

FIRST REGULAR SESSION

# SENATE BILL NO. 70

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0572S.02I

## AN ACT

To repeal sections 208.909, 208.918, and 208.924, RSMo, and to enact in lieu thereof three new sections relating to personal care assistance services.

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

Section A. Sections 208.909, 208.918, and 208.924, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 208.909,  
3 208.918, and 208.924, to read as follows:

208.909. 1. Consumers receiving personal care assistance services shall  
2 be responsible for:

3 (1) Supervising their personal care attendant;  
4 (2) Verifying wages to be paid to the personal care attendant;  
5 (3) Preparing and submitting time sheets, signed by both the consumer  
6 and personal care attendant, to the vendor on a biweekly basis;

7 (4) Promptly notifying the department within ten days of any changes in  
8 circumstances affecting the personal care assistance services plan or in the  
9 consumer's place of residence;

10 (5) Reporting any problems resulting from the quality of services rendered  
11 by the personal care attendant to the vendor. If the consumer is unable to resolve  
12 any problems resulting from the quality of service rendered by the personal care  
13 attendant with the vendor, the consumer shall report the situation to the  
14 department; [and]

15 (6) Providing the vendor with all necessary information to complete  
16 required paperwork for establishing the employer identification number; **and**

17 **(7) Allowing the vendor to comply with its quality assurance and**  
18 **supervision process, which shall include, but not be limited to, bi-**

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

19 **annual face-to-face home visits and monthly case management**  
20 **activities.**

21 2. Participating vendors shall be responsible for:

22 (1) Collecting time sheets or reviewing reports of delivered services and  
23 certifying the accuracy thereof;

24 (2) The Medicaid reimbursement process, including the filing of claims  
25 and reporting data to the department as required by rule;

26 (3) Transmitting the individual payment directly to the personal care  
27 attendant on behalf of the consumer;

28 (4) Monitoring the performance of the personal care assistance services  
29 plan. **Such monitoring shall occur during the bi-annual face-to-face**  
30 **home visits under section 208.918. The vendor shall document whether**  
31 **the attendant was present and if services are being provided to the**  
32 **consumer as set forth in the plan of care.**

33 3. No state or federal financial assistance shall be authorized or expended  
34 to pay for services provided to a consumer under sections 208.900 to 208.927, if  
35 the primary benefit of the services is to the household unit, or is a household task  
36 that the members of the consumer's household may reasonably be expected to  
37 share or do for one another when they live in the same household, unless such  
38 service is above and beyond typical activities household members may reasonably  
39 provide for another household member without a disability.

40 4. No state or federal financial assistance shall be authorized or expended  
41 to pay for personal care assistance services provided by a personal care attendant  
42 who has not undergone the background screening process under section 192.2495.  
43 If the personal care attendant has a disqualifying finding under section 192.2495,  
44 no state or federal assistance shall be made, unless a good cause waiver is first  
45 obtained from the department in accordance with section 192.2495.

46 5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a  
47 telephone tracking system for the purpose of reporting and verifying the delivery  
48 of consumer-directed services as authorized by the department of health and  
49 senior services or its designee. [Use of such a system prior to July 1, 2015, shall  
50 be voluntary.] The telephone tracking system shall be used to process payroll for  
51 employees and for submitting claims for reimbursement to the MO HealthNet  
52 division. At a minimum, the telephone tracking system shall:

53 (a) Record the exact date services are delivered;

54 (b) Record the exact time the services begin and exact time the services

55 end;

56 (c) Verify the telephone number from which the services are registered;

57 (d) Verify that the number from which the call is placed is a telephone  
58 number unique to the client;

59 (e) Require a personal identification number unique to each personal care  
60 attendant;

61 (f) Be capable of producing reports of services delivered, tasks performed,  
62 client identity, beginning and ending times of service and date of service in  
63 summary fashion that constitute adequate documentation of service; and

64 (g) Be capable of producing reimbursement requests for consumer  
65 approval that assures accuracy and compliance with program expectations for  
66 both the consumer and vendor.

67 (2) [The department of health and senior services, in collaboration with  
68 other appropriate agencies, including centers for independent living, shall  
69 establish telephone tracking system pilot projects, implemented in two regions of  
70 the state, with one in an urban area and one in a rural area. Each pilot project  
71 shall meet the requirements of this section and section 208.918. The department  
72 of health and senior services shall, by December 31, 2013, submit a report to the  
73 governor and general assembly detailing the outcomes of these pilot projects. The  
74 report shall take into consideration the impact of a telephone tracking system on  
75 the quality of the services delivered to the consumer and the principles of  
76 self-directed care.

77 (3) As new technology becomes available, the department may allow use  
78 of a more advanced tracking system, provided that such system is at least as  
79 capable of meeting the requirements of this subsection.

80 [(4)] (3) The department of health and senior services shall promulgate  
81 by rule the minimum necessary criteria of the telephone tracking system. Any  
82 rule or portion of a rule, as that term is defined in section 536.010, that is created  
83 under the authority delegated in this section shall become effective only if it  
84 complies with and is subject to all of the provisions of chapter 536 and, if  
85 applicable, section 536.028. This section and chapter 536 are nonseverable and  
86 if any of the powers vested with the general assembly pursuant to chapter 536 to  
87 review, to delay the effective date, or to disapprove and annul a rule are  
88 subsequently held unconstitutional, then the grant of rulemaking authority and  
89 any rule proposed or adopted after August 28, 2010, shall be invalid and void.

90 [6. In the event that a consensus between centers for independent living

91 and representatives from the executive branch cannot be reached, the telephony  
92 report issued to the general assembly and governor shall include a minority  
93 report which shall detail those elements of substantial dissent from the main  
94 report.

95 7. No interested party, including a center for independent living, shall be  
96 required to contract with any particular vendor or provider of telephony services  
97 nor bear the full cost of the pilot program.]

208.918. 1. In order to qualify for an agreement with the department, the  
2 vendor shall have a philosophy that promotes the consumer's ability to live  
3 independently in the most integrated setting or the maximum community  
4 inclusion of persons with physical disabilities, and shall demonstrate the ability  
5 to provide, directly or through contract, the following services:

6 (1) Orientation of consumers concerning the responsibilities of being an  
7 employer[,] **and** supervision of personal care attendants including the  
8 preparation and verification of time sheets. **Such orientation shall include**  
9 **notifying customers that falsification of attendant visit verification**  
10 **records shall be considered fraud and shall be reported to the**  
11 **department;**

12 (2) Training for consumers about the recruitment and training of personal  
13 care attendants;

14 (3) Maintenance of a list of persons eligible to be a personal care  
15 attendant;

16 (4) Processing of inquiries and problems received from consumers and  
17 personal care attendants;

18 (5) Ensuring the personal care attendants are registered with the family  
19 care safety registry as provided in sections 210.900 to [210.937] **210.936**; and

20 (6) The capacity to provide fiscal conduit services through a telephone  
21 tracking system by the date required under section 208.909.

22 2. In order to maintain its agreement with the department, a vendor shall  
23 comply with the provisions of subsection 1 of this section and shall:

24 (1) Demonstrate sound fiscal management as evidenced on accurate  
25 quarterly financial reports [and annual audit] submitted to the department; [and]

26 (2) Demonstrate a positive impact on consumer outcomes regarding the  
27 provision of personal care assistance services as evidenced on accurate quarterly  
28 and annual service reports submitted to the department;

29 (3) Implement a quality assurance and supervision process that ensures

30 program compliance and accuracy of records:

31 **(a) The department of health and senior services shall**  
32 **promulgate by rule a consumer-directed services division provider**  
33 **certification manager course; and**

34 **(b) The vendor shall perform with the consumer at least bi-**  
35 **annual face-to-face home visits to provide ongoing monitoring of the**  
36 **provision of services in the plan of care and assess the quality of care**  
37 **being delivered. The bi-annual face-to-face home visits do not preclude**  
38 **the vendor's responsibility from its ongoing diligence of case**  
39 **management activity oversight;**

40 (4) Comply with all provisions of sections 208.900 to 208.927, and the  
41 regulations promulgated thereunder; **and**

42 **(5) Maintain a business location which shall comply with any and**  
43 **all applicable city, county, state, and federal requirements.**

44 **3. No state or federal funds shall be authorized or expended if**  
45 **the owner, primary operator, certified manager, or any direct employee**  
46 **of the consumer-directed services vendor is also the personal care**  
47 **attendant.**

208.924. A consumer's personal care assistance services may be  
2 discontinued under circumstances such as the following:

3 (1) The department learns of circumstances that require closure of a  
4 consumer's case, including one or more of the following: death, admission into a  
5 long-term care facility, no longer needing service, or inability of the consumer to  
6 consumer-direct personal care assistance service;

7 (2) The consumer has falsified records; **provided false information of**  
8 **his or her condition, functional capacity, or level of care needs;** or  
9 committed fraud;

10 (3) The consumer is noncompliant with the plan of care. Noncompliance  
11 requires persistent actions by the consumer which negate the services provided  
12 in the plan of care;

13 (4) The consumer or member of the consumer's household threatens or  
14 abuses the personal care attendant or vendor to the point where their welfare is  
15 in jeopardy and corrective action has failed;

16 (5) The maintenance needs of a consumer are unable to continue to be met  
17 because the plan of care hours exceed availability; and

18 (6) The personal care attendant is not providing services as set forth in

19 the personal care assistance services plan and attempts to remedy the situation  
20 have been unsuccessful.

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