

Volume 28, Number 5  
Pages 393-536  
March 3, 2003



**MATT BLUNT**

**SECRETARY OF STATE**

MISSOURI  
REGISTER

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The *Missouri Register* is published semi-monthly by

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

**MISSOURI REGISTER**

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

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July 1, 2003 July 15, 2003	<b>August 1, 2003</b> <b>August 15, 2003</b>	August 31, 2003 August 31, 2003	September 30, 2003 September 30, 2003
August 1, 2003 August 15, 2003	<b>September 2, 2003</b> <b>September 15, 2003</b>	September 30, 2003 September 30, 2003	October 30, 2003 October 30, 2003

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 40—Optical Program**

**ORDER TERMINATING EMERGENCY AMENDMENT**

By the authority vested in the director of the Division of Medical Services under sections 208.152, 208.153, and 208.201, RSMo 2000, the director terminates an emergency amendment, effective February 23, 2003, as follows:

**13 CSR 70-40.010** Optical Care Benefits and Limitations—  
Medicaid Program is **terminated**.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on July 15, 2002 (27 MoReg 1176-1178).

**Title 20—DEPARTMENT OF INSURANCE  
Division 300—Market Conduct Examinations  
Chapter 2—Record Retention for Market Conduct  
Examinations**

**EMERGENCY AMENDMENT**

**20 CSR 300-2.200** Records Required for Purposes of Market Conduct Examinations. The department is amending sections (1), (2) and (3).

*PURPOSE:* This amendment deletes the references to third party vendor or service provider and to the requirement for insurance companies to provide and maintain certain documents obtained from or in the possession of third party vendors or service providers during a market conduct exam regarding functions performed by those third party vendors or service providers for or on behalf of the insurance company.

*EMERGENCY STATEMENT:* This emergency amendment deletes the language emphasizing the requirement for insurance companies to provide and maintain certain documents obtained from or in the possession of third party vendors or service providers during a market conduct exam regarding insurance functions performed by those third party vendors or service providers for or on behalf of the insurance company, such as those related to claims handling and payment, complaint handling, termination, rating, underwriting and marketing. This emergency amendment is necessary to protect a compelling governmental interest, in that certain affected parties have expressed to the department their belief that the language, despite changes made as a result of a hearing, continues to be problematic and that they will be forced to file a lawsuit challenging its validity prior to its becoming effective on February 28, 2003. The department is sensitive to the concerns expressed by the affected parties and wishes to avoid the time and expense to both the affected parties and the state of Missouri of such litigation. The department is also concerned that, during the pendency of such litigation, there would be uncertainty regarding the responsibilities of insurance companies with respect to market conduct examinations. Accordingly, the department is filing this emergency amendment in order to give all parties an opportunity to study the issues further and avoid the expense of protracted litigation. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Missouri Department of Insurance believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 14, 2003, effective February 24, 2003, and expires August 22, 2003.

(1) Definitions.

[(D)] The term "customary core functions" means the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process or providing any information or assistance used in claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process which have traditionally been performed by internal insurance company employees or producers.]

[(E)] (D) The term "department" shall mean the Missouri Department of Insurance.

[(F)] (E) The term "examiner" shall mean a market conduct examiner authorized by the director to conduct an examination pursuant to section 374.202.2(4), RSMo.

[(G)] (F) The term "inquiry" shall mean a specific question, criticism or request made in writing to an insurer by a market conduct examiner duly appointed by the director.

[(H)] (G) The term "insurer" shall mean an insurer as that term is defined in sections 375.932 or 375.1002, RSMo.

[(I)] (H) The term "policy" shall mean a policy as that term is

defined in section 375.932(5), RSMo. The term "policy" shall also include any evidence of coverage issued by a health maintenance organization to an enrollee.

*[(J) The term "third party vendor or service provider" shall mean any person or entity not licensed under any of the insurance laws of the state of Missouri and participating for a fee or pursuant to a contract or mutual agreement with an insurer in the customary core functions of the business of insurance. Third party vendors or service providers will include individuals or entities providing medical review, claim evaluation, case management, property or automobile evaluation and assessment, credit reporting or credit scoring, claim reporting, or medical health reporting services or databases to an insurer, are not independently licensed under the insurance laws of the state of Missouri to provide said services and are not employees of an entity licensed under the insurance laws of the state of Missouri to provide said services.]*

(2) Records Required.

*[(A)] Every insurer, licensed to do business in this state shall maintain its books, records, documents and other business records in a manner so that the following practices of the insurer may be readily ascertained during market conduct examinations: **claims handling and payment, complaint handling, termination, rating, underwriting and marketing.** [the insurer's compliance with the standards outlined in the NAIC Market Conduct Examiners' Handbook, including, but not limited to, company operations and management, policyholder service, marketing, producer licensing, underwriting, rating, termination, complaint/grievance handling and claims practices.*

*(B) Every insurer, licensed to do business in this state, shall provide in a written contract entered into with any and all third party vendors or service providers which perform any of the customary core functions on behalf of that insurer that the insurer will have access to or retain a copy of the books, records, documents, and other business records used or relied upon by the third party vendor or service provider with whom it contracts in the performance of the third party vendors' or service providers' performance of the customary core functions on behalf of that insurer.*

*(C) During an examination, the insurer shall provide, as requested, its written contract entered into with each third party vendor or service provider and such documents as set forth in subsection (2)(B) of this section within the time frames set forth in section (6) of this rule.*

*(D) Every insurer must monitor every third party vendor or service provider with whom it contracts so as to justify to itself that the methods and procedures used in the performance of the customary core functions are actuarially, statistically, medically, scientifically, or practically sound and accurate and performed for an appropriate business purpose, as applicable, and do not violate the laws of this state. The insurer must be able to produce documentation and otherwise demonstrate how it monitored and verified the accurateness, lawfulness, and appropriateness of the business practices performed by the third party vendor or service provider on its behalf within the time frames set forth in section (6) of this rule.*

*(E) It will be insufficient compliance with this regulation for the insurer to solely submit to the examiner a letter or affidavit from the third party vendor or service provider certifying the accuracy, appropriateness, and compliance with the laws of this state as it relates to the methods and procedures used in the claims handling, claims payment, complaint handling, termination, rating, underwriting, or market-*

*ing processes without the accompanying documentation as set forth in subsections (2)(B), (2)(C), and (2)(D) of this rule.]*

(3) Records to be Maintained. The following records shall be maintained:

(D) The Missouri complaint records required to be maintained under section 375.936(3), RSMo shall include a complaint log or register in addition to the actual written complaints. The complaint log or register shall show clearly the total number of complaints for a period of not less than the immediately preceding three (3) years, the classification of each complaint by line of insurance, the nature of each complaint, and the disposition of each complaint. The complaint log or register shall also contain a reference to the location of the file to which each complaint corresponds. If the insurer maintains the file in a computer format, the reference in the complaint log or register for locating such documentation shall be an identifier such as the policy number or other code. Such codes shall be provided to the examiners at the time of an examination; **and**

(E) The insurer shall retain declined underwriting files for a period of three (3) years from the date of declination. The term "declined underwriting file" shall mean all written or electronic records concerning a policy for which an application for insurance coverage has been completed and submitted to the insurer or its insurance producer but the insurer has made a determination not to issue a policy or not to add additional coverage when requested. A declined underwriting file shall include an application, any documentation substantiating the decision to decline an issuance of a policy, any binder issued without the insurer issuing a policy, any documentation substantiating the decision not to add additional coverage when requested and, if required by law, any declination notification. Notes regarding requests for quotations which do not result in a completed application for coverage need not be maintained for purposes of this regulation; **and**].

*[(F) A copy of the contract that the insurer entered into with any and all third party vendors or service providers for the performance of the third party vendors' or service providers' duties in the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing processes on behalf of the insurer].*

*AUTHORITY: sections 144.027, 287.350, 354.190, 354.465, 354.717, 374.045, 374.190, 374.202, 374.205, 374.210, 375.012, 375.013, 375.149, 375.150, 375.151, 375.158, 375.932, 375.938, 375.948, 375.1002, 375.1009, 375.1018, 379.343, 379.475 and 536.016, RSMo 2000 and 375.022 and 375.158, RSMo Supp. 2001. This rule was previously filed as 4 CSR 190-II.050. Original rule filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed Sept. 5, 1975, effective Sept. 15, 1975. Amended: Filed April 4, 1991, effective Oct. 31, 1991. Amended: Filed Dec. 1, 1998, effective July 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Emergency amendment filed Feb. 14, 2003, effective Feb. 24, 2003, expires Aug. 22, 2003. A proposed amendment covering this same material is published in this issue of the Missouri Register.*