

FIRST REGULAR SESSION

HOUSE BILL NO. 172

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUZICKA.

0770L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to payment of funeral services, facilities, or merchandise for public assistance recipients.

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

Section A. Section 208.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.010, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the **family support** division [of family services] to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the **family support** division [of family services]; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the need of a claimant in federally aided programs there shall be disregarded such amounts per
19 month of earned income in making such determination as shall be required for federal
20 participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or
21 any amendments thereto. When federal law or regulations require the exemption of other income
22 or resources, the **family support** division [of family services] may provide by rule or regulation
23 the amount of income or resources to be disregarded.

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

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
26 away or sold a resource within the time and in the manner specified in this subdivision. In
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
29 subsection, and subsection [5] 6 of this section) any resource or interest therein owned by such
30 individual or spouse within the twenty-four months preceding the initial investigation, or at any
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such
32 resource or interest within such period of time at less than fair market value of such resource or
33 interest for the purpose of establishing eligibility for benefits, including but not limited to
34 benefits based on December, 1973, eligibility requirements, as follows:

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

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

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

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

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

52 (3) Has received, or whose spouse with whom he or she is living has received, benefits
53 to which he or she was not entitled through misrepresentation or nondisclosure of material facts

54 or failure to report any change in status or correct information with respect to property or income
55 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be
56 ineligible for such period of time from the date of discovery as the division of family services
57 may deem proper; or in the case of overpayment of benefits, future benefits may be decreased,
58 suspended or entirely withdrawn for such period of time as the division may deem proper;

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

64 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
65 excluding amounts placed in an irrevocable prearranged funeral or burial contract under chapter
66 436, or has an interest in property, of which he or she is the record or beneficial owner, the value
67 of such property, as determined by the division of family services, less encumbrances of record,
68 exceeds twenty-nine thousand dollars, or if married and actually living together with husband
69 or wife, if the value of his or her property, or the value of his or her interest in property, together
70 with that of such husband and wife, exceeds such amount;

71 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
72 child or children in the home owns or possesses property of any kind or character, or has an
73 interest in property for which he or she is a record or beneficial owner, the value of such
74 property, as determined by the **family support** division [of family services] and as allowed by
75 federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding
76 the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or
77 burial contract under chapter 436, one automobile which shall not exceed a value set forth by
78 federal law or regulation and for a period not to exceed six months, such other real property
79 which the family is making a good-faith effort to sell, if the family agrees in writing with the
80 division of family services to sell such property and from the net proceeds of the sale repay the
81 amount of assistance received during such period. If the property has not been sold within six
82 months, or if eligibility terminates for any other reason, the entire amount of assistance paid
83 during such period shall be a debt due the state;

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

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

89 4. In determining eligibility and the amount of benefits to be granted pursuant to
90 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
91 prearranged funeral or burial contract under chapter 436 shall not be taken into account or
92 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
93 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as
94 defined in section 214.270 and any memorial, monument, marker, tombstone or letter marking
95 a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral
96 or burial contract receives any public assistance benefits pursuant to this chapter and if the
97 purchaser of such contract or his or her successors in interest transfer, amend, or take any other
98 such actions regarding the contract so that any person will be entitled to a refund, such refund
99 shall be paid to the state of Missouri with any amount in excess of the public assistance benefits
100 provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her
101 successors. In determining eligibility and the amount of benefits to be granted under federally
102 aided programs, the value of any life insurance policy where a seller or provider is made the
103 beneficiary or where the life insurance policy is assigned to a seller or provider, either being in
104 consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be
105 taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral
106 contract.

107 **5. In determining eligibility and the amount of benefits to be granted under**
108 **federally aided programs, any amounts up to nine thousand dollars placed in an**
109 **irrevocable trust designated to pay for, at the time of need, the final disposition of a dead**
110 **human body, funeral or burial services or facilities, or funeral merchandise that is not a**
111 **preneed funeral contract as defined in section 436.405 shall not be considered an asset of**
112 **the beneficiary. Any overages after final disposition shall be paid to the state of Missouri**
113 **up to the amount of public assistance benefits provided to the beneficiary under this**
114 **chapter with any remainder to be paid to those designated in the trust.**

115 **6.** In determining the total property owned pursuant to subdivision (5) of subsection 2
116 of this section, or resources, of any person claiming or for whom public assistance is claimed,
117 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
118 any two or more policies or contracts, or any combination of policies and contracts, which
119 provides for the payment of one thousand five hundred dollars or less upon the death of any of
120 the following:

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

122 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
123 she is living. If the value of such policies exceeds one thousand five hundred dollars, then the
124 total value of such policies may be considered in determining resources; except that, in the case

125 of temporary assistance for needy families, there shall be disregarded any prearranged funeral
126 or burial contract, or any two or more contracts, which provides for the payment of one thousand
127 five hundred dollars or less per family member.

128 [6.] 7. Beginning September 30, 1989, when determining the eligibility of
129 institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance
130 benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the **family**
131 **support** division [of family services] shall comply with the provisions of the federal statutes and
132 regulations. As necessary, the division shall by rule or regulation implement the federal law and
133 regulations which shall include but not be limited to the establishment of income and resource
134 standards and limitations. The division shall require:

135 (1) That at the beginning of a period of continuous institutionalization that is expected
136 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
137 an assessment by the **family support** division [of family services] of total countable resources
138 owned by either or both spouses;

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

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

145 (4) That in the determination of initial eligibility of the institutionalized spouse, no
146 resources attributed to the community spouse shall be used in determining the eligibility of the
147 institutionalized spouse, except to the extent that the resources attributed to the community
148 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
149 1396r-5;

150 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
151 subsection shall be increased by the percentage increase in the Consumer Price Index for All
152 Urban Consumers between September, 1988, and the September before the calendar year
153 involved; and

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

157 [7.] 8. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the
158 periods required and for the reasons specified in 42 U.S.C. Section 1396p.

159 [8.] 9. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant
160 to the provisions of section 208.080.

161 [9.] **10.** Beginning October 1, 1989, when determining eligibility for assistance pursuant
162 to this chapter there shall be disregarded unless otherwise provided by federal or state statutes
163 the home of the applicant or recipient when the home is providing shelter to the applicant or
164 recipient, or his or her spouse or dependent child. The **family support** division [of family
165 services] shall establish by rule or regulation in conformance with applicable federal statutes and
166 regulations a definition of the home and when the home shall be considered a resource that shall
167 be considered in determining eligibility.

168 [10.] **11.** Reimbursement for services provided by an enrolled Medicaid provider to a
169 recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B,
170 Supplementary Medical Insurance (SMI) shall include payment in full of deductible and
171 coinsurance amounts as determined due pursuant to the applicable provisions of federal
172 regulations pertaining to Title XVIII Medicare Part B, except for hospital outpatient services or
173 the applicable Title XIX cost sharing.

174 [11.] **12.** A "community spouse" is defined as being the noninstitutionalized spouse.

175 [12.] **13.** An institutionalized spouse applying for Medicaid and having a spouse living
176 in the community shall be required, to the maximum extent permitted by law, to divert income
177 to such community spouse to raise the community spouse's income to the level of the minimum
178 monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income
179 shall occur before the community spouse is allowed to retain assets in excess of the community
180 spouse protected amount described in 42 U.S.C. Section 1396r-5.