

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 354, Page 1, Section A, Line 3, by inserting after all of said line and section the
3 following:

4 "190.839. Sections 190.800 to 190.839 shall expire on September 30, [2015] 2016."; and
5

6 Further amend said bill, Page 11, Section 192.667, Line 217, by inserting after all of said line and
7 section the following:

8 "198.439. Sections 198.401 to 198.436 shall expire on September 30, [2015] 2016.

9 208.437. 1. A Medicaid managed care organization reimbursement allowance period as
10 provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of
11 June. The department shall notify each Medicaid managed care organization with a balance due on
12 the thirtieth day of June of each year the amount of such balance due. If any managed care
13 organization fails to pay its managed care organization reimbursement allowance within thirty days
14 of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may
15 remain unpaid during an appeal.

16 2. Except as otherwise provided in this section, if any reimbursement allowance imposed
17 under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of
18 social services may compel the payment of such reimbursement allowance in the circuit court having
19 jurisdiction in the county where the main offices of the Medicaid managed care organization are
20 located. In addition, the director of the department of social services or the director's designee may
21 cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid
22 managed care organization which fails to pay such delinquent reimbursement allowance required by
23 sections 208.431 to 208.437 unless under appeal.

24 3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement
25 allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or
26 revocation of a license granted by the department of insurance, financial institutions and professional
27 registration. The director of the department of insurance, financial institutions and professional
28 registration may deny, suspend or revoke the license of a Medicaid managed care organization with a
29 contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's
30 delinquent reimbursement allowance unless under appeal.

31 4. Nothing in sections 208.431 to 208.437 shall be deemed to effect or in any way limit the
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1 tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42
2 U.S.C. Section 1396b(m) granted by state law.

3 5. Sections 208.431 to 208.437 shall expire on September 30, [2015] 2016.

4 208.480. Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453
5 to 208.480 shall expire on September 30, [2015] 2016.

6 208.482. 1. The MO HealthNet division shall not recover disproportionate share hospital
7 audit recoupments from any tier 1 safety net hospital, excluding department of mental health state
8 operated psychiatric hospitals, for which an intergovernmental transfer was used for the nonfederal
9 share of its disproportionate share hospital payments. General revenue funds shall not be used to
10 offset any expenditure of funds to pay such recoupments to the federal government.

11 2. The provisions of this section shall expire on September 30, 2022."; and
12

13 Further amend said bill, Page 23, Section 324.001, Line 181, by inserting after all of said line and
14 section the following:

15 "338.550. 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety
16 days after any one or more of the following conditions are met:

17 (1) The aggregate dispensing fee as appropriated by the general assembly paid to
18 pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount;
19 or

20 (2) The formula used to calculate the reimbursement as appropriated by the general assembly
21 for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist
22 in the aggregate than provided in fiscal year 2003; or

23 (3) September 30, [2015] 2016.

24
25 The director of the department of social services shall notify the revisor of statutes of the expiration
26 date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to
27 pharmacies domiciled or headquartered outside this state which are engaged in prescription drug
28 sales that are delivered directly to patients within this state via common carrier, mail or a carrier
29 service.

30 2. Sections 338.500 to 338.550 shall expire on September 30, [2015] 2016.

31 633.401. 1. For purposes of this section, the following terms mean:

32 (1) "Engaging in the business of providing health benefit services", accepting payment for
33 health benefit services;

34 (2) "Intermediate care facility for the intellectually disabled", a private or department of
35 mental health facility which admits persons who are intellectually disabled or developmentally
36 disabled for residential habilitation and other services pursuant to chapter 630. Such term shall
37 include habilitation centers and private or public intermediate care facilities for the intellectually
38 disabled that have been certified to meet the conditions of participation under 42 CFR, Section 483,
39 Subpart 1;

40 (3) "Net operating revenues from providing services of intermediate care facilities for the
41 intellectually disabled" shall include, without limitation, all moneys received on account of such

1 services pursuant to rates of reimbursement established and paid by the department of social
2 services, but shall not include charitable contributions, grants, donations, bequests and income from
3 nonservice related fund-raising activities and government deficit financing, contractual allowance,
4 discounts or bad debt;

5 (4) "Services of intermediate care facilities for the intellectually disabled" has the same
6 meaning as the term "services of intermediate care facilities for the mentally retarded", as used in
7 Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a
8 class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary
9 Contribution and Provider Specific Tax Amendment of 1991.

10 2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the
11 intellectually disabled shall, in addition to all other fees and taxes now required or paid, pay
12 assessments on their net operating revenues for the privilege of engaging in the business of providing
13 services of the intermediate care facilities for the intellectually disabled or developmentally disabled
14 in this state.

15 3. Each facility's assessment shall be based on a formula set forth in rules and regulations
16 promulgated by the department of mental health.

17 4. For purposes of determining rates of payment under the medical assistance program for
18 providers of services of intermediate care facilities for the intellectually disabled, the assessment
19 imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be
20 reflected as timely as practicable in rates of payment applicable within the assessment period,
21 contingent, for payments by governmental agencies, on all federal approvals necessary by federal
22 law and regulation for federal financial participation in payments made for beneficiaries eligible for
23 medical assistance under Title XIX of the federal Social Security Act.

24 5. Assessments shall be submitted by or on behalf of each provider of services of
25 intermediate care facilities for the intellectually disabled on a monthly basis to the director of the
26 department of mental health or his or her designee and shall be made payable to the director of the
27 department of revenue.

28 6. In the alternative, a provider may direct that the director of the department of social
29 services offset, from the amount of any payment to be made by the state to the provider, the amount
30 of the assessment payment owed for any month.

31 7. Assessment payments shall be deposited in the state treasury to the credit of the
32 "Intermediate Care Facility Intellectually Disabled Reimbursement Allowance Fund", which is
33 hereby created in the state treasury. All investment earnings of this fund shall be credited to the
34 fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in
35 the intermediate care facility intellectually disabled reimbursement allowance fund at the end of the
36 biennium shall not revert to the general revenue fund but shall accumulate from year to year. The
37 state treasurer shall maintain records that show the amount of money in the fund at any time and the
38 amount of any investment earnings on that amount.

39 8. Each provider of services of intermediate care facilities for the intellectually disabled shall
40 keep such records as may be necessary to determine the amount of the assessment for which it is
41 liable under this section. On or before the forty-fifth day after the end of each month commencing

1 July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled
2 shall submit to the department of social services a report on a cash basis that reflects such
3 information as is necessary to determine the amount of the assessment payable for that month.

4 9. Every provider of services of intermediate care facilities for the intellectually disabled
5 shall submit a certified annual report of net operating revenues from the furnishing of services of
6 intermediate care facilities for the intellectually disabled. The reports shall be in such form as may
7 be prescribed by rule by the director of the department of mental health. Final payments of the
8 assessment for each year shall be due for all providers of services of intermediate care facilities for
9 the intellectually disabled upon the due date for submission of the certified annual report.

10 10. The director of the department of mental health shall prescribe by rule the form and
11 content of any document required to be filed pursuant to the provisions of this section.

12 11. Upon receipt of notification from the director of the department of mental health of a
13 provider's delinquency in paying assessments required under this section, the director of the
14 department of social services shall withhold, and shall remit to the director of the department of
15 revenue, an assessment amount estimated by the director of the department of mental health from
16 any payment to be made by the state to the provider.

17 12. In the event a provider objects to the estimate described in subsection 11 of this section,
18 or any other decision of the department of mental health related to this section, the provider of
19 services may request a hearing. If a hearing is requested, the director of the department of mental
20 health shall provide the provider of services an opportunity to be heard and to present evidence
21 bearing on the amount due for an assessment or other issue related to this section within thirty days
22 after collection of an amount due or receipt of a request for a hearing, whichever is later. The
23 director shall issue a final decision within forty-five days of the completion of the hearing. After
24 reconsideration of the assessment determination and a final decision by the director of the
25 department of mental health, an intermediate care facility for the intellectually disabled provider's
26 appeal of the director's final decision shall be to the administrative hearing commission in
27 accordance with sections 208.156 and 621.055.

28 13. Notwithstanding any other provision of law to the contrary, appeals regarding this
29 assessment shall be to the circuit court of Cole County or the circuit court in the county in which the
30 facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

31 14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or
32 nonprofit status of any intermediate care facility for the intellectually disabled granted by state law.

33 15. The director of the department of mental health shall promulgate rules and regulations to
34 implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
35 is created under the authority delegated in this section shall become effective only if it complies with
36 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
37 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
38 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
39 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
40 adopted after August 28, 2008, shall be invalid and void.

41 16. The provisions of this section shall expire on September 30, [2015] 2016."; and

- 1
- 2 Further amend said bill by amending the title, enacting clause, and intersectional references
- 3 accordingly.