

SECOND REGULAR SESSION

# HOUSE BILL NO. 1210

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor) AND HINSON (Co-sponsor).

4965L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 143.790, RSMo, and to enact in lieu thereof two new sections relating to debt setoffs for unpaid healthcare expenses.

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

Section A. Section 143.790, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.789 and 143.790, to read as follows:

**143.789. The director of the department shall have the authority to impose an offset against a refund owed to any taxpayer for the following items and in the following order of priority:**

- (1) Delinquent taxes owed by the taxpayer to the state of Missouri;**
- (2) Debts owed by such taxpayer to any state agency or support obligation owed by such taxpayer which is enforced by the division of family services on behalf of a person who is receiving support enforcement services under section 454.425;**
- (3) Collection assistance fees authorized under section 143.790;**
- (4) Eligible claims under section 143.790; and**
- (5) Delinquent taxes owed by the taxpayer to the United States.**

143.790. 1. [Any hospital or health care provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208, RSMo, and the health insurance for uninsured children under sections 208.631 to 208.657, RSMo, at the time such health care services were administered, and such person has failed to pay for such services for a period greater than ninety days, may submit a claim to the

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.

8 director of the department of health and senior services for the unpaid health care services. The  
9 director of the department of health and senior services shall review such claim. If the claim  
10 appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt  
11 of the department of health and senior services for purposes of sections 143.782 to 143.788, and  
12 the director may certify the debt to the department of revenue in order to set off the debtor's  
13 income tax refund. Once the debt has been certified, the director of the department of health and  
14 senior services shall submit the debt to the department of revenue under the setoff procedure  
15 established under section 143.783.

16         2. At the time of certification, the director of the department of health and senior services  
17 shall supply any information necessary to identify each debtor whose refund is sought to be set  
18 off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such  
19 debtor.

20         3. If a debtor identified by the director of the department of health and senior services  
21 is determined by the department of revenue to be entitled to a refund, the department of revenue  
22 shall notify the department of health and senior services that a refund has been set off on behalf  
23 of the department of health and senior services for purposes of this section and shall certify the  
24 amount of such setoff, which shall not exceed the amount of the claimed debt certified. When  
25 the refund owed exceeds the claimed debt, the department shall send the excess amount to the  
26 debtor within a reasonable time after such excess is determined.

27         4. The department of revenue shall notify the debtor by certified mail the taxpayer whose  
28 refund is sought to be set off that such setoff will be made. The notice shall contain the  
29 provisions contained in subsection 3 of section 143.794, including the opportunity for a hearing  
30 to contest the setoff provided therein, and shall otherwise substantially comply with the  
31 provisions of subsection 3 of section 143.784.

32         5. Once a debt has been set off and finally determined under the applicable provisions  
33 of sections 143.782 to 143.788, and the department of health and senior services has received  
34 the funds transferred from the department of revenue, the department of health and senior  
35 services shall settle with each hospital or health care provider for the amounts that the  
36 department of revenue set off for such party. At the time of each settlement, each hospital or  
37 health care provider shall be charged for administration expenses which shall not exceed twenty  
38 percent of the collected amount.

39         6. Lottery prize payouts made under section 313.321, RSMo, shall also be subject to the  
40 setoff procedures established in this section and any rules and regulations promulgated thereto.

41         7. The director of the department of revenue shall have priority to offset any delinquent  
42 tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency

43 debt or to meet a child support obligation that is enforced by the division of family services on  
44 behalf of a person who is receiving support enforcement services under section 454.425, RSMo.

45 **8.] As used in this section, the following terms shall mean:**

46 **(1) "Appeals committee", a committee consisting of at least three people appointed**  
47 **by a provider to hear patient appeals of review officer rulings:**

48 **(a) That the provider has a valid claim;**

49 **(b) Regarding the amount of the claim;**

50 **(c) That a claim qualifies as an eligible claim under this section;**

51 **(2) "Collection assistance fee", a fee in the amount of fourteen dollars payable to**  
52 **the general fund of this state for each debt setoff being processed and an additional**  
53 **seventeen dollars payable to the claim clearinghouse for each debt being processed by the**  
54 **claim clearinghouse shall be recovered from each eligible claim to recover the costs**  
55 **incurred in collecting debts under this section;**

56 **(3) "Court", the supreme court, court of appeals, or any circuit court of the state,**  
57 **or any of their judicially or legislatively created subdivisions;**

58 **(4) "Department", the department of revenue;**

59 **(5) "Claim", a claim by a provider to receive payment of fifty dollars or more for**  
60 **health care services provided by such provider to a patient which has not been paid in**  
61 **whole or in part by the patient or third party payer for more than ninety days after the**  
62 **date the patient was first billed for such health care services;**

63 **(6) "Claim clearinghouse", the entity selected by the department to receive and**  
64 **submit eligible claims on behalf of a provider in accordance with this section. The claim**  
65 **clearinghouse shall be selected by the department through use of and in compliance with**  
66 **the applicable requirements of chapter 34;**

67 **(7) "Health care services", any services that a provider renders to a patient in the**  
68 **course of such provider's furnishing of ambulance services to the patient. Health care**  
69 **services shall include, but not be limited to, treatment of patients and transporting of**  
70 **patients incidental or pursuant to the delivery of ambulance services by a provider or in**  
71 **furtherance of the purposes for which such provider is organized and licensed, provided**  
72 **that with respect to ground ambulance services provided by a provider that is not owned**  
73 **and operated by a city, county, municipality, political subdivision, governmental entity, or**  
74 **an entity that is exempt from federal and state income taxation, health care services shall**  
75 **only include those ground ambulance services provided by the provider that qualify and**  
76 **emergency services as defined in section 190.100 and are provided under the terms of an**  
77 **agreement between the provider and a city, county, municipality, political subdivision, or**  
78 **a governmental entity under section 190.105;**

79           **(8) "Patient", an individual who has received health care services from a provider**  
80 **and who was not, at the time such health care services were provided, eligible to receive**  
81 **benefits under the state's medical assistance program for needy persons under chapter 208**  
82 **and the health insurance for uninsured children under sections 208.631 to 208.657;**

83           **(9) "Provider", any provider of ambulance services licensed by the Missouri**  
84 **department of health and senior services in accordance with chapter 190, to include but**  
85 **not be limited to any provider of air ambulance services licensed under section 190.108 and**  
86 **any provider of ground ambulance services licensed under section 190.109;**

87           **(10) "Refund", a patient's Missouri income tax refund which the department**  
88 **determines to be due under the provisions of this chapter;**

89           **(11) "Review officer", a person designated by a provider to review claims, at the**  
90 **request of a patient, to determine whether such provider has a valid claim, the amount of**  
91 **such claim, and whether such claim qualifies as an eligible claim under this section.**

92           **2. Prior to submission of a claim to the claim clearinghouse, a provider shall send**  
93 **written notice to a patient that such provider intends to submit a claim to the claim**  
94 **clearinghouse for collection by setoff under this section. The notice shall:**

95           **(1) Provide the basis for the claim;**

96           **(2) State that the provider intends to request that the department apply the**  
97 **patient's refund against the claim;**

98           **(3) State that a collection assistance fee will be added to the claim if it is submitted**  
99 **for setoff;**

100           **(4) Inform the patient of the right to contest the validity or amount of such claim**  
101 **by filing a request for a review with the provider; and**

102           **(5) State the time limit and procedure for requesting such review, and that failure**  
103 **to request a review within thirty days following receipt of the notice required under this**  
104 **section shall result in submission of the claim to the claim clearinghouse for setoff of the**  
105 **debt by the department.**

106           **3. Upon receipt of the notice required under subsection 2 of this section, any patient**  
107 **seeking review of a claim with the provider shall file a written request for review within**  
108 **thirty days of receipt of such notice. A request for a review shall be deemed filed when**  
109 **properly addressed and delivered to the United States Postal Service for mailing with**  
110 **postage prepaid. A review officer shall be appointed by the provider to review such claim.**  
111 **In reviewing a claim, any issue that has previously been litigated in a court proceeding**  
112 **shall not be considered by the review officer. If the patient seeks a review of the claim and**  
113 **the review officer finds either that the claim is invalid or the claim does not qualify as an**  
114 **eligible claim under this section, the review officer's determination shall be final and**

115 **binding on the provider and such provider shall have no right to appeal such**  
116 **determination. If all or part of the claim is found by the review officer to be valid and**  
117 **eligible for setoff under this section, the review officer shall notify the provider and the**  
118 **patient of such fact. Such notice shall:**

119 **(1) Inform the patient that the patient has the right to appeal the review officer's**  
120 **determination by filing an appeal with the appeals committee;**

121 **(2) State the time limit and procedure for requesting such an appeal; and**

122 **(3) State that failure to request the appeal within thirty days following receipt of**  
123 **the notice required under this subsection shall result in submission of the claim to the claim**  
124 **clearinghouse for setoff of the debt by the department.**

125 **4. Upon receipt of the notice required under subsection 3 of this section, any patient**  
126 **seeking an appeal of a determination of a review officer under this section shall file a**  
127 **written request for such appeal within thirty days following receipt of such notice. An**  
128 **appeal shall be deemed filed when properly addressed and delivered to the United States**  
129 **Postal Service for mailing with postage prepaid. An appeal of a review officer's**  
130 **determination shall be heard by an appeals committee. In an appeal under this section,**  
131 **any issue that has been previously litigated in a court proceeding shall not be considered.**  
132 **A decision made after an appeal under this section shall determine whether a claim is owed**  
133 **to the provider, the amount of the claim, and whether the claim is an eligible claim under**  
134 **this section.**

135 **5. If the appeals committee finds a claim to be invalid or otherwise ineligible under**  
136 **this section, the decision of the appeals committee shall be final and binding on the**  
137 **provider and may not be appealed by the provider. If all or part of the claim is found by**  
138 **the appeals committee to be valid and eligible for setoff under this section, the appeals**  
139 **committee shall notify the provider and the patient of such fact. Such notice shall:**

140 **(1) Inform the patient that the patient has the right to challenge the appeals**  
141 **committee determination by notifying the provider that it disagrees with the determination**  
142 **and advising the provider as to the basis of such disagreement;**

143 **(2) State that the patient must notify the provider of the challenge within ninety**  
144 **days of the patient's receipt of the notice from the appeals committee;**

145 **(3) Advise the patient that if the patient challenges the appeals committee's**  
146 **determination under this subsection, the provider will not be permitted to setoff the**  
147 **provider's claim against the patient's refund under this section unless and until the**  
148 **provider files suit against the patient in court seeking a determination that the provider's**  
149 **claim is valid regarding the amount of the claim and that the claim is eligible for setoff**  
150 **under this section, and the court determines that the provider's claim is valid, the amount**

151 of the provider's claim, and that provider's claim is eligible for setoff under this section;  
152 and

153 (4) Advise the patient that if the patient does not challenge the appeal committee's  
154 determination under this subsection, the provider will submit the claim to the claim  
155 clearinghouse for setoff by the department under this subsection.

156 6. If the provider prevails in the lawsuit filed under subsection 5 of this section, the  
157 provider may submit the claim to the claim clearinghouse for setoff by the department  
158 under this section. If the patient prevails in the lawsuit filed by the provider under  
159 subsection 5 of this section, the provider shall be:

160 (1) Forever barred from submitting the claim to the claim clearinghouse for setoff  
161 by the department under this section;

162 (2) Forever barred from taking any other steps to collect the amount of the claim  
163 from the patient; and

164 (3) Obligated to reimburse the patient for court costs and attorney's fees associated  
165 with the lawsuit filed under subsection 5 of this section.

166 7. Any provider may submit a claim to the claim clearinghouse for review. In  
167 connection with its submission of a claim to the claim clearinghouse, the provider,  
168 whenever possible, shall provide the claim clearinghouse with the patient's full name,  
169 Social Security number, address, and any other identifying information that the  
170 department advises the claim clearinghouse is necessary for the department to setoff the  
171 claim under this section. The provider shall also provide the claim clearinghouse with  
172 information demonstrating the provider's compliance with the requirements of this section  
173 with respect to the claim.

174 8. If the claim clearinghouse receives sufficient evidence that a provider has fully  
175 complied with the requirements of this section and finds the claim valid, the claim shall be  
176 deemed eligible for setoff by the department under this section and shall be forwarded to  
177 the department. In connection with its submission of the claim to the department, the  
178 claim clearinghouse, whenever possible, shall provide the department with the patient's full  
179 name, Social Security number, address, and any other identifying information that the  
180 department advises the claim clearinghouse is necessary for the department to setoff the  
181 claim under this section.

182 9. If the claim clearinghouse determines that the provider has failed to comply with  
183 any applicable requirements in this section or that the claim is not valid, the claim  
184 clearinghouse shall return the claim to the provider.

185 10. If the department determines that a patient identified by a provider in an  
186 eligible claim filed with the department is entitled to a refund, the department shall notify

187 the claim clearinghouse that a refund is available for setoff and the amount of such refund,  
188 and whether the refund results from a joint or combined return. Notwithstanding any  
189 provision of section 32.057 and any other confidentiality statute of this state to the  
190 contrary, the department may provide the claim clearinghouse with all information  
191 necessary to accomplish and carry out the provisions of this section and section 143.789,  
192 but shall not provide the claim clearinghouse with any information whose disclosure is  
193 prohibited by Section 6103(d) of the Internal Revenue Code of 1986, as amended. The  
194 information obtained by the claim clearinghouse from the department in accordance with  
195 this section and section 143.789 shall retain its confidentiality and shall only be used by the  
196 claim clearinghouse for the purpose described in this section and section 143.789.

197 11. (1) At that time, the department shall also notify the patient by regular mail  
198 that setoff against the patient's tax refund has been authorized under this section. The  
199 notice shall include the following information:

200 (a) The amount of the eligible claim and the name of the provider seeking setoff;

201 (b) That a setoff to the patient's refund against the eligible claim has been  
202 performed; and

203 (c) Any amount of the refund remaining after the offset of the eligible claim.

204 (2) In the case of a joint or combined return, the notice shall also state the name of  
205 the nonobligated taxpayer named in the return, if any, against whom no claim is asserted,  
206 the fact that no claim is asserted against such taxpayer, and the fact that such taxpayer is  
207 entitled to receive a refund if it is due the taxpayer regardless of the claim asserted against  
208 the taxpayer's spouse. In order to obtain the refund due the taxpayer, the taxpayer shall  
209 apply in writing for an apportionment of the refund with the department within thirty  
210 days of the date of receipt of the notice unless, in anticipation of the setoff of the taxpayer's  
211 spouse's refund, such nonobligated taxpayer provided the department with a request for  
212 apportionment of the anticipated refund which was filed at the same time the original tax  
213 return was filed, in which case the department shall determine the apportionment of the  
214 refund and forward the determination of apportionment and the nonobligated taxpayer's  
215 portion of the refund to the nonobligated taxpayer within fifteen working days of the  
216 transfer of the obligated taxpayer's portion of the refund to the claim clearinghouse.  
217 Unless a request for apportionment of the anticipated refund was provided to the  
218 department as provided in this section, within ninety days after the filing of such  
219 taxpayer's application for apportionment of the refund with the department a  
220 determination of apportionment shall be mailed to the nonobligated taxpayer by the  
221 department. The apportionment of the refund shall be final upon the expiration of thirty  
222 days from the date on which the determination of apportionment is mailed to the

223 nonobligated taxpayer unless, within such thirty-day period, the nonobligated taxpayer  
224 applies in writing for a hearing with the department.

225           **12. The department shall then pay to the claim clearinghouse the amount that the**  
226 **department has setoff for such provider, which shall include the collection assistance**  
227 **allocable to the claim clearinghouse. In the event the department is unable to setoff the**  
228 **entire eligible claim and collection assistance fee under this section, the setoff of the**  
229 **collection assistance fee shall have priority over the setoff of the eligible claim. If, after the**  
230 **department has paid to the claim clearinghouse the amount that the department has setoff**  
231 **for the provider, the provider is found not to have complied with any applicable**  
232 **requirement of this section, the provider shall send to the patient the entire amount of the**  
233 **claim offset by the department for the provider plus an amount equal to the collection**  
234 **assistance fee.**

235           **13. In addition to refunds, lottery prize payouts made under section 313.321 shall**  
236 **be subject to the setoff procedures established in this section.**

237           **14. The director of the department of revenue and the director of the department of**  
238 **health and senior services shall promulgate rules and regulations necessary to administer the**  
239 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**  
240 **536.010, that is created under the authority delegated in this section shall become effective only**  
241 **if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section**  
242 **536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the**  
243 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**  
244 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority**  
245 **and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

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