

# HOUSE BILL NO. 2389

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BARNES.

6019H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 208, RSMo, by adding thereto two new sections relating to the MO HealthNet program.

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

Section A. Chapter 208, RSMo, is amended by adding thereto two new sections, to be known as sections 208.998 and 208.999, to read as follows:

**208.998. 1. Beginning July 1, 2018, except for individuals who meet the definition of medically frail as determined by the department of social services and in compliance with 42 CFR 440.315 and participants receiving state supplemental payments for the aged, blind, and disabled, individuals who qualify for coverage under section 208.151 shall receive covered services through health plans offered by care management organizations that are authorized by the department under the provisions of this section. Health plans authorized by the department:**

**(1) Shall promote, to the greatest extent possible, the opportunity for children and their parents to be covered under the same plan;**

**(2) Shall include cost sharing for outpatient services to the maximum extent allowed by federal law;**

**(3) May include other co-payments and provide incentives that encourage and reward the prudent use of the health benefit provided;**

**(4) Shall encourage access to care through provider rates that include pay-for-performance;**

**(5) Shall provide incentives, including shared risk and savings, to health plans and providers to encourage cost-effective delivery of care and reward quality health outcomes;**

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           **(6) May provide multiple plan options and reward participants for choosing a low-**  
19 **cost plan; and**

20           **(7) Shall include the services of health providers as defined in 42 U.S.C. Section**  
21 **1396d(l)(1) and (2) and meet the payment requirements for such health providers as**  
22 **provided in 42 U.S.C. Sections 1396a(a)(15) and 1396a(bb).**

23           **2. The department may designate that certain health care services be excluded from**  
24 **such health plans if it is determined cost effective by the department or based upon**  
25 **population acuity and need.**

26           **3. (1) The department may accept regional plan proposals as an additional option**  
27 **for beneficiaries.**

28           **(2) The department shall advance the development of systems of care for medically**  
29 **complex children who are recipients of MO HealthNet benefits by accepting cost-effective**  
30 **regional proposals from and contracting with appropriate pediatric care networks,**  
31 **pediatric centers for excellence, and medical homes for children to provide MO HealthNet**  
32 **benefits if the department determines it is cost effective to do so. Such entities shall be**  
33 **treated as accountable care organizations.**

34           **(3) The provisions of subsection 1 of this section shall not apply to this subsection.**

35           **4. The department shall establish, in collaboration with plans and providers,**  
36 **uniform utilization review protocols to be used by all authorized health plans.**

37           **5. The department shall establish a competitive bidding process for contracting**  
38 **with care management organizations. For determining accepted bids, the department shall**  
39 **consider the following factors:**

40           **(1) The cost to Missouri taxpayers;**

41           **(2) The extent of the network of health care providers offering services within the**  
42 **bidder's plan;**

43           **(3) Additional services offered to participants under the bidder's plan;**

44           **(4) The bidder's history of providing care management plans for similar**  
45 **populations in Missouri or other states including the bidder's history of contractual default**  
46 **and the bidder's history of maintaining a medical loss ratio of at least ninety percent; and**

47           **(5) Any other criteria the department deems relevant to ensuring MO HealthNet**  
48 **benefits are provided to participants in such manner as to save taxpayer moneys and**  
49 **improve health outcomes of participants.**

50           **6. Any care management organization that enters into a contract with the state to**  
51 **provide a care management plan shall be required to fulfill the terms of the contract and**  
52 **provide such plans for at least twelve months, or longer if the contract so provides. All**  
53 **contracts between care management organizations and the state shall include a provision**

54 requiring that at least five percent of the payments to the care management organization  
55 shall be withheld by the department until the end of the contractual period to ensure  
56 contractual compliance. The department, at its discretion, may include a contractual  
57 provision requiring a withhold amount greater than five percent. The state shall not  
58 increase the reimbursement rate provided to the care management organization during the  
59 contract period above the rate included in the contract. If the care management  
60 organization breaches the contract, the state shall be entitled to bring an action against the  
61 care management organization for any remedy allowed by law or equity and shall also  
62 recover any and all damages provided by law, including liquidated damages in an amount  
63 determined by the department during the bidding process. The department may impose  
64 penalties, to be determined by the department, if a contracted care management  
65 organization fails to maintain network adequacy, as defined by the department. Nothing  
66 in this subsection shall be construed to preclude the department or the state of Missouri  
67 from terminating the contract as specified in the terms of the contract, including for breach  
68 of contract, lack of appropriated funds, or exercising any remedies for breach as may be  
69 provided in the contract.

70       7. (1) Except for individuals who meet the definition of medically frail, participants  
71 enrolling in care management plans under this section shall have the ability to choose their  
72 plan. In the enrollment process, participants shall be provided a list of all plans available  
73 ranked by the relative actuarial value of each plan. Each participant shall be informed in  
74 the enrollment process that he or she will be eligible to receive a portion of the amount  
75 saved by Missouri taxpayers if he or she chooses a lower cost plan offered in his or her  
76 region. The portion received by a participant shall be determined by the department  
77 according to the department's best judgment as to the portion that will bring the maximum  
78 savings to Missouri taxpayers.

79       (2) If a participant fails or refuses to choose a plan as set forth in subdivision (1)  
80 of this subsection, the department shall determine rules for auto-assignment, which shall  
81 include incentives for low-cost bids and improved health outcomes as determined by the  
82 department.

83       (3) The provisions of this subsection shall be null and void unless and until any  
84 waivers or state plan amendments necessary to implement the provisions of this subsection  
85 are granted by the federal Department of Health and Human Services.

86       8. This section shall not be construed to require the department to terminate any  
87 existing care management contract or to extend any care management contract.

88           **9. All MO HealthNet plans under this section shall provide coverage for the**  
89 **following services unless they are specifically excluded under subsection 2 of this section**  
90 **and instead are provided by an administrative services organization:**

91           **(1) Ambulatory patient services;**

92           **(2) Emergency services;**

93           **(3) Hospitalization;**

94           **(4) Maternity and newborn care;**

95           **(5) Mental health and substance abuse treatment, including behavioral health**  
96 **treatment;**

97           **(6) Prescription drugs;**

98           **(7) Rehabilitative and habilitative services and devices;**

99           **(8) Laboratory services;**

100           **(9) Preventive and wellness care, and chronic disease management;**

101           **(10) Pediatric services, including oral and vision care; and**

102           **(11) Any other services required by federal law.**

103           **10. No MO HealthNet plan or program shall provide coverage for an abortion**  
104 **unless a physician certifies in writing to the MO HealthNet division that, in the physician's**  
105 **professional judgment, the life of the mother would be endangered if the fetus were carried**  
106 **to term.**

107           **11. No cash payments, incentives, or credits paid to or on behalf of a MO HealthNet**  
108 **participant under a program established by the department under this section shall be**  
109 **deemed to be income to the participant in any means-tested benefit program unless**  
110 **otherwise specifically required by law or rule of the department.**

111           **12. The department shall seek all necessary waivers and state plan amendments**  
112 **from the federal Department of Health and Human Services necessary to implement the**  
113 **provisions of this section. The provisions of this section shall not be implemented unless**  
114 **and until such waivers and state plan amendments are approved. If this section is**  
115 **approved in part by the federal government, the department is authorized to proceed on**  
116 **those sections for which approval has been granted. However, nothing shall prevent the**  
117 **department from expanding care management for populations under other granted**  
118 **authority.**

119           **13. Each health plan shall be required to provide on a monthly basis all necessary**  
120 **data regarding enrollees, as determined by the department, to allow the department to**  
121 **analyze cost and quality metrics, compliance, and direct potential population health**  
122 **initiative outcomes.**

123           **14. The department may promulgate rules to implement the provisions of this**  
124 **section. Any rule or portion of a rule, as the term is defined in section 536.010, that is**  
125 **created under the authority delegated in this section shall become effective only if it**  
126 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
127 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
128 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
129 **date or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
130 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**  
131 **shall be invalid and void.**

**208.999. 1. Notwithstanding any other provision of law to the contrary, beginning**  
2 **July 1, 2018, any MO HealthNet participant who elects to receive medical coverage**  
3 **through a private health insurance plan instead of through the MO HealthNet program**  
4 **shall be eligible for a private insurance premium subsidy to assist the participant in paying**  
5 **the costs of such private insurance if it is determined to be cost effective by the department**  
6 **of social services. The subsidy shall be provided on a sliding scale based on income, with**  
7 **a graduated reduction in subsidy over a period of time not to exceed two years.**

8           **2. The department may promulgate rules to implement the provisions of this**  
9 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
10 **created under the authority delegated in this section shall become effective only if it**  
11 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
12 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
13 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
14 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
15 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**  
16 **shall be invalid and void.**

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