

SECOND REGULAR SESSION

HOUSE BILL NO. 1493

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTER.

3926H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to public assistance benefits.

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Section A. Section 208.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.010, to read as follows: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

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 of a claimant in federally aided programs there shall be disregarded such amounts per month
19 of earned income in making such determination as shall be required for federal participation
20 by the provisions of the federal Social Security Act (42 [~~U.S.C.A.~~] U.S.C. Section 301, et
21 seq.), or any amendments thereto. When federal law or regulations require the exemption of
22 other income or resources, the family support division may provide by rule or regulation the
23 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,
26 given away or sold a resource within the time and in the manner specified in this subdivision.
27 In determining the resources of an individual, unless prohibited by federal statutes or
28 regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4)
29 and (5) of this subsection, and subsection 5 of this section) any resource or interest therein
30 owned by such individual or spouse within the twenty-four months preceding the initial
31 investigation, or at any time during which benefits are being drawn, if such individual or
32 spouse gave away or sold such resource or interest within such period of time at less than fair
33 market value of such resource or interest for the purpose of establishing eligibility for
34 benefits, including but not limited to benefits based on December, 1973, eligibility
35 requirements, as follows:

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

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

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

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

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

54 (3) Has received, or whose spouse with whom he or she is living has received,
55 benefits to which he or she was not entitled through misrepresentation or nondisclosure of
56 material facts or failure to report any change in status or correct information with respect to
57 property or income as required by section 208.210. A claimant ineligible pursuant to this
58 ~~[subsection]~~ **subdivision** shall be ineligible for such period of time from the date of discovery
59 as the family support division may deem proper; or in the case of overpayment of benefits,
60 future benefits may be decreased, suspended or entirely withdrawn for such period of time as
61 the division may deem proper;

62 (4) Owns or possesses resources in the sum of one thousand dollars or more;
63 provided, however, that if such person is married and living with spouse, he or she, or they,
64 individually or jointly, may own resources not to exceed two thousand dollars; and provided
65 further, that in the case of a temporary assistance for needy families claimant, a MO
66 HealthNet blind claimant, a MO HealthNet aged claimant, or a MO HealthNet permanent and
67 total disability claimant, the ~~[provision]~~ **provisions** of this ~~[subsection]~~ **subdivision** shall not
68 apply;

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

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

89 (7) In the case of MO HealthNet blind claimants, MO HealthNet aged claimants, and
90 MO HealthNet permanent and total disability claimants, starting in fiscal year 2018, owns or

91 possesses resources not to exceed two thousand dollars; provided, however, that if such
92 person is married and living with spouse, he or she, or they, individually or jointly, may own
93 resources not to exceed four thousand dollars except for medical savings accounts and
94 independent living accounts as defined and limited under subsection 3 of section 208.146.
95 These resource limits shall be increased annually by one thousand dollars and two thousand
96 dollars respectively until the sum of resources reach the amount of five thousand dollars and
97 ten thousand dollars respectively by fiscal year 2021. Beginning in fiscal year 2022 and each
98 successive fiscal year thereafter, the division shall measure the cost-of-living percentage
99 increase, if any, as of the preceding July over the level as of July of the immediately
100 preceding year of the Consumer Price Index for All Urban Consumers (**CPI-U**) **for the U.S.**
101 **City Average for All Items** or successor index published by the U.S. Department of Labor or
102 its successor agency, and the sum of resources allowed under this subdivision shall be
103 modified accordingly to reflect any increases in the cost-of-living, with the amount of the
104 resource limit rounded to the nearest five cents;

105 (8) Is an inmate of a public institution, except as a patient in a public medical
106 institution.

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

111 4. In determining eligibility and the amount of benefits to be granted pursuant to
112 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
113 prearranged funeral or burial contract under chapter 436 shall not be taken into account or
114 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged
115 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space
116 as defined in section 214.270 and any memorial, monument, marker, tombstone or letter
117 marking a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable
118 prearranged funeral or burial contract receives any public assistance benefits pursuant to this
119 chapter and if the purchaser of such contract or his or her successors in interest transfer,
120 amend, or take any other such actions regarding the contract so that any person will be
121 entitled to a refund, such refund shall be paid to the state of Missouri with any amount in
122 excess of the public assistance benefits provided under this chapter to be refunded by the state
123 of Missouri to the purchaser or his or her successors. In determining eligibility and the
124 amount of benefits to be granted under federally aided programs, the value of any life
125 insurance policy where a seller or provider is made the beneficiary or where the life insurance
126 policy is assigned to a seller or provider, either being in consideration for an irrevocable
127 prearranged funeral contract under chapter 436, shall not be taken into account or considered

an asset of the beneficiary of the irrevocable prearranged funeral contract. In addition, the value of any funds, up to nine thousand nine hundred ninety-nine dollars, placed into an irrevocable personal funeral trust account, where the trustee of the irrevocable personal funeral trust account is a state or federally chartered financial institution authorized to exercise trust powers in the state of Missouri, shall not be taken into account or considered an asset of the person whose funds are so deposited if such funds are restricted to be used only for the burial, funeral, preparation of the body, or other final disposition of the person whose funds were deposited into said personal funeral trust account. No person or entity shall charge more than ten percent of the total amount deposited into a personal funeral trust in order to create or set up said personal funeral trust, and any fees charged for the maintenance of such a personal funeral trust shall not exceed three percent of the trust assets annually. Trustees may commingle funds from two or more such personal funeral trust accounts so long as accurate books and records are kept as to the value, deposits, and disbursements of each individual depositor's funds and trustees are to use the prudent investor standard as to the investment of any funds placed into a personal funeral trust. If the person whose funds are deposited into the personal funeral trust account receives any public assistance benefits pursuant to this chapter and any funds in the personal funeral trust account are, for any reason, not spent on the burial, funeral, preparation of the body, or other final disposition of the person whose funds were deposited into the trust account, such funds shall be paid to the state of Missouri with any amount in excess of the public assistance benefits provided under this chapter to be refunded by the state of Missouri to the person who received public assistance benefits or his or her successors. No contract with any cemetery, funeral establishment, or any provider or seller shall be required in regards to funds placed into a personal funeral trust account as set out in this subsection.

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

- (1) A claimant or person for whom benefits are claimed; or
- (2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living.

If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or

165 burial contract, or any two or more contracts, which provides for the payment of one thousand
166 five hundred dollars or less per family member.

167 6. Beginning September 30, 1989, when determining the eligibility of
168 institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance
169 benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the family
170 support division shall comply with the provisions of the federal statutes and regulations. As
171 necessary, the division shall by rule or regulation implement the federal law and regulations
172 which shall include but not be limited to the establishment of income and resource standards
173 and limitations. The division shall require:

174 (1) That at the beginning of a period of continuous institutionalization that is expected
175 to last for thirty days or more, the institutionalized spouse, or the community spouse, may
176 request an assessment by the family support division of total countable resources owned by
177 either or both spouses;

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

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

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

189 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
190 subsection shall be increased by the percentage increase in the Consumer Price Index for All
191 Urban Consumers **(CPI-U) for the U.S. City Average for All Items or successor index**
192 between September, 1988, and the September before the calendar year involved; and

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

196 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the
197 periods required and for the reasons specified in 42 U.S.C. Section 1396p.

198 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
199 the provisions of section 208.080.

200 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
201 this chapter there shall be disregarded unless otherwise provided by federal or state statutes

202 the home of the applicant or recipient when the home is providing shelter to the applicant or
203 recipient, or his or her spouse or dependent child. The family support division shall establish
204 by rule or regulation in conformance with applicable federal statutes and regulations a
205 definition of the home and when the home shall be considered a resource that shall be
206 considered in determining eligibility.

207 10. Reimbursement for services provided by an enrolled Medicaid provider to a
208 recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B,
209 Supplementary Medical Insurance (SMI) shall include payment in full of deductible and
210 coinsurance amounts as determined due pursuant to the applicable provisions of federal
211 regulations pertaining to Title XVIII Medicare Part B, except for hospital outpatient services
212 or the applicable Title XIX cost sharing.

213 11. A "community spouse" is defined as being the noninstitutionalized spouse.

214 12. An institutionalized spouse applying for Medicaid and having a spouse living in
215 the community shall be required, to the maximum extent permitted by law, to divert income to
216 such community spouse to raise the community spouse's income to the level of the minimum
217 monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of
218 income shall occur before the community spouse is allowed to retain assets in excess of the
219 community spouse protected amount described in 42 U.S.C. Section 1396r-5.

220 **13. Beginning January 1, 2023, any recipient of public benefits under this**
221 **chapter shall be responsible for ensuring that school-age minor children in the**
222 **recipient's custody or for whom the recipient receives benefits attend school. Every six**
223 **months, the family support division shall review attendance records of all recipients'**
224 **school-age minor children or children for whom they receive benefits. If any school-age**
225 **minor child in the custody of a recipient or for whom the recipient receives benefits has**
226 **attended less than ninety percent of the school days in that six-month period and the**
227 **absences were not excused according to school district policy, the division shall reduce**
228 **all benefits of the recipient by thirty-five percent for the next six months. If after that**
229 **six-month period there are any children in the custody of a recipient or for whom the**
230 **recipient receives benefits with an attendance rate of less than ninety percent, all**
231 **benefits shall continue to be paid at the reduced rate. If all children in the custody of a**
232 **recipient or for whom the recipient receives benefits have attended at least ninety**
233 **percent of school days in that six-month period, the full amount of the recipient's**
234 **benefits shall be restored.**