of all the information listed above, the Division of Family Services will notify the maternity home**,** in writing, of its approval status. Approved homes will automatically be added to the maternity home listing.

[(8)] **(9)** Annually, the director of the Department of Social Services or the director's designee will develop and maintain a maternity home listing of all eligible maternity homes in the state of Missouri.

(A) A copy of the maternity home listing will be made available to taxpayers upon request to the Division of Family Services.

(B) Requests should be made in writing to P.O. Box 88, Jefferson City, MO 65103.

(C) By calling *[(573) 751-4920]* **(573) 751-8934**.

[(9)] **(10)** An eligible maternity home shall report the receipt of any contribution it believes qualifies for the tax credit on a form provided by the division. This form shall subsequently be known as the Maternity Home Tax Credit Application.

(A) Maternity homes may request the *[T]***t**ax *[C]***c**redit *[A]***a**pplication by writing to the Missouri Division of Family Services, P.O. Box 88, Jefferson City, MO 65103.

(B) By calling *[(573) 751-4920]* **(573) 751-8934**.

(C) Maternity homes shall be permitted to decline a contribution from a taxpayer.

[(C)] **(D)** The *[T]***t**ax *[C]***c**redit *[A]***a**pplication shall be submitted to the division, by the maternity home, within thirty (30) days of the receipt of the contribution.

[(D)] **(E)** Within thirty (30) days of receipt of the Tax Credit Application, the division will provide notification of its decision to approve the application to the following parties:

1. Taxpayer;
2. Maternity home; and
3. Missouri Department of Revenue.

[(E)] **(F)** Within thirty (30) days of receipt of the tax credit application, the division will provide notification of its decision to deny the application to the following parties:

1. Taxpayer; and
2. Maternity *[H]***h**ome.

[(10)] **(11)** The division shall equally apportion the total available tax credits among all eligible maternity homes effective the first day of each state fiscal year (FY).

(A) The division shall inform each eligible maternity home of its share of the apportioned credits no later than thirty (30) days following the first day of each fiscal year.

(B) For FY 1998, the apportionment will be one hundred fifty-three thousand eight hundred forty-six dollars and fifteen cents ($153,846.15) per eligible maternity home.

[(11)] **(12)** Beginning FY 1999**,** the division shall review the cumulative amount of approved tax credits not less than quarterly from the first day of each fiscal year.

[(12)] **(13)** The division may reapportion available tax credits if, following the quarterly review, there exists maternity homes with unused tax credits while other maternity homes have exhausted, or nearly exhausted, their original apportioned tax credits.

(A) The division shall notify any maternity home so affected by the reapportioned tax credit within thirty (30) days of the reapportionment. The division's decision regarding reapportionment shall be final.

*AUTHORITY: sections 135.600, RSMo Supp. [1997] **1998** and 207.020, RSMo 1994. Emergency rule filed May 26, 1998, effective June 11, 1998, expired Feb. 25, 1999. Original rule filed May 26, 1998, effective Nov. 30, 1998. Amended: Filed Sept. 1, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Family Services, Keith Krueger, State Supervisor, Residential Program Unit, P.O. Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.080 Children's Health Insurance Program. The division is amending sections (1), (2), (7), (11), (12) and (16).

PURPOSE: This amendment adds definitions to section (1); corrects the statutory citation in section (2); clarifies that thirty days notice is necessary to discontinue automatic withdrawal of premium payments in section (7); clarifies that health services may not be denied for failure to pay a mandatory co-payment; establishes a disqualification process for not paying mandatory co-payments in sections (11) and (12); and clarifies that applicants or recipients of the Children's Health Insurance Program have the opportunity for a fair hearing under section 208.080, RSMo.

(1) Definitions.

(C) Children. **A** *[P]***p**erson **or persons** up to nineteen (19) years of age.

(E) Health insurance carrier. An entity which may underwrite or administer a range of health benefit programs. May refer to an insurer or a managed health plan.

(F) Co-insurance. The portion of covered health care costs for which the covered person has a financial responsibility, usually according to a fixed percentage after first meeting a deductible requirement.

(G) Co-payment. A cost-sharing arrangement in which a covered person pays a specified charge for a specified service, such as ten dollars ($10) for a professional office visit.

(H) Deductible. The amount of eligible expense a covered person must pay each year before the health insurance carrier will make payment for eligible benefits.

(I) Parents. For purposes of this regulation the term parents can refer to a custodial parent, custodial parents, non-custodial parent or the child's legal guardian or guardians.

(J) Premium. The amount paid to a health insurance carrier for providing coverage under a contract.

(K) Employer-sponsored health insurance. Health insurance that is available to an employee when a specified employment status is met.

(2) *[An u]***U**ninsured *[child/]*children shall not have had health insurance for six (6) months prior to the month of application pursuant to *[208.185]* **section 208.631**, RSMo.

(7) *[An u]***U**ninsured *[child/]*children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level shall be eligible for service(s) thirty (30) calendar days after the application is received if the required premium has been received.

(B) The premium must be paid prior to service delivery. **Parents may authorize automatic withdrawal from their checking or savings account for premium payment. If the parents authorize automatic withdrawal from their checking or savings account for premium payment, thirty (30) days notice must be given to the Division of Medical Services or its contractor to discontinue automatic withdrawal.**

(11) *[Parent(s) or guardian(s)]* **Parents** of uninsured children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level are responsible for a co-payment at the time of professional service and for prescriptions.

(D) Providers may *[require]* **request** payment of the **mandatory** co-payment**(s)** prior to **or at any time after** service delivery**.** *[and]*

(E) *[s/***S**ervice**(s)** may **not** be denied for failure to *[make]* **pay the mandatory** co-payment**(s)**.

(F) No co-payments shall be required for well-baby and well-child care**,** including age-appropriate immunizations.

(G) The co-payment amount shall be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(H) When a mandatory co-payment is not paid, the provider of service has the following options:

1. Forego the co-payment entirely;

2. Make arrangement for future payment with the parents; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(I) When the Division of Medical Services receives a claim from a provider for non-payment of the mandatory co-payment, the division shall send a notice to the parents—

1. Requesting information from the parents to determine if the mandatory co-payment was not made because there has been a change in the financial situation of the family;

2. Requesting that the parents reimburse the Division of Medical Services for the mandatory co-payment made on the children's behalf; and

3. Advising the parents of the possible loss of coverage for up to three (3) months if the parents fail to pay three (3) co-payments in one (1) year.

(J) The parents shall be allowed fourteen (14) calendar days to respond. If the parents indicate there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category, another notice will be sent to the recipient about the mandatory co-payment provision of the program, which shall include the number of co-payments that have not been paid and how many may not be paid before a recipient is terminated from the program.

(K) Failure of the parents to pay three (3) co-payments within one (1) year shall establish a pattern of not meeting the mandatory co-payment requirements of the program. The process to terminate eligibility shall proceed after the third failure to pay a mandatory co-payment in any one (1) year—

1. A year starts at the time a co-payment is reported not paid to the Division of Medical Services;

2. An individual who pays a delinquent co-payment or co-payments will be able to eliminate the failure to pay a mandatory co-payment or co-payments.

(L) If the parents fail to pay the mandatory co-payments three (3) times within a year and the children are disenrolled from coverage, the children shall not be eligible for coverage for three (3) months after the department provides notice to the parents of the disenrollment from the Children's Health Insurance Program for failure to pay mandatory co-payments or until one (1) or more of the three (3) delinquent mandatory co-payments is made. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of three (3) months time whichever occurs first. Coverage shall not be retroactive.

(12) *[Parent(s)or guardian(s)]* **Parents** of uninsured children with income above one hundred eighty-five percent (185%) and at or below two hundred twenty-five percent (225%) of the federal poverty level for the household size are responsible for a five dollar ($5)-co-payment at the time of professional service.

(A) Providers may *[require]* **request** payment of the **mandatory** co-payment**(s)** prior to service delivery**.** *[and may deny]*

(B) *[s/***S**ervice**(s) may not be denied** for failure to *[make]* **pay the mandatory** co-payment**(s)**.

(C) No co-payments shall be required for well-baby and well-child care**,** including age-appropriate immunizations.

(D) The co-payment amount will be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(E) When a mandatory co-payment is not paid, the provider of service will have the following options:

1. Forego the co-payment entirely;

2. Make arrangement for future payment with the parents; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(F) When the Division of Medical Services receives a claim from a Medicaid fee-for-service provider for non-payment of the mandatory co-payment, the division will send a notice to the parents—

1. Requesting information from the parents to determine if the mandatory co-payment was not made because there has been a change in the financial situation of the family;

2. Requesting that the parents reimburse the Division of Medical Services for the mandatory co-payment made on the children's behalf; and

3. Advising the parents of the possible loss of coverage for up to three (3) months if the parents fail to pay three (3) co-payments in one (1) year.

(G) The parents shall be allowed fourteen (14) calendar days to respond. If the recipient indicated there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category, another notice will be sent to the recipient about the mandatory co-payment provision of the program.

(H) Notice of non-payment of mandatory co-payments sent to the parents shall establish a pattern of not meeting the mandatory co-payment requirements of the program. The process to terminate eligibility shall proceed with the third failure to pay in any one (1) year—

1. A year starts at the point a co-payment is reported not paid to the Division of Medical Services; and

2. Payment of a delinquent co-payment or co-payments shall eliminate the failure to pay a mandatory co-payment or co-payments.

(I) If the parents fail to pay the mandatory co-payments three (3) times within a year and the children are disenrolled from coverage the children shall not be eligible for coverage for three (3) months after the department provides notice to the parents of the disenrollment from the Children's Health Insurance Program for failure to pay mandatory co-payments or until one (1) or more of the three (3) delinquent mandatory co-payments is made. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of three (3) months time whichever occurs first. Coverage shall not be retroactive.

(16) The Department of Social Services, Division of Medical Services shall provide for granting an opportunity for a fair hearing to any applicant or recipient whose claim for benefits under the Children's Health Insurance Program is denied or when disenrollment from the Children's Health Insurance Program for failure to pay the mandatory co-payment has been determined by the Division of Medical Services. There are established positions of state hearing officer within the Department of Social Services, Division of Legal Services in order to comply with all pertinent federal and state law and regulations. The state hearing officers shall have authority to conduct state level hearings of an appeal nature and shall serve as direct representative of the director of the Division of Medical Services.

AUTHORITY: sections 208.631, 208.633, 208.636, 208.640, 208.643, 208,646, 208.650, 208.655, 208.657 and 208.660, RSMo Supp. 1998 ***and 208.080, 208.156*** *and 208.201, RSMo 1994. Original rule filed July 15, 1998, effective Feb. 28, 1999. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, P.O. Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.080 Children's Health Insurance Program. The division is amending section (5).

PURPOSE: This amendment clarifies the administrative procedure for determining access to affordable health insurance required by section (5).

[(5) Parent(s) and guardian(s) of uninsured children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level must certify, as a part of the application process, that the child does not have access to affordable employer-sponsored health insurance or other affordable health insurance available to the parent(s) or guardian(s) through their association with an identifiable group (for example, a trade association, union, professional organization) or through the purchase of individual health insurance coverage.

(A) Affordable access is calculated by comparing the health insurance monthly dependent premium to one hundred thirty-three percent (133%) of the monthly statewide weighted average child/children premium required by the Missouri Consolidated Health Care Plan. Adjustment to the monthly statewide weighted average, based on changes in the Missouri Consolidated Health Care Plan, shall be calculated yearly in March with an effective date of July 1 of the same calendar year.

(B) Health insurance premiums less than or equal to one hundred thirty-three percent (133%) of the monthly average dependent premium required by the Missouri Consolidated Health Care Plan are deemed affordable and shall result in ineligibility for the child/children.]

(5) Access to Employer-Sponsored Health Insurance. As part of the application process, parents of uninsured children with available income above two hundred twenty-five percent (225%) of the federal poverty level shall report if the parents have access to employer-sponsored health insurance or other health insurance.

(A) Affordability Test of Employer-Sponsored Health Insurance. If the parents have access to employer-sponsored health insurance, the affordability of health insurance coverage shall be determined by comparing the health insurance monthly premium for children to one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan.

1. If the health insurance premium is at or below one hundred thirty-three percent (133%) of the monthly statewide weighted average for children, the health insurance is deemed affordable and the children are not eligible for the Children's Health Insurance Program.

(B) Lack of Access to Employer-Sponsored Health Insurance. If the parents do not have access to employer-sponsored health insurance or the premium for employer-sponsored health insurance is above one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan, the parents shall provide two (2) price quotes received from health insurance carriers.

1. The children shall be eligible for the Children's Health Insurance Program if—

A. Pursuant to section 208.643.1, RSMo, the health insurance coverage does not include all medical services covered by section 208.152, RSMo, except non-emergency medical transportation;

B. The health insurance premium is above one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan;

C. The deductible, co-insurance, and co-payments are more than the deductible, co-insurance, and co-payments ten dollars ($10) at the time of each professional visit and five dollars ($5) per prescription) as allowed by Missouri Medicaid; and

D. Medical services are not provided for pre-existing medical conditions.

(C) Adjustment to the monthly statewide weighted average premium for children, based on changes in the Missouri Consolidated Health Care Plan, shall be calculated each year as of March 1 with an effective date of July 1 of the same calendar year.

AUTHORITY: sections 208.631, 208.633, 208.636, 208.640, 208.643, 208,646, 208.650, 208.655, 208.657, and 208.660, RSMo Supp. 1998 and 208.201, RSMo 1994. Original rule filed July 15, 1998, effective Feb. 28, 1999. Amended: Filed Aug. 16, 1999. Amended: Filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, Post Office Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register.*** *No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED RULE

13 CSR 70-4.090 Uninsured Working Parents' Health Insurance Program

PURPOSE: This rule establishes the Uninsured Working Parents' Health Insurance Program. This program will provide payment for health care coverage for uninsured, low income, working parents leaving welfare for work thereby reducing future dependence on welfare and reducing the possibility of a family's future dependence on welfare as authorized pursuant to section 208.040, RSMo. The program is also authorized pursuant to the award of the Missouri State Medicaid Section 1115 Health Care Reform Demonstration Proposal approved by the Health Care Financing Administration.

(1) Definitions.

(A) Working parents. Working parents are defined as having earned income above two hundred thirty-four dollars ($234) per parent per month.

(B) Health insurance. Any hospital and medical expense incurred policy, nonprofit heath care service for benefits other than through an insurer, nonprofit health care service plan contract, health maintenance organization subscriber contract, preferred provider arrangement or contract, or any other similar contract or agreement for the provision of health care benefits. The term "health insurance" does not include short-term, accident, fixed indemnity, limited benefit or credit insurance coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(C) Co-payment. A cost-sharing arrangement in which a covered person pays a specified charge for a specified service, such as ten dollars ($10) for a professional service.

(D) Parents. For purposes of this regulation, the term parents can refer to a custodial parent, custodial parents, non-custodial parent or the child's legal guardian or guardians.

(2) The following uninsured working parents' shall be eligible to receive medical services to the extent and in the manner provided in this regulation:

(A) Parents losing transitional medical assistance (TMA) who would not otherwise be insured or Medicaid eligible, with gross income below three hundred percent (300%) of the federal poverty level for the household size—

1. Eligibility for the Uninsured Working Parents' Health Insurance Program for parents losing TMA ends after twenty-four (24) total nonconsecutive months; and

2. After coverage ends, the parents have the option of staying in the MC+ health plan, where managed care is available, if the parents pay the cost of the state's cost for the time period covered by the Missouri Medicaid Section 1115 Health Care Reform Demonstration Proposal as approved by the Health Care Financing Administration;

(B) Uninsured non-custodial working parents with income below one hundred twenty-five percent (125%) of the federal poverty level for the household size who are current in paying their child support;

(C) Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program;

(D) Uninsured custodial working parents with family income below one hundred percent (100%) of the federal poverty level for the household size; and

(E) Uninsured mothers who do not qualify for other medical assistance benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child, will continue to be eligible for family planning and limited testing of sexually transmitted diseases, regardless of income, for twenty-four (24) consecutive months after the pregnancy ends.

(3) Uninsured working parents who have had health insurance in the six (6) months prior to the month of application shall not be eligible.

(4) If the parents had health insurance and such health insurance coverage was dropped, within six (6) months prior to the month of application, the parent is not eligible for coverage under this rule until six (6) months after coverage was dropped.

(5) The six (6)-month period of ineligibility would not apply to parents who lose health insurance due to—

(A) Loss of employment due to factors other than voluntary termination;

(B) Employment with a new employer that does not provide an option for coverage;

(C) Expiration of the Consolidated Budget Reconciliation Act (COBRA) coverage period; or

(D) Lapse of health insurance when the lifetime maximum benefits under their private health insurance have been exhausted.

(6) Beneficiaries covered in section (2) of this rule shall be eligible for service(s) from the date their application is received. No service(s) will be covered prior to the date the application is received.

(7) The following services are covered for beneficiaries of the Uninsured Working Parents' Health Insurance Program if they are medically necessary:

(A) Inpatient hospital services;

(B) Outpatient hospital services;

(C) Emergency room services;

(D) Ambulatory surgical center, birthing center;

(E) Physician, advanced practice nurse, and certified nurse midwife services;

(F) Maternity benefits for inpatient hospital and certified nurse midwife. The health plan shall provide coverage for a minimum of forty-eight (48) hours of inpatient hospital services following a vaginal delivery and a minimum of ninety-six (96) hours of inpatient hospital services following a cesarean section for a mother and her newly born child in a hospital or any other health care facility licensed to provide obstetrical care under the provision of Chapter 197, RSMo. A shorter length of hospital stay for services related to maternity and newborn care may be authorized if a shorter inpatient hospital stay meets with the approval of the attending physician after consulting with the mother and is in keeping with federal and state law. The health plan is to provide coverage for post-discharge care to the mother and her newborn. The physician's approval to discharge shall be made in accordance with the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization and be documented in the patient's medical record. The first post-discharge visit shall occur within twenty-four (24) to forty-eight (48) hours. Post-discharge care shall consist of a minimum of two (2) visits at least one (1) of which shall be in the home, in accordance with accepted maternal and neonatal physical assessments, by a registered professional nurse with experience in maternal and child health nursing or a physician. The location and schedule of the post-discharge visits shall be determined by the attending physician. Services provided by the registered professional nurse or physician shall include, but not be limited to, physician assessment of the newborn and mother, parent education, assistance and training in breast or bottle feeding, education and services for complete childhood immunizations, the performance of any necessary and appropriate clinical tests and submission of a metabolic specimen satisfactory to the state laboratory. Such services shall be in accordance with the medical criteria outlined in the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization. If the health plan intends to use another nationally recognized medical organization's guidelines, the state agency must approve prior to implementation of its use;

(G) Family planning services;

(H) Pharmacy benefits;

(I) Dental services to treat trauma or disease;

(J) Laboratory, radiology and other diagnostic services;

(K) Prenatal case management;

(L) Hearing aids and related services;

(M) Eye exams and services to treat trauma or disease (one (1) pair of glasses after cataract surgery only);

(N) Home health services;

(O) Emergent (ground or air) transportation;

(P) Non-emergent transportation only for members in ME Code 78 Parent's Fair Share;

(Q) Mental health and substance abuse services, subject to limitation of thirty (30) inpatient days and twenty (20) outpatient visits. One (1) inpatient day may be traded for two (2) outpatient visits;

(R) Services of other providers when referred by the health plan's primary care provider;

(S) Hospice services;

(T) Durable medical equipment (including but not limited to: orthotic and prosthetic devices, respiratory equipment and oxygen, enteral and parenteral nutrition, wheelchairs and walkers, diabetes supplies and equipment);

(U) Diabetes self-management training for persons with gestational, Type I or Type II diabetes;

(V) Services provided by local health agencies (may be provided by the health plan or through an arrangement between the local health agency and the health plan)—

1. Screening, diagnosis, and treatment of sexually transmitted diseases;

2. HIV screening and diagnostic services; and

3. Screening, diagnosis, and treatment of tuberculosis; and

(W) Emergency Medical Services. Emergency medial services are defined as those health care items and services furnished or required to evaluate or stabilize a sudden and unforseen situation or occurrence or a sudden onset of a medical or mental health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the failure to provide immediate medical attention could reasonably be expected by a prudent lay person, possessing average knowledge of health and medicine, to result in—

1. Placing the patient's health (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; or

2. Serious impairment of bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

4. Serious harm to a member or others due to an alcohol or drug abuse emergency; or

5. Injury to self or bodily harm to others; or

6. With respect to a pregnant woman who is having contractions—a) that there is inadequate time to effect a safe transfer to another hospital before delivery; or b) that transfer may pose a threat to the health or safety of the woman or the unborn child.

(8) Parents losing TMA, uninsured non-custodial working parent(s) with family income below one hundred twenty-five percent (125%) of the federal poverty level who are current in paying their child support and uninsured custodial working parent(s) with family income below one hundred percent (100%) of the federal poverty level shall owe a ten dollar ($10)-co-payment for certain professional services and a five dollar ($5)-co-payment in addition to the recipient portion of the professional dispensing fee for pharmacy services required by 13 CSR 70-4.051.

(A) Providers may request payment of the mandatory co-payment(s) prior to service delivery.

(B) The co-payment amount will be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(C) Service(s) may not be denied for failure to pay the mandatory co-payment.

(D) When a mandatory co-payment is not paid, the Medicaid provider will have the following options:

1. Forego the co-payment entirely;

2. Make arrangements for future payment with the recipient; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(E) When the Division of Medical Services receives a claim from a Medicaid fee-for-service provider for non-payment of the mandatory co-payment, the division will send a notice to the recipient requesting—

1. That the recipient reimburse the Division of Medical Services for the mandatory copayment made on their behalf; or

2. An explanation from the recipient why the mandatory co-payment was not and cannot be made.

(F) The recipient will be allowed fourteen (14) calendar days to respond. If the recipient indicated there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category another notice will be sent to the recipient about the mandatory co-payment provision of the program.

(G) Notice of nonpayment of mandatory co-payment(s) sent to the recipient during the course of a year shall establish a pattern of not meeting the mandatory cost sharing requirement of the program. The process to terminate eligibility shall proceed with the third failure to pay in any one (1) year—

1. A year starts at the point the individual becomes eligible; and

2. An individual who pays a delinquent co-payment or co-payments will be able to eliminate the failure to pay a mandatory co-payment or co-payments.

(H) Recipient(s) shall have access to a fair hearing process to appeal the disenrollment decision.

(I) If the recipient fails to pay the mandatory co-payments three (3) times within a year and is disenrolled from coverage the recipient shall not be eligible for coverage for three (3) months after the department provides notice to the recipient of disenrollment for failure to pay mandatory co-payments.

(9) Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program and uninsured mothers who do not qualify for other benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child are not required to pay a co-pay for services.

(10) The Department of Social Services, Division of Medical Services shall provide for granting an opportunity for a fair hearing to any applicant or recipient whose claim for benefits under the Missouri Medicaid Section 1115 Health Care Reform Demonstration Proposal is denied or disenrollment for failure to pay mandatory co-payments has been determined by the division.

AUTHORITY: sections 208.040 and 208.201, RSMo 1994 and 660.017, RSMo Supp. 1998. Original rule filed Aug. 16, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more that $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, P.O. Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment outlines how the Fiscal Year 2000 trend factor will be applied to adjust per-diem rates for nursing facilities participating in the Medicaid program.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per-Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per-diem rate adjustments. Global per-diem rate adjustments shall be added to the specified cost component ceiling.

PUBLISHER'S NOTE: Paragraphs (13)(A)1.–7. remain as published in the ***Code of State Regulations****.*

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

AUTHORITY: sections 208.153, 208.159, and 208.201, RSMo 1994. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will cost state agencies or political subdivisions approximately $13,718,094 annually. A fiscal note containing detailed estimated cost has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual estimated cost $13,718,094

III. WORKSHEET

Estimated annual Medicaid days 9,755,357; Average rate increase rounded to two decimals $1.41; and Estimated annual cost $13,718,094.

IV. ASSUMPTIONS

The annual impact of the 1.94% trend granted by the legislature is $13,718,094. The annual impact is based on the estimated Medicaid days for each nursing facility multiplied by its facility's specific rate increase. The average rate increase is $1.41. The number of estimated annual Medicaid days is 9,755,357.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment outlines how the State Fiscal Year 2000 trend factor will be applied to adjust per-diem rates for HIV nursing facilities participating in the Medicaid program.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per-Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per-diem rate adjustments. Global per-diem rate adjustments shall be added to the specified cost component ceiling.

PUBLISHER'S NOTE: Paragraphs (13)(A)1.–3. remain as published in the ***Code of State Regulations***.

4. FY-2000 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustment detailed in paragraph (13)(A)1. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

AUTHORITY: sections ***197.319 and*** *208.153, RSMo 1994. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the* ***Code of State Regulations***. *Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will cost state agencies or political subdivisions approximately $23,948 annually. A fiscal note containing detailed estimated cost has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the ***Missouri Register***. *If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services

II. SUMMARY OF FISCAL IMPACT

Affected Public Entities	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual estimated cost $23,948

III. WORKSHEET

Estimated annual Medicaid days	5,418
Average rate increase	x $4.42
Estimated annual cost	$23,948

IV. ASSUMPTIONS

The annual cost of the 1.94% trend granted by the legislature is $23,948, based upon estimated annual Medicaid days of 5,418 multiplied by the average rate increase of $4.42.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance. The division is amending sections (1) and (2).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance to be raised to $7.04, effective October 1, 1999.

(1) Nursing Facility Reimbursement Allowance (NFRA). NFRA shall be assessed as described in this section.

(B) Each nursing facility, except any nursing facility operated by the Department of Mental Health, engaging in the business of providing nursing facility services in Missouri shall pay a Nursing Facility Reimbursement Allowance (NFRA). The NFRA **rates** shall be calculated by the department *[on an annual basis, as detailed below, and is effective from October 1 through September 30, except for the initial NFRA implemented January 1, 1995, effective January 1, 1995 through September 30, 1995. The NFRA rates for each year]* **and** are included in section (2) NFRA rates.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(D) The NFRA will be five dollars and eighty-eight cents ($5.88) per patient occupancy day for the period October 1, 1997, through September 30, 1998, and collected over twelve (12) months (November 1997 through October 1998); *[and]*

(E) The NFRA will be five dollars *[dollars]* and eighty-eight cents ($5.88) per patient occupancy day for the period October 1, 1998 through September 30, 1999, and collected over twelve (12) months (November 1998 through October 1999)*[.]***; and**

(F) The NFRA will be seven dollars and four cents ($7.04) per patient occupancy day, effective October 1, 1999.

*AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433 and 198.436 RSMo [Supp. 1997] **Supp. 1998** and 208.201, RSMo 1994. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will cost private entities approximately $113,902,321 annually and $85,426,741 for SFY 2000. A fiscal note containing detailed estimated cost of compliance has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.110 Nursing Facility Reimbursement Allowance

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
576	Long term care facilities	Annual estimated cost: $113,902,321

III. WORKSHEET

Annual days to be assessed	16,179,307
NFRA	x $7.04
Annual estimated cost	$113,902,321

IV. ASSUMPTIONS

The annual impact of $113,902,321 is based on State Fiscal Year 2000 assessed amount of $7.04 per day multiplied by the estimated annualized occupied days of 16,260,112 for the second quarter of 1999.

The estimated cost for SFY2000 is $85,426,741, determined by prorating the annual cost over 9 months (October, 1999 through June, 2000).

The annual impact is based on 576 facilities which include some costs to small businesses.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending sections (3) and (18).

PURPOSE: The proposed amendment of sections (3) and (18) provides for the trending of hospitals' per-diem rates, the trend factor for State Fiscal Year (SFY) 2000 and adjusts the uninsured add-on for SFY 2000.

(3) Per-Diem Reimbursement Rate Computation. Each hospital shall receive a Medicaid per-diem rate based on the following computation.

(B) Trend *[i]***I**ndices (TI). Trend indices are determined based on the four (4)-quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 99 will be determined based on CPI Hospital indexed as published in ***Health Care Costs*** by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

A. SFY 1994—4.6%

B. SFY 1995—4.45%

C. SFY 1996—4.575%

D. SFY 1997—4.05%

E. SFY 1998—3.1%

F. SFY 1999—3.8%*[.]*

G. SFY 2000—4.0%.

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per-diem rate and for SFY *[99]* **1999** the OC *[on]* **of** the June 30, 1998 rate shall be trended by 1.2% **and for SFY 2000 the OC of the June 30, 1999 rate shall be trended by 2.4%**.

(18) In accordance with state and federal laws regarding reimbursement of unreimbursed costs and the costs of services provided to uninsured patients, reimbursement for each State Fiscal Year (SFY) (July 1–June 30) shall be determined as follows:

(A) Medicaid Add-Ons for Shortfall. The Medicaid Add-On for the period of July 1, 1998 to December 31, 1998 will be based on fifty percent (50%) of the unreimbursed Medcaid costs as calculated for SFY 98 (Medicaid Shortfall)*[.]***; and**

(B) Uninsured Add-Ons. The hospital shall receive *[ninety-nine percent (99%)]* **eighty-one percent (81%)** of the Uninsured costs prorated over **the** SFY *[1999]*. Hospitals which contribute through a plan approved by the director of health to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) shall receive *[one hundred percent (100%)]* **eighty-two percent (82%)** of its uninsured costs prorated over **the** SFY *[1999]*. The uninsured Add-On will include:

1. The Add-On payment for the cost of the Uninsured. This is determined by multiplying the charges for charity care and allowable bad debts by the hospital's total cost-to-charge ratio for allowable hospital services from the base year cost report's desk review. The cost of the Uninsured is then trended to the current year using the trend indices reported in subsection (3)(B) *[and the growth factors listed in subsection (18)(C)]*. Allowable bad debts do not include the costs of caring for patients whose insurance covers the particular service, procedure or treatment;

2. An adjustment to recognize the Uninsured patients share of the FRA assessment not included in the desk-reviewed cost. The FRA assessment for Uninsured patients is determined by multiplying the current FRA assessment by the ratio of uninsured days to total inpatient days from the base year cost report;

3. The difference in the projected General Relief per-diem payments and trended costs for General Relief patient days; *[and]*

4. The increased costs per day resulting from the utilization adjustment in subsection (15)(B) is multiplied by the estimated uninsured days*[.]***; and**

5. In order to maintain compliance with the Balanced Budget Act (BBA) DSH cap and the budget neutrality provisions contained in Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal, the Uninsured Add-On for SFY 2000 has been established at eighty-two percent (82%) of the cost of the uninsured as computed in accordance with this subsection. One factor in determination of the payment percentage is an estimate that fifty-four (54) million dollars shall be paid from July 1, 1999 through April 30, 2000 related to previously uninsured working parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal. The SFY 2000 payment percentage shall be increased by an additional one percent (1%) for every three and one-half (3.5) million dollar increment not paid for working parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal as of April 30, 2000. For example, if total spending on the Medicaid Section 1115 Health Care Reform Demonstration Proposal working parent population is forty-seven (47) million dollars, as of April 30, 2000, the Uninsured Add-On percentage for SFY 2000 shall be increased by two percent (2%).

[(C) The Growth Factors. The growth factors applied to the uninsured costs for each SFY are:

1. SFY 1996–3.4%;

2. SFY 1997–3.4%;

3. SFY 1998–3.3%; and

4. SFY 1999–3.3%.]

AUTHORITY: sections 208.152, 208.153, 208.159, 208.201 and 208.471, RSMo 1994. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 14, 1999. Emergency amendment filed June 18, 1999, effective June 28, 1999, expires Dec. 24, 1999. Amended: Filed July 1, 1999. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment is expected to cost state agencies or political subdivisions $304,607,217 in state fiscal year 2000. A fiscal note containing detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will reduce payments that would have been paid to private entities by $82,847,524.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 13 – Department of Social Services

Division: 70 – Division of Medical Services

Chapter: 15 – Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan
Outpatient Hospital Services Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual Estimated Cost: $304,607,217

III. WORKSHEET

The estimated annual impact is based on the Direct Medicaid payments using the 1996 cost report as a base year for SFY 2000, paying 82% of the hospital's projected costs of the uninsured for SFY 2000 and adding a 2.4% trend factor to the hospital's operating component of the per diem rate.

IV. ASSUMPTIONS

The hospital's uninsured costs will exceed the disproportionate share limit for FFY 2000, which will result in not adding any growth factors to the hospital uninsured cost from the 1996 cost reports and paying only 82% of the uninsured costs in SFY 2000, resulting in a reduction in disproportionate share payments of $82,847,524.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 13 Department of Social Services

Division: 70 Division of Medical Services

Chapter: 15 - Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan, Outpatient Hospital Services Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
145	Hospitals	82,847,524

III. WORKSHEET

The estimated annual impact is based on reducing the percent of uninsured payments made to hospitals to 82% of their uninsured costs.

IV. ASSUMPTIONS

The assumptions are that to stay within the disproportionate share limit required by Federal law, we must reduce our uninsured payments to 82%.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is adding section (7).

PURPOSE: The proposed amendment adds section (7). This section will establish the Federal Reimbursement Allowance (FRA) Assessment for SFY 2000.

(7) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2000. The FRA assessment for State Fiscal Year 2000 shall be determined at the rate of five and thirty hundredths percent (5.30%) of the hospital's net operating revenues and other operating revenues defined in paragraphs (1)(A)12., and 13., as determined from information reported in the hospital's 1996 base year cost report.

AUTHORITY: sections 208.201 and 208.453, RSMo 1994 and 208.455, RSMo Supp. 1998. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For the intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost any state agencies or political subdivisions more than $500 in the aggregate for SFY 2000.

PRIVATE ENTITY COST: This proposed amendment will cost 136 hospitals $374,000,697. The estimated cost is based on an FRA assessment rate of 5.3% on net patient revenue and other operating revenue of $7.1 billion for SFY 2000.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Department of Social Services

Division: Division of Medical Services

Chapter: 15 Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.110 - Federal Reimbursement Allowance (FRA)

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
136	Hospitals	$374,000,697

III. WORKSHEET

The estimated impact of this amendment is based on the FRA assessment percentage for SFY 2000 being set at 5.3%. The 136 Hospitals reported above include 39 hospitals that are owned, operated or controlled by state, county, city or hospital districts. The impact on these facilities is $40,613,611.

IV. ASSUMPTIONS

The SFY 2000 FRA assessment is based on net patient revenue and other operating revenue of $7.1 billion multiplied by 5.3%.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 4—Postcard Voter Application and Forms

PROPOSED AMENDMENT

15 CSR 30-4.010 Postcard Voter Application and Forms. The secretary of state proposes to amend section (2) of the rule and update the form following the rule.

PURPOSE: This amendment implements changes to the law enacted in House Bill No. 676 of the 90th General Assembly, First Regular Session, 1999.

(2) Postcard Application Form Format and Content—

(D) The format and questions shall be printed in black ink, except that numbers 1–10 and the statement, "YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN *[TEN (10)]* **SEVEN (7)** BUSINESS DAYS. PLEASE CONTACT THE ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION," shall be printed in red ink.

(5) The postcard voter application form **which is incorporated herein by reference** shall be reproduced in the following form:

MISSOURI VOTER REGISTRATION APPLICATION

USE PEN - PLEASE PRINT CLEARLY PC

YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN 7 BUSINESS DAYS. CONTACT THE ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION.

1	☐ NEW REGISTRATION ☐ ADDRESS CHANGE ☐ NAME CHANGE			FOR OFFICE USE ONLY REGISTRATION NO.	
2	Mr. Mrs. Miss Ms. LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX (CIRCLE) JR. SR. II III IV	
3	ADDRESS WHERE YOU LIVE (HOUSE NO., STREET, APT. NO. OR RURAL ROUTE AND BOX NO.)		CITY	COUNTY	ZIP CODE
4	ADDRESS WHERE YOU GET YOUR MAIL (IF DIFFERENT FROM #3 ABOVE)		CITY	STATE	ZIP CODE
5	DATE OF BIRTH MO. DAY YR.	PLACE OF BIRTH (OPTIONAL)*	6 LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER**	7 DAYTIME PHONE NO. (OPTIONAL)*	

8 NAME AND ADDRESS ON LAST VOTER REGISTRATION

NAME _____

ADDRESS _____

CITY _____ STATE _____

COUNTY _____

9 RURAL VOTERS: COMPLETE THIS SECTION IF YOU LIVE OUTSIDE THE CITY LIMITS OF ANY CITY.

I live _____ miles N S E W (circle one) of _____ (landmark or junction).

Section,Township and range _____.

My neighbors are _____.

10 I hereby certify that I am a citizen of the United States and a resident of Missouri. I am at least seventeen and one half years of age. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or a misdemeanor connected with the right of suffrage, I have had the voting disabilities from such conviction removed pursuant to law. I swear under penalty of perjury that all statements made on this card are true to the best of my knowledge and belief.

_____ _____

Date Signature

Warning: Conviction for making a false statement may result in imprisonment for up to five years and/or a fine up to $10,000.

MO 231-0169 (8-99)

*Information designated as optional is disclosed at the option of the registrant and will be used only by authorized officials to combat voter fraud and facilitate orderly elections.

**Required for registration unless no Social Security number exists for applicant.

_____

_____

_____

PLACE FIRST CLASS STAMP HERE

MISSOURI VOTER REGISTRATION

_____

_____

_____ **MO** _____

AUTHORITY: sections ***115.155****[.3.].5 and 115.159, RSMo [Supp. 1993]* ***Supp. 1998****. Emergency rule filed Nov. 10, 1993, effective Nov. 20, 1993, expired March 19, 1994. Emergency rule filed Feb. 23, 1994, effective March 20, 1994, expired May 8, 1994. Original rule filed Nov. 10, 1993, effective May 9, 1994. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment is expected to cost state agencies or political subdivisions $8,000 in FY 2000 and approximately $3,803.54 per year over the life of the rule.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 15--ELECTED OFFICIALS

Division: 30--Secretary of State

Chapter: 4--Postcard Voter Application and Forms

Type of Rulemaking: AMENDMENT

Rule Number and Name: 15 CSR 30-4.010 Postcard Voter Application and Forms

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of the Secretary of State	Approx. $8000, plus $3803.54 per year for each year thereafter over the life of the rule.

III. WORKSHEET

Estimated cost for printing, including replacement of existing stock, in compliance with this amendment (FY 2000):	$8000.00
Estimated continuing annual cost based on actual cost for the years ended June 30, 1997, 1998, 1999:	$3803.54

IV. ASSUMPTIONS

FY 2000 estimate based on information provided by the State Printing Office. Continuing cost is based on the median actual cost for the three most recent fiscal years (97: $4024.24, 98: $3054.63, 99: $3803.54), and does not attempt to predict potential increases due to increases in the cost of raw materials, labor, etc., nor does it reflect potential savings due to decreases in those costs or advancements in printing technology.

It is not possible to determine how long this rule will remain in effect. Costs are annualized.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 15—Initiative, Referendum, New Party and Independent Candidate Petition Rules

PROPOSED AMENDMENT

15 CSR 30-15.010 Signature Verification Procedures for Initiative, Referendum, New Party and Independent Petitions. The secretary of state is amending sections (1) and (6).

PURPOSE: This amendment implements changes to the law enacted in House Bill No. 676 of the 90th General Assembly, First Regular Session, 1999.

(1) Voter signatures will be rejected if—

(A) *[t]***They list an address outside of the county as indicated on the petition***[.]***; or**

(B) They have been struck through or crossed out.

(6) A voter's signature shall not be deemed invalid on the basis of source of registration. If otherwise valid, the signature of a person who registered to vote pursuant to the provisions of sections 115.159, 115.160 or 115.162, RSMo shall be accepted as valid without respect to whether such person has previously voted in the jurisdiction or received a voter identification card, provided that each of the following must apply at the time of verification of the petition by the local election authority:

(B) The verification notice sent by the election authority pursuant to section *[115.159.3]* **115.155.3**, RSMo 1994, was not returned by the postal service to the election authority within *[fourteen (14) days from the date it was sent]* **the time established by the election authority**; and

*AUTHORITY: sections 115.335.7, **RSMo Supp. 1998** and 116.130.[4]5, RSMo [Supp. 1995] **Supp. 1999**. Original rule filed Nov. 22, 1985, effective March 24, 1986. Amended: Filed April 22, 1992, effective Sept. 6, 1992. Emergency amendment filed June 10, 1992, effective June 20, 1992, expired Oct. 17, 1992. Emergency amendment filed July 9, 1996, effective July 19, 1996, expired Jan. 14, 1997. Amended: Filed July 9, 1996, effective Feb. 28, 1997. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 15—Initiative, Referendum, New Party and Independent Candidate Petition Rules

PROPOSED AMENDMENT

15 CSR 30-15.020 Processing Procedures for Initiative, Referendum, New Party and Independent Candidate Petitions. The secretary of state is deleting from the *Code of State Regulations* the form following this rule.

*PURPOSE: This amendment removes the form following the rule from the **Code of State Regulations**.*

*AUTHORITY: sections 115.335.7, **RSMo Supp. 1998** and 116.130[.4]**.5**, RSMo [Supp. 1995] **Supp. 1999**. Original rule filed Nov. 22, 1985, effective March 24, 1986. Amended: Filed April 22, 1992, effective Sept. 6, 1992. Emergency amendment filed June 10, 1992, effective June 20, 1992, expired Oct. 17, 1992. Emergency amendment filed July 12, 1996, effective July 22, 1996, expired Jan. 14, 1997. Amended: Filed July 12, 1996, effective Feb. 28, 1997. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Higher Education Savings Program

PROPOSED RULE

15 CSR 50-4.010 General Organization

PURPOSE: This regulation provides the public with a description of the Missouri Higher Education Savings Program Board's operations and the methods and procedures where the public may obtain information. This rule is adopted to fulfill the statutory requirement of section 536.023(3), RSMo.

(1) House Bill No. 1694, 2nd Regular Session, 89th General Assembly (1998) as amended by Senate Bill No. 460, 1st Regular Session, 90th General Assembly (1999) (effective August 28, 1999), codified at sections 166.400 through 166.455 (the statute) creates the Missouri Higher Education Savings Program (the program), to be administered by the Missouri Higher Education Savings Program Board (the board). The board consists of the state treasurer (who serves as chairman), the commissioner of the state Department of Higher Education, the commissioner of the state Office of Administration, the director of the state Department of Economic Development, and two (2) persons having demonstrable experience and knowledge in the areas of finance and investment and management of public funds, one of whom will be selected by the president pro tem of the state Senate and the other selected by the speaker of the state House of Representatives. The board's primary purpose is to administer the program and the board possesses all powers necessary to carry out and effectuate the purposes, objectives and provisions of the statute.

(2) The program is designed to promote access to higher education by providing individuals with a convenient method to fund the increasingly expensive cost of post-secondary education. By allowing participants to make current contributions for designated beneficiaries and by investing these contributions with the goal of achieving a rate of return that reflects increases in educational costs, the program is intended to provide designated beneficiaries with funds needed for the costs of their post-secondary school edu-

cation. Within limits set by state and federal law, contributions to a savings account pursuant to the program are deductible from the contributor's state income tax, and income earned or received from the program by a contributor or beneficiary are not subject to state income tax.

(3) Pursuant to the statute, the board has selected and approved a program manager to administer the program. The program manager manages the day-to-day operation of the program.

(4) The public may obtain information or make submissions or requests to the State Treasurer's Office, P.O. Box 210, Jefferson City, MO 65102, (573-751-2411).

AUTHORITY: sections 166.416 and 536.023, RSMo Supp. 1998. Original rule filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Chairman of the Missouri Higher Education Savings Board, Bob Holden, State Treasurer, P.O. Box 210, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Higher Education Savings Program

PROPOSED RULE

15 CSR 50-4.020 Missouri Higher Education Savings Board

PURPOSE: This rule establishes procedures for the operation of the Missouri Higher Education Savings Program (the savings program), specifies responsibilities of the Missouri Higher Education Savings Program Board (the board) in administering and monitoring the savings program, describes the rights and responsibilities of the board and its staff, participants, beneficiaries and any third party designated by the board to carry out services under the savings program, and is intended to ensure that the savings program conforms with the federal and state statutes and regulations governing qualified state tuition programs.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Incorporation by Reference. The provisions of section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder are incorporated herein by reference with the same effect as if fully set forth herein.

(2) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 166.410, RSMo: benefits, board, eligible educational institution, *Internal Revenue Code*, participation agreement, qualified higher education expenses, savings program.

(B) Existing Federal Definitions. The following terms, as used in this rule, are defined in section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) promulgated thereunder: contribution, distributee, distribution, earnings, investment in the account, member of the family, qualified state tuition program.

(C) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. "501(c)(3) organization" means an organization described in section 501(c)(3) of the *Internal Revenue Code* and exempt from taxation under section 501(a) of the *Internal Revenue Code*;

2. "Account" means the account in the savings program established by a participant and maintained for a beneficiary;

3. "Account balance" means the fair market value of an account on a particular date;

4. "Account owner" means—a) a participant or b) the transferee of an account pursuant to subsection (5)(H) below;

5. "Beneficiary" means a designated beneficiary as defined in section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder;

6. "Cash" shall include but not be limited to checks drawn on a banking institution located in the continental United States in U.S. dollars (other than cashiers checks, travelers checks or third-party checks exceeding ten thousand dollars ($10,000)), money orders, payroll deduction, and electronic funds transfers. Cash does not include property;

7. "Disability" means, with respect to a beneficiary, any disability of such beneficiary that has been certified pursuant to subparagraph (6)(B)2. below;

8. "Member of the family" means an individual who is related to the beneficiary as listed in subparagraphs (2)(C)8.A. through (2)(C)8.I. of this definition, together with such changes to such list as may be included, from time-to-time, in the definition of "member of the family" pursuant to section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) thereunder:

A. A son or daughter, or a descendant of either;

B. A stepson or stepdaughter;

C. A brother, sister, stepbrother or stepsister;

D. The father or mother, or an ancestor of either;

E. A stepfather or stepmother;

F. A son or daughter of a brother or sister;

G. A brother or sister of the father or mother;

H. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; or

I. The spouse of the designated beneficiary or the spouse of any individual described in subparagraphs (2)(C)8.A. through (2)(C)8.H. of this definition.

For purposes of determining who is a member of the family hereunder, a legally adopted child of an individual shall be treated as the child of such individual by blood, and the terms brother and sister include a brother or sister by the halfblood;

9. "Non-qualified withdrawal" means a distribution from an account other than a qualified withdrawal, a withdrawal due to death, disability or scholarship of beneficiary, a rollover distribution, or a distribution from an account that is made after amounts are held in such account for the minimum length of time, if at all, permitted by section 529 of the *Internal Revenue Code* without the imposition of a penalty;

10. "Participant" means a person who has entered into a participation agreement pursuant to the statute and this rule for the payment of qualified higher education expenses on behalf of a beneficiary;

11. "Person" means any individual, estate, association, trust, partnership, limited liability company, corporation, the state of

Missouri or any department thereof, or any political subdivision of the state of Missouri;

12. "Qualified withdrawal" means a distribution from an account established under the savings program used exclusively to pay qualified higher education expenses of the beneficiary;

13. "Rollover distribution" means a distribution or transfer from an account for a beneficiary that is transferred or deposited within sixty (60) days of the distribution into an account for another beneficiary who is a member of the family of the current beneficiary, in each case to the extent permitted as a rollover distribution, as defined in section 529(c)(3)(C)(i) of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder. A distribution is not a rollover distribution unless there is a change of beneficiary. The account for such other beneficiary may be an account established under the savings program or an account established under a qualified state tuition program in another state;

14. "Scholarship" means any scholarship and any allowance or payment described in section 135(d)(1)(B) or (C) of the *Internal Revenue Code*;

15. "Scholarship account" means an account in the savings program established by a participant that is a scholarship sponsor and maintained for the benefit of one (1) or more current and/or future beneficiaries;

16. "Scholarship sponsor" means the state of Missouri, an instrumentality of the state of Missouri, a political subdivision of the state of Missouri, or an organization described in section 501(c)(3) of the *Internal Revenue Code*, in each case who establishes one or more accounts as part of a scholarship program;

17. "Statute" means sections 166.400 to 166.455, RSMo, as amended from time-to-time; and

18. "Withdrawal due to death, disability or scholarship of beneficiary" means a distribution from an account established under the savings program—a) made because of death or disability of the beneficiary, or b) made because of the receipt of a scholarship by the beneficiary to the extent that such distribution does not exceed the amount of such scholarship.

(3) Purposes. The purposes of the savings program are—a) to encourage savings to enable students to continue their education by attending eligible educational institutions, and b) to enable participants and beneficiaries to avail themselves of tax benefits provided for qualified state tuition programs under the *Internal Revenue Code*.

(4) Program Administration and Management. The savings program shall be administered and managed in compliance with the provisions of the *Internal Revenue Code* (including section 529, other applicable sections and implementing regulations and guidelines), the statute and this rule. Procedures and forms for use in the administration and management of the savings program shall be subject to the approval of the board. If the board designates a third party to assist or act for the board with respect to the administration and management of the savings program, the references herein to the board shall govern such a designee of the board.

(5) Savings Program Participation and Participation Agreements.

(A) Beneficiary Eligibility. A beneficiary may be any individual designated as such in a participation agreement.

(B) Participant Eligibility. A participant may be any person—a) who submits to the board a completed participation agreement, and an address for each participant and beneficiary in the United States, and b) who otherwise meets the qualifications set forth in federal law, Missouri law and regulations governing the savings program. A participant that establishes a scholarship account shall provide the valid Social Security numbers or taxpayer identification numbers and addresses in the United States of each beneficiary of the applicable scholarship account prior to or in connection with a request for a distribution.

(C) Participation Agreements. To participate in the savings program, a prospective participant must submit a completed participation agreement with either an initial contribution or a selection of electronic funds transfer or payroll deduction as the method of initial contribution. The participation agreement will provide that the participant (and any successor account owner) will retain ownership of payments made under the program through the opening of an account in the name of the participant and for the benefit of the beneficiary designated by such participant (or the successor account owner). Only one (1) account owner and one (1) beneficiary is permitted per account, except that scholarship accounts may be established for the benefit of one (1) or more present or future beneficiaries. One (1) or more participants may establish accounts for a single beneficiary. Each participant agreement shall impose a penalty on the early distribution of funds in accordance with section 166.430, RSMo. Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions set forth therein, subject to subsection (5)(I) below.

(D) Contributions. All contributions to accounts shall be in cash. The maximum amount which may be contributed annually by a participant with respect to a beneficiary shall be established by the board, from time-to-time, but in no event shall be more than the total contribution limit described in the succeeding sentence. The total contributions that may be held in an account shall be the amount established by the board from time-to-time, but in no event shall be more than the maximum amount permitted for the savings program to qualify as a "qualified state tuition program" pursuant to section 529 of the *Internal Revenue Code*.

(E) Excess Contributions and Balances. Contributions for any beneficiary shall be rejected (or, if accepted in error or resulting from a change of beneficiary, returned to the account owner with any earnings thereon and less any penalties applicable thereto) if the amount of the contributions in the account together with the contributions in other accounts established under the program for the benefit of the same beneficiary would cause the aggregate amount held for such beneficiary to exceed the maximum amount established by the board from time-to-time, but in no event more than the amount permitted under section 529 of the *Internal Revenue Code*. Any payment of such excess balances to the account owner shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(D) below or such lesser amount as may be permitted by section 529 of the *Internal Revenue Code*.

(F) Changes to Beneficiary. An account owner may change the beneficiary designated for an account to any member of the family of the current beneficiary at any time, without penalty, by submitting a completed change of beneficiary form to the board in such form as the board may specify from time-to-time. Any change of beneficiary by an account owner other than as permitted in the foregoing sentence shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(D) below.

(G) Rollover Distributions. An account owner may transfer, in a rollover distribution, all or part of the account balance to an account for another beneficiary who is a member of the family of the current beneficiary by submitting a completed request for transfer of account funds in such form as the board may specify from time-to-time.

(H) Changes of Account Ownership. An account owner may transfer ownership of an account to another person eligible to be a participant under the provisions of the statute and this rule, and upon receipt of a request for change of account owner that satisfies the criteria set forth in this subsection, the transferee shall be considered the account owner for all purposes related to the savings program, regardless of the source of subsequent contributions.

1. General rule. Any such change of account ownership shall be effective provided that the transfer—a) is irrevocable, b) trans-

fers all ownership, reversionary rights, and powers of appointments (i.e., power to change beneficiaries and to direct distributions from the account), and c) is submitted to the board on a change of account owner form in such form as the board may specify from time-to-time and completed by the account owner (or, in the event of the death of the account owner, by the personal representative of his or her estate).

2. Designation of contingent account owners. Any account owner that is an individual person may designate a contingent account owner for its account, to become the owner of the account automatically upon the death of such account owner. Upon the death of an account owner who has made such a designation of contingent account owner, the assets of the account shall not be deemed assets of such person's estate for any reason. Prior to the initial action taken by the contingent account owner following the death of the deceased account owner, the contingent account owner shall provide a certified copy of a death certificate sufficiently identifying said deceased account owner by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.

(I) Cancellation. A participant may cancel a participation agreement at any time by submitting to the board's designee a notice to terminate the participation agreement in such form as the board may specify from time-to-time. Except as provided in section 166.430 of the statute, any non-qualified withdrawal distributed as a result of such cancellation shall be subject to the penalty as provided in subsection (6)(D) below.

(J) Copy of Agreement to Account Owner. Upon request by an account owner, the board shall provide the account owner with a copy of the participation agreement executed by the account owner, or inform the account owner that the board does not have a copy thereof, mailed within ten (10) business days of receipt of the account owner's request.

(K) Separate Accounting. The board shall provide separate accounting (as provided in section 529 of the *Internal Revenue Code*) for each beneficiary for each account.

(6) Payment of Benefits; Withdrawals.

(A) Qualified Withdrawals. An account owner may request a qualified withdrawal from its account by submitting a completed request for qualified withdrawal to the board in such form as the board may specify from time-to-time, provided that any such request for a qualified withdrawal may be made only after such account has been opened for a period of at least twelve (12) months.

(B) Withdrawals Due to Death, Disability or Scholarship of Beneficiary. An account owner may request a withdrawal due to death, disability or scholarship of beneficiary from its account by submitting a completed request for withdrawal due to death, disability or scholarship of beneficiary to the board in such form as the board may specify from time-to-time. Prior to a withdrawal due to death, disability or scholarship of beneficiary from an account due to the death or disability of the beneficiary of that account, or because the beneficiary has received a scholarship to be applied toward attendance at an eligible educational institution, the account owner shall certify the reason for the distribution and provide written confirmation from a third-party that the beneficiary has in fact died, become disabled with a disability, or received a scholarship for attendance at an eligible educational institution. A request to make a distribution due to the death or disability of, or a scholarship award to, the beneficiary shall not be considered complete until such third-party written confirmation is received by the board. For purposes of this subsection, third-party written confirmation shall consist of the following documentation:

1. For death of the beneficiary, a certified copy of a death certificate sufficiently identifying said beneficiary by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law;

2. For disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy that indicates that he or she is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Such certification shall be on a form provided or approved by the board; and

3. For a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied.

(C) Other Withdrawals. An account owner may request a distribution from an account that is made after amounts are held in such account for the minimum length of time permitted if at all by section 529 of the *Internal Revenue Code* without the imposition of a penalty. Such account owner may request such distribution by submitting a completed request for a distribution to the board in such form as the board may specify from time-to-time.

(D) Non-Qualified Withdrawals; Penalties. An account owner may request a non-qualified withdrawal by submitting a completed non-qualified withdrawal request form to the board in such form as the board may specify from time-to-time. Any such non-qualified withdrawal shall be subject to the penalty described in this subsection (6)(D). A penalty shall be withheld, and paid to the board from an account with respect to each non-qualified withdrawal, in an amount equal to ten percent (10%) of the earnings portion of such withdrawal. Such penalty amount is a more than *de minimis* penalty for the purposes of section 529 of the *Internal Revenue Code*. If required, such penalty amount shall be increased to the minimum amount identified by the Internal Revenue Service as a "safe harbor" in order for it to be more than *de minimis* for the purposes of section 529 of the *Internal Revenue Code*. Penalties shall be imposed, collected and applied in a manner consistent with section 529 of the *Internal Revenue Code*.

(E) Distribution Limitations. No distributions may be made within thirty (30) days of receipt by the board of a completed change of account owner form or request to change the mailing address of the account owner, unless the current account owner's signature is signature guaranteed on the request.

(F) Security. An account owner or beneficiary may not use any account or other interest in the savings program or any portion thereof as security for a loan.

(7) Investments.

(A) General (Investment Standards and Objectives). The board shall invest the funds received from participants, together with any income thereon, in such investments as the board shall reasonably determine will achieve a long-term total return through a combination of capital appreciation and current income. In exercising or delegating its investment powers and authority, the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In accordance with the standards established herein and in the statute, the board may invest, through the board or any investment manager, funds received pursuant to the savings program. Any such investment shall be made solely in the interest of the account owners and beneficiaries and for the exclusive purposes of providing benefits to beneficiaries and defraying reasonable expenses of administering the program. An account owner or beneficiary may not directly or indirectly direct the investment of any contributions or earnings of the savings program.

(B) Delegation of Investment Discretion. The board may delegate to its duly appointed investment counselor authority to act in place of board in the investment or reinvestment of all or part of

the funds, and may also delegate to such counselor the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such funds shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselor shall be registered as an investment advisor with the United States Securities and Exchange Commission.

(8) Costs of Administration. All costs of administration of the savings program shall be borne by the account owners, from amounts paid as penalties on account of non-qualified withdrawals or early qualified withdrawals and from amounts on deposit in the accounts, as described in more detail in the participation agreements.

(9) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY: section 166.415, RSMo Supp. 1998. Emergency rule filed Aug. 30, 1999, effective Sept. 14, 1999, expires March 12, 2000. Original rule filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed rule will cost state agencies or political subdivisions more than $500 in the aggregate, as set forth in the accompanying fiscal note.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Chairman of the Missouri Higher Education Savings Board, Bob Holden, State Treasurer, P.O. Box 210. Jefferson City, MO 65102. To be considered, comments must be received with thirty days of this notice in the ***Missouri Register****. No public hearing will be held.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER
Title:15—Elected Officials
Division: 50—State Treasurer
Chapter: 4 – the Missouri Higher Education Savings Program
Type of Rulemaking Proposed Rule
Rule Number and Name: 15 CSR 50-4.020 Missouri Higher Education Savings Board

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri	$120,000 to Unknown
Local Governments	$ 0 to $20,000

III. WORKSHEET

Attached hereto and incorporated herein by reference is the Fiscal Note for House Bill 1964 dated June 1, 1998, and prepared by the Committee on Legislative Research. H.B. 1964 enacted Section 166.400 through 166.155, known then as the MOSTARS Higher Education Savings Program. In 1999, S.B. 460 changed the name of the program to the Missouri Higher Education Savings Program and made technical changes to ensure compliance with Internal Revenue Service regulations. The Board adopts the estimates and assumptions made in the fiscal note relating to House Bill 1964, which can be obtained from the Committee on Legislative Research.

IV. ASSUMPTIONS

But for the enactment of this proposed Rule, the income tax benefits of the Missouri Higher Education Savings Program would not be available. The proposed Rule simply implements the provision of Sections 166.400 through 166.155. Nothing in this proposed Rule increases the financial burden on any entity, nor do the provisions of the proposed Rule decrease the revenues of the State or State entities beyond that decrease resulting from the income tax benefits flowing from Sections 166.400 through 166.155. Therefore, the Board adopts the estimates and assumptions made in the fiscal note relating to House Bill 1964, which can be obtained from the Committee on Legislative Research.

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

PROPOSED RESCISSION

19 CSR 20-8.010 Accreditation of Lead Training Program. This rule established the requirements for the accreditation of training programs for lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 12, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Rescinded: Filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Lois Kollmeyer, Division Director, Missouri Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

PROPOSED RESCISSION

19 CSR 20-8.020 Licensing of Lead Inspectors, Lead Abatement Workers and Lead Abatement Super-visors/Contractors. This rule established the requirements for licensing lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 11, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Rescinded: Filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Lois Kollmeyer, Division Director, Missouri Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.110 Definitions and Abbreviations for Lead Abatement and Assessment Licensing

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.110 through 19 CSR 30-70.200.

(1) EPA is the United States Environmental Protection Agency.

(2) Large-scale abatement project is a lead abatement project consisting of ten (10) or more dwellings.

(3) Occupation is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers. This includes, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(4) OLLA is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(5) Passing score is a grade of seventy percent (70%) or better on the state examination for a lead occupation license.

(6) Reciprocity is an agreement between OLLA and other states who have similar licensing provisions.

(7) Refresher course is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual's licensure in a single occupation.

(8) Renewal is the reissuance of a lead occupation license.

(9) Training course, is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(10) Training provider is a person or entity providing training courses for the purpose of state licensure or licensure renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and/or project designer.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.120 General

PURPOSE: This rule outlines specific responsibilities that apply to all applicants of a lead occupation license and all licensed individuals.

(1) Waiver. Applicants for licensure and/or licensees may authorize others, such as their employer, to act on their behalf regarding their license application. Such authorization shall be indicated on the application form provided by the Office of Lead Licensing and Accreditation (OLLA). If at any time the applicant and/or licensee decides to change this authorization, the applicant and/or the licensee shall notify OLLA in writing of such change.

(2) Change of Address. Licensed individuals shall notify OLLA in writing of a change of mailing address no later than thirty (30) days following the change. Licensed contractors shall notify OLLA in writing of a change of business address no later than thirty (30) days following the change. Until a change of address is received, all correspondence will be mailed to the individual's mailing address and the contractor's business address indicated on the most recent application form.

(3) Reciprocity. OLLA may issue a lead occupation license to any person or entity who has made application and provided proof of certification or licensure from another state, provided that OLLA has entered into a reciprocity agreement with that state, and the necessary fees have been paid.

(4) Suspension, Revocation or Restriction of a Lead Occupation License.

(A) OLLA may restrict, suspend or revoke a license issued under sections 701.300 through 701.338, RSMo, for any one or any combination of the following causes:

1. Providing any false information in the application;
2. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;
3. History of citations or violations of existing lead abatement regulations or standards;
4. Fraud or failure to disclose facts relevant to his or her application and/or license;
5. Performing work requiring licensure at the job site without having proof of licensure;
6. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;
7. Permitting the duplication or use of the individual's own training certificate, license, or license identification by another;
8. Performing work requiring licensure at a job site without being licensed;
9. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections;
10. Other information which may affect the licensee's ability to appropriately perform lead-bearing substance activities; or
11. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) Prior to restricting, suspending, or revoking a license, the licensee will be given written notice of the reasons for the suspension, revocation and/or restriction. The licensee may appeal the determination of OLLA by requesting a hearing before the Administrative Hearing Commission as provided by section 621.045, RSMo.

(5) Replacement Fee. A fifteen dollar ($15)-fee will be assessed for duplicate and/or replacement license certificates or identification badges.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies or political subdivisions of $135,635 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.120-General

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Health	$135,635

III. WORKSHEET

Personal Services:

Clerk Typist II	$18,204
Health Program Representative I	23,748
Health Program Representative II/III	31,932
Environmental Specialist I	22,032

Total Annual Personal Services: $95,916

Expenses & Equipment

Travel Expenses -
(audits, examinations,
inspections & investigations)

Health Program Representative I	$ 7,370
Environmental Specialist I	16,268
Health Program Representative II/III	7,370

Training & Conferences

Health Program Representative I	$ 660
Environmental Specialist I	4,987
Health Program Representative II/III	1,500

Equipment & Testing

Environmental Specialist I	1,564

Total Annual Equipment & Expenses:	$39,719
Total Annual Personal Services & Expense & Equipment	$135,635

IV. ASSUMPTIONS

Because legislation that went into effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

With the exception of increased travel expenses to conduct audits, examinations, inspections and complaint investigations, the DOH estimates there is not a significant increase in the fiscal requirements for the Office of Lead Licensing and Accreditation program (OLLA), as the changes will be implemented with the current staff of 4 FTE.

OLLA staff are currently funded with a combination of EPA federal grant funds and licensing fees deposited in the Missouri Public Health Services Fund. Current fees collected and any new fees will be deposited into the General Revenue Fund instead of the Missouri Public Health Services Fund.

The estimated cost for personal services and expense and equipment is based upon the annual income, fringe benefits and the historical expenditures of the current OLLA staff.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.130 Application Process and Requirements for the Licensure of Lead Inspectors

PURPOSE: This rule provides the requirements to be licensed as a lead inspector.

(1) Application for a Lead Inspector License.

(A) An applicant for a lead inspector license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

H. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited lead inspector training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for lead inspectors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead inspector license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited lead inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training course completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead inspector refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the lead inspector training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead inspector training course again before submitting application for a lead inspector license.

(2) Application for a Lead Inspector License Under Reciprocity.

(A) An applicant for a lead inspector license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Lead Inspector License.

(A) An applicant for a license as a lead inspector shall complete an OLLA- or EPA-accredited lead inspector training program (see 19 CSR 30-70.330) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead inspector shall meet minimum education and/or experience requirements for a licensed lead inspector.

1. The minimum education and/or experience requirements for licensed lead inspector includes at least one (1) of the following:

A. A bachelor's degree;

B. An associate's degree and one (1) year experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work; or

C. A high school diploma or certificate of high school equivalency (GED) and two (2) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in subsection (3)(B) of this regulation:

A. Official academic transcripts or diploma as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which, at a minimum, includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements; and

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

(4) Procedure for Issuance or Denial of Lead Inspector License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a lead inspector license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead inspector license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead inspector license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately perform lead inspections;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to those sections; or

M . Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a lead inspector license by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days of application approval, the applicant shall attain a passing score on the state lead inspector examination.

1. An applicant cannot sit for the state lead inspector examination more than three (3) times within one hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state lead inspector examination within the one hundred eighty (180)-day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for a license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited lead inspector training course.

(C) After the applicant passes the state lead inspector examination, OLLA will issue a two (2)-year lead inspector license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $80,382 (adjusted annually for inflation) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.130-Application Process and Requirements for the Licensure of Lead Inspectors

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 112	Applicants for Licensure	$80,382.00

III. WORKSHEET

$5.75 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $599 training course = $717.70 cost to applicant.

$717.70 (cost to applicant) x 112 (estimated # of applicants) = $80,382.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* The DOH estimates that under the proposed work practice standards the lead inspection process will change significantly to the point of being considered a risk assessment process. Therefore, the DOH anticipates the numbers of applicants annually for this license will not increase substantially. Based upon OLLA data, 163 applicants submitted initial application for this license in 1997; 61 submitted application in 1998. The DOH estimates that annually 112 applicants will apply for licensure.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, this number is not known.

The licensure fee will continue to be $100. Licenses will be issued for a period of two years.

The cost to complete an application ($5.75) is based on it taking fifteen minutes for a worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost of two passport size pictures is currently $12.95.

Based upon OLLA data, the course fee for an accredited lead inspector training course ranges across the State of Missouri from $395 to $599 per enrollee.

There are no fees for the state licensure examination.

All costs are based on approximations and estimations by the department.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.