

SECOND REGULAR SESSION

SENATE BILL NO. 878

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4691S.011

AN ACT

To repeal section 143.790, RSMo, and to enact in lieu thereof two new sections relating to a debt setoff for unpaid healthcare expenses.

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

Section A. Section 143.790, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 143.789 and 143.790, to read as
3 follows:

**143.789. The director of the department shall have the authority
2 to impose an offset against a refund owed to any taxpayer for the
3 following items and in the following order of priority:**

- 4 **(1) Delinquent taxes owed by the taxpayer to the state of**
5 **Missouri;**
- 6 **(2) Debts owed by such taxpayer to any state agency;**
- 7 **(3) Child support obligations, owed by such taxpayer, which are**
8 **enforced by the division of family services on behalf of a person who is**
9 **receiving support enforcement services under section 454.425;**
- 10 **(4) Collection assistance fees authorized under section 143.790;**
11 **and**
- 12 **(5) Eligible claims under section 143.790.**

143.790. 1. [Any hospital or health care provider who has provided health
2 care services to an individual who was not covered by a health insurance policy
3 or was not eligible to receive benefits under the state's medical assistance
4 program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal
5 Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208, RSMo, and
6 the health insurance for uninsured children under sections 208.631 to 208.657,

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

7 RSMo, at the time such health care services were administered, and such person
8 has failed to pay for such services for a period greater than ninety days, may
9 submit a claim to the director of the department of health and senior services for
10 the unpaid health care services. The director of the department of health and
11 senior services shall review such claim. If the claim appears meritorious on its
12 face, the claim for the unpaid medical services shall constitute a debt of the
13 department of health and senior services for purposes of sections 143.782 to
14 143.788, and the director may certify the debt to the department of revenue in
15 order to set off the debtor's income tax refund. Once the debt has been certified,
16 the director of the department of health and senior services shall submit the debt
17 to the department of revenue under the setoff procedure established under section
18 143.783.

19 2. At the time of certification, the director of the department of health and
20 senior services shall supply any information necessary to identify each debtor
21 whose refund is sought to be set off pursuant to section 143.784 and certify the
22 amount of the debt or debts owed by each such debtor.

23 3. If a debtor identified by the director of the department of health and
24 senior services is determined by the department of revenue to be entitled to a
25 refund, the department of revenue shall notify the department of health and
26 senior services that a refund has been set off on behalf of the department of
27 health and senior services for purposes of this section and shall certify the
28 amount of such setoff, which shall not exceed the amount of the claimed debt
29 certified. When the refund owed exceeds the claimed debt, the department shall
30 send the excess amount to the debtor within a reasonable time after such excess
31 is determined.

32 4. The department of revenue shall notify the debtor by certified mail the
33 taxpayer whose refund is sought to be set off that such setoff will be made. The
34 notice shall contain the provisions contained in subsection 3 of section 143.794,
35 including the opportunity for a hearing to contest the setoff provided therein, and
36 shall otherwise substantially comply with the provisions of subsection 3 of section
37 143.784.

38 5. Once a debt has been set off and finally determined under the
39 applicable provisions of sections 143.782 to 143.788, and the department of health
40 and senior services has received the funds transferred from the department of
41 revenue, the department of health and senior services shall settle with each
42 hospital or health care provider for the amounts that the department of revenue

43 set off for such party. At the time of each settlement, each hospital or health care
44 provider shall be charged for administration expenses which shall not exceed
45 twenty percent of the collected amount.

46 6. Lottery prize payouts made under section 313.321, RSMo, shall also be
47 subject to the setoff procedures established in this section and any rules and
48 regulations promulgated thereto.

49 7. The director of the department of revenue shall have priority to offset
50 any delinquent tax owed to the state of Missouri. Any remaining refund shall be
51 offset to pay a state agency debt or to meet a child support obligation that is
52 enforced by the division of family services on behalf of a person who is receiving
53 support enforcement services under section 454.425, RSMo.

54 8.] As used in this section, the following terms shall mean:

55 (1) "Appeals committee", a committee consisting of at least three
56 people appointed by a provider to hear patient appeals of review
57 officer rulings:

58 (a) That the provider has a valid claim;

59 (b) Regarding the amount of the claim;

60 (c) That a claim qualifies as an eligible claim under this section;

61 (2) "Collection assistance fee", a fee in the amount of seven
62 dollars payable to the department for each debt setoff being processed
63 and an additional seventeen dollars payable to the claim clearinghouse
64 for each debt being processed by the claim clearinghouse shall be
65 recovered from each eligible claim to recover the costs incurred in
66 collecting debts under this section;

67 (3) "Court", the supreme court, court of appeals, or any circuit
68 court of the state;

69 (4) "Department", the department of revenue;

70 (5) "Claim", a claim by a provider to receive payment of fifty
71 dollars or more for health care services provided by such provider to
72 a patient which has not been paid in whole or in part by the patient or
73 third party payer for more than ninety days after the date the patient
74 was first billed for such health care services;

75 (6) "Claim clearinghouse", an entity that submits eligible claims
76 on behalf of a provider in accordance with this section. A claim
77 clearinghouse shall be an entity designated by the Missouri ambulance
78 services industry, acceptable to the department and registered with the
79 department as a claim clearinghouse. Once a claim clearinghouse

80 registers with, and is approved by, the department under this
81 subsection, no other claim clearinghouse may register to submit debts
82 for collection under this section;

83 (7) "Health care services", any services that a provider renders
84 to a patient in the course of such provider's furnishing of ambulance
85 services. Health care services shall include, but not be limited to,
86 treatment of patients and transporting of patients incidental, or
87 pursuant, to the delivery of ambulance services by a provider or in
88 furtherance of the purposes for which such provider is organized and
89 licensed;

90 (8) "Patient", an individual who has received health care services
91 from a provider and who was not, at the time such health care services
92 were provided, eligible to receive benefits under the state's medical
93 assistance program for needy persons under chapter 208 and the health
94 insurance for uninsured children under sections 208.631 to 208.657;

95 (9) "Provider", any provider of ambulance services licensed by
96 the Missouri department of health and senior services in accordance
97 with chapter 190;

98 (10) "Refund", a patient's Missouri income tax refund which the
99 department determines to be due pursuant to the provisions of this
100 chapter;

101 (11) "Review officer", a person designated by a provider to review
102 claims, at the request of a patient, to determine whether such provider
103 has a valid claim, the amount of such claim, and whether such claim
104 qualifies as an eligible claim under this section.

105 2. Prior to submission of a claim to the claim clearinghouse, a
106 provider shall send written notice to a patient that such provider
107 intends to submit a claim to the claim clearinghouse for collection by
108 setoff under this section. The notice shall:

109 (1) Provide the basis for the claim;

110 (2) State that the provider intends to request that the
111 department apply the patient's refund against the claim;

112 (3) State that a collection assistance fee will be added to the
113 claim if it is submitted for setoff;

114 (4) Inform the patient of the right to contest the validity or
115 amount such claim by filing a request for a review with the provider;
116 and

117 **(5) State the time limit and procedure for requesting such**
118 **review, and that failure to request a review within thirty days**
119 **following receipt of the notice required under this section shall result**
120 **in submission of the claim to the claim clearinghouse for setoff of the**
121 **debt by the department.**

122 **3. Upon receipt of the notice required under subsection 2 of this**
123 **section, any patient seeking review of a claim with the provider shall**
124 **file a written request for review within thirty days of receipt of such**
125 **notice. A request for a review shall be deemed filed when properly**
126 **addressed and delivered to the United States Postal Service for mailing**
127 **with postage prepaid. A review officer shall be appointed by the**
128 **provider to review such claim. In reviewing a claim, any issue that has**
129 **previously been litigated in a court proceeding shall not be considered**
130 **by the review officer. If the patient seeks a review of the claim and the**
131 **review officer finds either that the claim is invalid or the claim does**
132 **not qualify as an eligible claim under this section, the review officer's**
133 **determination shall be final and binding on the provider and such**
134 **provider shall have no right to appeal such determination. If all or**
135 **part of the claim is found by the review officer to be valid and eligible**
136 **for setoff under this section, the review officer shall notify the provider**
137 **and the patient of such fact. Such notice shall:**

138 **(1) Inform the patient that the patient has the right to appeal the**
139 **review officer's determination by filing an appeal with the appeals**
140 **committee;**

141 **(2) State the time limit and procedure for requesting such an**
142 **appeal; and**

143 **(3) State that failure to request the appeal within thirty days**
144 **following receipt of the notice required under this subsection shall**
145 **result in submission of the claim to the claim clearinghouse for setoff**
146 **of the debt by the department.**

147 **4. Upon receipt of the notice required under subsection 3 of this**
148 **section, any patient seeking an appeal of a determination of a review**
149 **officer under subsection 4 of this section shall file a written request for**
150 **such appeal within thirty days following receipt of such notice. An**
151 **appeal shall be deemed filed when properly addressed and delivered to**
152 **the United States Postal Service for mailing with postage prepaid. An**
153 **appeal of a review officer's determination shall be heard by an appeals**

154 committee. In an appeal under this section, any issue that has been
155 previously litigated in a court proceeding shall not be considered. A
156 decision made after an appeal under this section shall determine
157 whether a claim is owed to the provider, the amount of the claim, and
158 whether the claim is an eligible claim under this section. If the appeals
159 committee finds a claim to be invalid or otherwise ineligible under this
160 section, the decision of the appeals committee shall be final and
161 binding on the provider and may not be appealed by the provider. If
162 a claim is found by the appeals committee to be valid and eligible for
163 setoff under this section, the provider shall submit the claim to the
164 claim clearinghouse for setoff by the department.

165 5. Any provider may submit a claim to the claim clearinghouse
166 for review. If the claim clearinghouse receives sufficient evidence that
167 a provider has fully complied with the notice requirements provided
168 under this section and finds the claim valid, the claim shall be deemed
169 eligible for setoff by the department under this section and shall be
170 forwarded to the department.

171 6. If a provider is found to have failed to comply with any
172 applicable requirements contained in this section, such provider shall
173 send the patient the entire amount of the claim setoff by the
174 department plus an amount equal to the collection assistance fee.

175 7. If the department determines that a patient identified by a
176 provider in an eligible claim filed with the department is entitled to a
177 refund, the department shall notify the claim clearinghouse that a
178 refund is available for setoff and the amount of such refund.

179 8. At that time, the department shall also notify the patient by
180 regular mail that setoff against his or her tax refund has been
181 authorized under this section. The notice shall include the following
182 information:

183 (1) The amount of the eligible claim and the name of the provider
184 seeking setoff;

185 (2) That a setoff to the patient's refund against the eligible claim
186 has been performed;

187 (3) Any amount of the refund remaining after the offset of the
188 eligible claim; and

189 (4) The patient's right to request a hearing to contest the setoff,
190 including information regarding how to make such a request, which

191 shall include but not be limited to:

192 (a) The name and mailing address of the department for
193 purposes of requesting such a hearing;

194 (b) A statement regarding all information that the patient must
195 include for the hearing;

196 (c) A statement that the patient's failure to apply for such a
197 hearing, in writing, within thirty days of the notice provided under this
198 subsection, shall be deemed a waiver of the opportunity to contest the
199 setoff and shall cause the refund to be reduced by the amount of the
200 eligible claim and the collection assistance fee.

201 9. If an application for hearing by the department alleges a
202 defense to the nature or amount of the claim upon which the setoff is
203 based which requires an evidentiary hearing, the department shall
204 promptly conduct such hearing in accordance with the provisions of
205 chapter 536. If the eligible claim is based on a court or administrative
206 order, the patient shall be entitled to assert only those defenses which
207 arose subsequent to such court or administrative order, and no issue
208 may be raised at the hearing which has previously been litigated. If no
209 factual issue has been raised by an application for a hearing contesting
210 a setoff or the eligible claim upon which the setoff is based, or the only
211 issues raised have been previously litigated, the department may enter
212 its order without conducting an evidentiary hearing, and such order
213 shall be a final decision entitled to judicial review as provided in
214 sections 536.100 to 536.140. Appeals from actions taken at the hearing
215 allowed under this section shall be in accordance with the provisions
216 of chapter 536.

217 10. Only after all applicable provisions of this section have been
218 satisfied, the department shall pay to the claim clearinghouse
219 requesting a setoff under this section the amount that the department
220 has setoff for such provider, which shall include the collection
221 assistance allocable to the claim clearing. In the event the department
222 is unable to setoff the entire eligible claim and collection assistance fee
223 under this section, the setoff of the collection assistance fee shall have
224 priority over the setoff of the eligible claim.

225 11. In addition to refunds, lottery prize payouts made under
226 section 313.321 shall be subject to the setoff procedures established in
227 this section.

228 **12.** The director of the department of revenue and the director of the
229 department of health and senior services shall promulgate rules and regulations
230 necessary to administer the provisions of this section. Any rule or portion of a
231 rule, as that term is defined in section 536.010, RSMo, that is created under the
232 authority delegated in this section shall become effective only if it complies with
233 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
234 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
235 and if any of the powers vested with the general assembly pursuant to chapter
236 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
237 rule are subsequently held unconstitutional, then the grant of rulemaking
238 authority and any rule proposed or adopted after August 28, 2007, shall be
239 invalid and void.

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Bill

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