SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 597

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Offered February 20, 2018.

Senate Substitute adopted, February 20, 2018.

Taken up for Perfection February 20, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

4177S.03P

Unofficial Bill Copy

AN ACT

To repeal section 208.152, RSMo, and to enact in lieu thereof one new section relating to chiropractic services.

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

Section A. Section 208.152, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 208.152, to read as follows:

208.152. 1. MO HealthNet payments shall be made on behalf of those
2 eligible needy persons as described in section 208.151 who are unable to provide
3 for it in whole or in part, with any payments to be made on the basis of the
4 reasonable cost of the care or reasonable charge for the services as defined and
5 determined by the MO HealthNet division, unless otherwise hereinafter provided,
6 for the following:
7 (1) Inpatient hospital services, except to persons in an institution for
8 mental diseases who are under the age of sixty-five years and over the age of
9 twenty-one years; provided that the MO HealthNet division shall provide through
10 rule and regulation an exception process for coverage of inpatient costs in those
11 cases requiring treatment beyond the seventy-fifth percentile professional
12 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay
13 schedule; and provided further that the MO HealthNet division shall take into
14 account through its payment system for hospital services the situation of
15 hospitals which serve a disproportionate number of low-income patients;

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (2) All outpatient hospital services, payments therefor to be in amounts
17 which represent no more than eighty percent of the lesser of reasonable costs or
18 customary charges for such services, determined in accordance with the principles
19 set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the
20 federal Social Security Act (42 U.S.C. Section 301, et seq.), but the MO HealthNet
21 division may evaluate outpatient hospital services rendered under this section
22 and deny payment for services which are determined by the MO HealthNet
23 division not to be medically necessary, in accordance with federal law and
24 regulations;

25 (3) Laboratory and X-ray services;

26 (4) Nursing home services for participants, except to persons with more
27 than five hundred thousand dollars equity in their home or except for persons in
28 an institution for mental diseases who are under the age of sixty-five years, when
29 residing in a hospital licensed by the department of health and senior services or
30 a nursing home licensed by the department of health and senior services or
31 appropriate licensing authority of other states or government-owned and
32 -operated institutions which are determined to conform to standards equivalent
33 to licensing requirements in Title XIX of the federal Social Security Act (42
34 U.S.C. Section 301, et seq.), as amended, for nursing facilities. The MO
35 HealthNet division may recognize through its payment methodology for nursing
36 facilities those nursing facilities which serve a high volume of MO HealthNet
37 patients. The MO HealthNet division when determining the amount of the
38 benefit payments to be made on behalf of persons under the age of twenty-one in
39 a nursing facility may consider nursing facilities furnishing care to persons under
40 the age of twenty-one as a classification separate from other nursing facilities;

41 (5) Nursing home costs for participants receiving benefit payments under
42 subdivision (4) of this subsection for those days, which shall not exceed twelve per
43 any period of six consecutive months, during which the participant is on a
44 temporary leave of absence from the hospital or nursing home, provided that no
45 such participant shall be allowed a temporary leave of absence unless it is
46 specifically provided for in his plan of care. As used in this subdivision, the term
47 "temporary leave of absence" shall include all periods of time during which a
48 participant is away from the hospital or nursing home overnight because he is
49 visiting a friend or relative;

50 (6) Physicians' services, whether furnished in the office, home, hospital,
51 nursing home, or elsewhere;

Unofficial Bill Copy

52 (7) **Up to twenty visits per year for services limited to**
53 **examinations, diagnoses, adjustments, and manipulations and**
54 **treatments of malpositioned articulations and structures of the body**
55 **provided by licensed chiropractic physicians practicing within their**
56 **scope of practice. Nothing in this subdivision shall be interpreted to**
57 **otherwise expand MO HealthNet services;**
58 **(8)** Drugs and medicines when prescribed by a licensed physician, dentist,
59 podiatrist, or an advanced practice registered nurse; except that no payment for
60 drugs and medicines prescribed on and after January 1, 2006, by a licensed
61 physician, dentist, podiatrist, or an advanced practice registered nurse may be
62 made on behalf of any person who qualifies for prescription drug coverage under
63 the provisions of P.L. 108-173;
64 **[**(8)**]** **(9)** Emergency ambulance services and, effective January 1, 1990,
65 medically necessary transportation to scheduled, physician-prescribed nonelective
66 treatments;
67 **[**(9)**]** **(10)** Early and periodic screening and diagnosis of individuals who
68 are under the age of twenty-one to ascertain their physical or mental defects, and
69 health care, treatment, and other measures to correct or ameliorate defects and
70 chronic conditions discovered thereby. Such services shall be provided in
71 accordance with the provisions of Section 6403 of P.L. 101-239 and federal
72 regulations promulgated thereunder;
73 **[**(10)**]** **(11)** Home health care services;
74 **[**(11)**]** **(12)** Family planning as defined by federal rules and regulations;
75 provided, however, that such family planning services shall not include abortions
76 unless such abortions are certified in writing by a physician to the MO HealthNet
77 agency that, in the physician's professional judgment, the life of the mother would
78 be endangered if the fetus were carried to term;
79 **[**(12)**]** **(13)** Inpatient psychiatric hospital services for individuals under
80 age twenty-one as defined in Title XIX of the federal Social Security Act (42
81 U.S.C. Section 1396d, et seq.);
82 **[**(13)**]** **(14)** Outpatient surgical procedures, including presurgical
83 diagnostic services performed in ambulatory surgical facilities which are licensed
84 by the department of health and senior services of the state of Missouri; except,
85 that such outpatient surgical services shall not include persons who are eligible
86 for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to
87 the federal Social Security Act, as amended, if exclusion of such persons is

Unofficial Bill Copy

88 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal
89 Social Security Act, as amended;
90 **[**(14)**]** **(15)** Personal care services which are medically oriented tasks
91 having to do with a person's physical requirements, as opposed to housekeeping
92 requirements, which enable a person to be treated by his or her physician on an
93 outpatient rather than on an inpatient or residential basis in a hospital,
94 intermediate care facility, or skilled nursing facility. Personal care services shall
95 be rendered by an individual not a member of the participant's family who is
96 qualified to provide such services where the services are prescribed by a physician
97 in accordance with a plan of treatment and are supervised by a licensed
98 nurse. Persons eligible to receive personal care services shall be those persons
99 who would otherwise require placement in a hospital, intermediate care facility,
100 or skilled nursing facility. Benefits payable for personal care services shall not
101 exceed for any one participant one hundred percent of the average statewide
102 charge for care and treatment in an intermediate care facility for a comparable
103 period of time. Such services, when delivered in a residential care facility or
104 assisted living facility licensed under chapter 198 shall be authorized on a tier
105 level based on the services the resident requires and the frequency of the services.
106 A resident of such facility who qualifies for assistance under section 208.030
107 shall, at a minimum, if prescribed by a physician, qualify for the tier level with
108 the fewest services. The rate paid to providers for each tier of service shall be set
109 subject to appropriations. Subject to appropriations, each resident of such facility
110 who qualifies for assistance under section 208.030 and meets the level of care
111 required in this section shall, at a minimum, if prescribed by a physician, be
112 authorized up to one hour of personal care services per day. Authorized units of
113 personal care services shall not be reduced or tier level lowered unless an order
114 approving such reduction or lowering is obtained from the resident's personal
115 physician. Such authorized units of personal care services or tier level shall be
116 transferred with such resident if he or she transfers to another such
117 facility. Such provision shall terminate upon receipt of relevant waivers from the
118 federal Department of Health and Human Services. If the Centers for Medicare
119 and Medicaid Services determines that such provision does not comply with the
120 state plan, this provision shall be null and void. The MO HealthNet division
121 shall notify the revisor of statutes as to whether the relevant waivers are
122 approved or a determination of noncompliance is made;
123 **[**(15)**]** **(16)** Mental health services. The state plan for providing medical

Unofficial Bill Copy

124 assistance under Title XIX of the Social Security Act, 42 U.S.C. Section 301, as
125 amended, shall include the following mental health services when such services
126 are provided by community mental health facilities operated by the department
127 of mental health or designated by the department of mental health as a
128 community mental health facility or as an alcohol and drug abuse facility or as
129 a child-serving agency within the comprehensive children's mental health service
130 system established in section 630.097. The department of mental health shall
131 establish by administrative rule the definition and criteria for designation as a
132 community mental health facility and for designation as an alcohol and drug
133 abuse facility. Such mental health services shall include:

134 (a) Outpatient mental health services including preventive, diagnostic,
135 therapeutic, rehabilitative, and palliative interventions rendered to individuals
136 in an individual or group setting by a mental health professional in accordance
137 with a plan of treatment appropriately established, implemented, monitored, and
138 revised under the auspices of a therapeutic team as a part of client services
139 management;

140 (b) Clinic mental health services including preventive, diagnostic,
141 therapeutic, rehabilitative, and palliative interventions rendered to individuals
142 in an individual or group setting by a mental health professional in accordance
143 with a plan of treatment appropriately established, implemented, monitored, and
144 revised under the auspices of a therapeutic team as a part of client services
145 management;

146 (c) Rehabilitative mental health and alcohol and drug abuse services
147 including home and community-based preventive, diagnostic, therapeutic,
148 rehabilitative, and palliative interventions rendered to individuals in an
149 individual or group setting by a mental health or alcohol and drug abuse
150 professional in accordance with a plan of treatment appropriately established,
151 implemented, monitored, and revised under the auspices of a therapeutic team
152 as a part of client services management. As used in this section, mental health
153 professional and alcohol and drug abuse professional shall be defined by the
154 department of mental health pursuant to duly promulgated rules. With respect
155 to services established by this subdivision, the department of social services, MO
156 HealthNet division, shall enter into an agreement with the department of mental
157 health. Matching funds for outpatient mental health services, clinic mental
158 health services, and rehabilitation services for mental health and alcohol and
159 drug abuse shall be certified by the department of mental health to the MO

Unofficial Bill Copy

160 HealthNet division. The agreement shall establish a mechanism for the joint
161 implementation of the provisions of this subdivision. In addition, the agreement
162 shall establish a mechanism by which rates for services may be jointly developed;
163 **[**(16)**]** **(17)** Such additional services as defined by the MO HealthNet
164 division to be furnished under waivers of federal statutory requirements as
165 provided for and authorized by the federal Social Security Act (42 U.S.C. Section
166 301, et seq.) subject to appropriation by the general assembly;
167 **[**(17)**]** **(18)** The services of an advanced practice registered nurse with a
168 collaborative practice agreement to the extent that such services are provided in
169 accordance with chapters 334 and 335, and regulations promulgated thereunder;
170 **[**(18)**]** **(19)** Nursing home costs for participants receiving benefit
171 payments under subdivision (4) of this subsection to reserve a bed for the
172 participant in the nursing home during the time that the participant is absent
173 due to admission to a hospital for services which cannot be performed on an
174 outpatient basis, subject to the provisions of this subdivision:
175 (a) The provisions of this subdivision shall apply only if:
176 a. The occupancy rate of the nursing home is at or above ninety-seven
177 percent of MO HealthNet certified licensed beds, according to the most recent
178 quarterly census provided to the department of health and senior services which
179 was taken prior to when the participant is admitted to the hospital; and
180 b. The patient is admitted to a hospital for a medical condition with an
181 anticipated stay of three days or less;
182 (b) The payment to be made under this subdivision shall be provided for
183 a maximum of three days per hospital stay;
184 (c) For each day that nursing home costs are paid on behalf of a
185 participant under this subdivision during any period of six consecutive months
186 such participant shall, during the same period of six consecutive months, be
187 ineligible for payment of nursing home costs of two otherwise available temporary
188 leave of absence days provided under subdivision (5) of this subsection; and
189 (d) The provisions of this subdivision shall not apply unless the nursing
190 home receives notice from the participant or the participant's responsible party
191 that the participant intends to return to the nursing home following the hospital
192 stay. If the nursing home receives such notification and all other provisions of
193 this subsection have been satisfied, the nursing home shall provide notice to the
194 participant or the participant's responsible party prior to release of the reserved
195 bed;

Unofficial Bill Copy

196 **[**(19)**]** **(20)** Prescribed medically necessary durable medical equipment.
197 An electronic web-based prior authorization system using best medical evidence
198 and care and treatment guidelines consistent with national standards shall be
199 used to verify medical need;
200 **[**(20)**]** **(21)** Hospice care. As used in this subdivision, the term "hospice
201 care" means a coordinated program of active professional medical attention within
202 a home, outpatient and inpatient care which treats the terminally ill patient and
203 family as a unit, employing a medically directed interdisciplinary team. The
204 program provides relief of severe pain or other physical symptoms and supportive
205 care to meet the special needs arising out of physical, psychological, spiritual,
206 social, and economic stresses which are experienced during the final stages of
207 illness, and during dying and bereavement and meets the Medicare requirements
208 for participation as a hospice as are provided in 42 CFR Part 418. The rate of
209 reimbursement paid by the MO HealthNet division to the hospice provider for
210 room and board furnished by a nursing home to an eligible hospice patient shall
211 not be less than ninety-five percent of the rate of reimbursement which would
212 have been paid for facility services in that nursing home facility for that patient,
213 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus
214 Budget Reconciliation Act of 1989);
215 **[**(21)**]** **(22)** Prescribed medically necessary dental services. Such services
216 shall be subject to appropriations. An electronic web-based prior authorization
217 system using best medical evidence and care and treatment guidelines consistent
218 with national standards shall be used to verify medical need;
219 **[**(22)**]** **(23)** Prescribed medically necessary optometric services. Such
220 services shall be subject to appropriations. An electronic web-based prior
221 authorization system using best medical evidence and care and treatment
222 guidelines consistent with national standards shall be used to verify medical
223 need;
224 **[**(23)**]** **(24)** Blood clotting products-related services. For persons
225 diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood
226 clotting products, as defined in section 338.400, such services include:
227 (a) Home delivery of blood clotting products and ancillary infusion
228 equipment and supplies, including the emergency deliveries of the product when
229 medically necessary;
230 (b) Medically necessary ancillary infusion equipment and supplies
231 required to administer the blood clotting products; and

Unofficial Bill Copy

232 (c) Assessments conducted in the participant's home by a pharmacist,
233 nurse, or local home health care agency trained in bleeding disorders when
234 deemed necessary by the participant's treating physician;

235 **[**(24)**]** **(25)** The MO HealthNet division shall, by January 1, 2008, and
236 annually thereafter, report the status of MO HealthNet provider reimbursement
237 rates as compared to one hundred percent of the Medicare reimbursement rates
238 and compared to the average dental reimbursement rates paid by third-party
239 payors licensed by the state. The MO HealthNet division shall, by July 1, 2008,
240 provide to the general assembly a four-year plan to achieve parity with Medicare
241 reimbursement rates and for third-party payor average dental reimbursement
242 rates. Such plan shall be subject to appropriation and the division shall include
243 in its annual budget request to the governor the necessary funding needed to
244 complete the four-year plan developed under this subdivision.

245 2. Additional benefit payments for medical assistance shall be made on
246 behalf of those eligible needy children, pregnant women and blind persons with
247 any payments to be made on the basis of the reasonable cost of the care or
248 reasonable charge for the services as defined and determined by the MO
249 HealthNet division, unless otherwise hereinafter provided, for the following:

250 (1) Dental services;

251 (2) Services of podiatrists as defined in section 330.010;

252 (3) Optometric services as described in section 336.010;

253 (4) Orthopedic devices or other prosthetics, including eye glasses,
254 dentures, hearing aids, and wheelchairs;

255 (5) Hospice care. As used in this subdivision, the term "hospice care"
256 means a coordinated program of active professional medical attention within a
257 home, outpatient and inpatient care which treats the terminally ill patient and
258 family as a unit, employing a medically directed interdisciplinary team. The
259 program provides relief of severe pain or other physical symptoms and supportive
260 care to meet the special needs arising out of physical, psychological, spiritual,
261 social, and economic stresses which are experienced during the final stages of
262 illness, and during dying and bereavement and meets the Medicare requirements
263 for participation as a hospice as are provided in 42 CFR Part 418. The rate of
264 reimbursement paid by the MO HealthNet division to the hospice provider for
265 room and board furnished by a nursing home to an eligible hospice patient shall
266 not be less than ninety-five percent of the rate of reimbursement which would
267 have been paid for facility services in that nursing home facility for that patient,

Unofficial Bill Copy

268 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus
269 Budget Reconciliation Act of 1989);
270 (6) Comprehensive day rehabilitation services beginning early posttrauma
271 as part of a coordinated system of care for individuals with disabling
272 impairments. Rehabilitation services must be based on an individualized,
273 goal-oriented, comprehensive and coordinated treatment plan developed,
274 implemented, and monitored through an interdisciplinary assessment designed
275 to restore an individual to optimal level of physical, cognitive, and behavioral
276 function. The MO HealthNet division shall establish by administrative rule the
277 definition and criteria for designation of a comprehensive day rehabilitation
278 service facility, benefit limitations and payment mechanism. Any rule or portion
279 of a rule, as that term is defined in section 536.010, that is created under the
280 authority delegated in this subdivision shall become effective only if it complies
281 with and is subject to all of the provisions of chapter 536 and, if applicable,
282 section 536.028. This section and chapter 536 are nonseverable and if any of the
283 powers vested with the general assembly pursuant to chapter 536 to review, to
284 delay the effective date, or to disapprove and annul a rule are subsequently held
285 unconstitutional, then the grant of rulemaking authority and any rule proposed
286 or adopted after August 28, 2005, shall be invalid and void.
287 3. The MO HealthNet division may require any participant receiving MO
288 HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an
289 additional payment after July 1, 2008, as defined by rule duly promulgated by the
290 MO HealthNet division, for all covered services except for those services covered
291 under subdivisions **[**(14)**]** **(15)** and **[**(15)**]** **(16)** of subsection 1 of this section and
292 sections 208.631 to 208.657 to the extent and in the manner authorized by Title
293 XIX of the federal Social Security Act (42 U.S.C. Section 1396, et seq.) and
294 regulations thereunder. When substitution of a generic drug is permitted by the
295 prescriber according to section 338.056, and a generic drug is substituted for a
296 name-brand drug, the MO HealthNet division may not lower or delete the
297 requirement to make a co-payment pursuant to regulations of Title XIX of the
298 federal Social Security Act. A provider of goods or services described under this
299 section must collect from all participants the additional payment that may be
300 required by the MO HealthNet division under authority granted herein, if the
301 division exercises that authority, to remain eligible as a provider. Any payments
302 made by participants under this section shall be in addition to and not in lieu of
303 payments made by the state for goods or services described herein except the

Unofficial Bill Copy

304 participant portion of the pharmacy professional dispensing fee shall be in
305 addition to and not in lieu of payments to pharmacists. A provider may collect
306 the co-payment at the time a service is provided or at a later date. A provider
307 shall not refuse to provide a service if a participant is unable to pay a required
308 payment. If it is the routine business practice of a provider to terminate future
309 services to an individual with an unclaimed debt, the provider may include
310 uncollected co-payments under this practice. Providers who elect not to
311 undertake the provision of services based on a history of bad debt shall give
312 participants advance notice and a reasonable opportunity for payment. A
313 provider, representative, employee, independent contractor, or agent of a
314 pharmaceutical manufacturer shall not make co-payment for a participant. This
315 subsection shall not apply to other qualified children, pregnant women, or blind
316 persons. If the Centers for Medicare and Medicaid Services does not approve the
317 MO HealthNet state plan amendment submitted by the department of social
318 services that would allow a provider to deny future services to an individual with
319 uncollected co-payments, the denial of services shall not be allowed. The
320 department of social services shall inform providers regarding the acceptability
321 of denying services as the result of unpaid co-payments.

322 4. The MO HealthNet division shall have the right to collect medication
323 samples from participants in order to maintain program integrity.

324 5. Reimbursement for obstetrical and pediatric services under subdivision
325 (6) of subsection 1 of this section shall be timely and sufficient to enlist enough
326 health care providers so that care and services are available under the state plan
327 for MO HealthNet benefits at least to the extent that such care and services are
328 available to the general population in the geographic area, as required under
329 subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal regulations
330 promulgated thereunder.

331 6. Beginning July 1, 1990, reimbursement for services rendered in
332 federally funded health centers shall be in accordance with the provisions of
333 subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget
334 Reconciliation Act of 1989) and federal regulations promulgated thereunder.

335 7. Beginning July 1, 1990, the department of social services shall provide
336 notification and referral of children below age five, and pregnant, breast-feeding,
337 or postpartum women who are determined to be eligible for MO HealthNet
338 benefits under section 208.151 to the special supplemental food programs for
339 women, infants and children administered by the department of health and senior

Unofficial Bill Copy

340 services. Such notification and referral shall conform to the requirements of
341 Section 6406 of P.L. 101-239 and regulations promulgated thereunder.
342 8. Providers of long-term care services shall be reimbursed for their costs
343 in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security
344 Act, 42 U.S.C. Section 1396a, as amended, and regulations promulgated
345 thereunder.
346 9. Reimbursement rates to long-term care providers with respect to a total
347 change in ownership, at arm's length, for any facility previously licensed and
348 certified for participation in the MO HealthNet program shall not increase
349 payments in excess of the increase that would result from the application of
350 Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. Section 1396a
351 (a)(13)(C).
352 10. The MO HealthNet division may enroll qualified residential care
353 facilities and assisted living facilities, as defined in chapter 198, as MO
354 HealthNet personal care providers.
355 11. Any income earned by individuals eligible for certified extended
356 employment at a sheltered workshop under chapter 178 shall not be considered
357 as income for purposes of determining eligibility under this section.
358 12. If the Missouri Medicaid audit and compliance unit changes any
359 interpretation or application of the requirements for reimbursement for MO
360 HealthNet services from the interpretation or application that has been applied
361 previously by the state in any audit of a MO HealthNet provider, the Missouri
362 Medicaid audit and compliance unit shall notify all affected MO HealthNet
363 providers five business days before such change shall take effect. Failure of the
364 Missouri Medicaid audit and compliance unit to notify a provider of such change
365 shall entitle the provider to continue to receive and retain reimbursement until
366 such notification is provided and shall waive any liability of such provider for
367 recoupment or other loss of any payments previously made prior to the five
368 business days after such notice has been sent. Each provider shall provide the
369 Missouri Medicaid audit and compliance unit a valid email address and shall
370 agree to receive communications electronically. The notification required under
371 this section shall be delivered in writing by the United States Postal Service or
372 electronic mail to each provider.
373 13. Nothing in this section shall be construed to abrogate or limit the
374 department's statutory requirement to promulgate rules under chapter 536.
375 14. Beginning July 1, 2016, and subject to appropriations, providers of

Unofficial Bill Copy

376 behavioral, social, and psychophysiological services for the prevention, treatment,
377 or management of physical health problems shall be reimbursed utilizing the
378 behavior assessment and intervention reimbursement codes 96150 to 96154 or
379 their successor codes under the Current Procedural Terminology (CPT) coding
380 system. Providers eligible for such reimbursement shall include psychologists.

✓

Unofficial

Bill

Copy