

# HOUSE BILL NO. 608

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FREDERICK (Sponsor), HOUGHTON, NEELY, WHITE, FRANKLIN, CIERPIOT, LICHTENEGGER, FLANIGAN, SCHATZ, BERRY, CONWAY (104), STREAM, ALLEN, SCHARNHORST, KOENIG AND KELLY (45) (Co-sponsors).

1378L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 208, RSMo, by adding thereto two new sections relating to a MO HealthNet benefits pilot project, with a penalty provision.

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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 208.188 and 1, to read as follows:

**208.188. 1. Beginning July 1, 2014, subject to appropriations and subject to receipt of waivers from the Department of Health and Human Services, the MO HealthNet division shall establish a pilot project which implements a electronic benefit transfer (EBT) payment system for receipt of MO HealthNet services by participating recipients. Such system shall:**

**(1) Allow participating recipients to receive MO HealthNet services from providers selected by the recipients through direct pay to the provider, a health insurance plan, managed care plan, health services plan, health savings account, or any other available health care product providing benefits and payment for services approved by the division;**

**(2) Require the use of electronic benefit transfer (EBT) cards issued to participating recipients to pay for MO HealthNet services;**

**(3) Require recipients to receive minimum health care services each year as determined by the department by rule, such as annual examinations and preventive health care screenings, dental care, and eye care; and**

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.

15           **(4) Provide educational opportunities for recipients relating to budgeting, planning,**  
16 **and appropriate use of health care options;**

17           **(5) Provide incentives for recipients to seek health care services as needed, while**  
18 **retaining a portion of any savings achieved from efficient use of their EBT cards;**

19           **(6) Provide additional assistance to recipients for health savings accounts, payment**  
20 **of health insurance premiums, and other health-related costs to recipients not covered**  
21 **under the MO HealthNet program;**

22           **(7) Provide reimbursement of all willing providers at a rate of one hundred percent**  
23 **of the Medicare reimbursement rate for the same or similar services provided; and**

24           **(8) Provide demographic and cost efficiency information to determine feasibility**  
25 **of statewide implementation of the EBT payment system.**

26           **2. The department of social services shall seek all waivers from the Department of**  
27 **Health and Human Services necessary to implement the provisions of this section. If such**  
28 **waivers are not granted by the Department of Health and Human Services, the department**  
29 **shall not be required to implement the provisions of this section.**

30           **3. (1) The MO HealthNet division shall establish a minimum of three, but not more**  
31 **than six, pilot project areas in this state which shall include at least ten percent of the total**  
32 **MO HealthNet recipient population in the first two years of the pilot project. In the third**  
33 **year of the pilot project, the division may increase the total number of pilot project areas**  
34 **to not more than ten and shall increase the number of participants to at least twenty**  
35 **percent of the total MO HealthNet recipient population. If the pilot project is**  
36 **automatically implemented on a statewide basis in accordance with subsection 14 of this**  
37 **section, the EBT payment system shall apply to every MO HealthNet recipient. To ensure**  
38 **an accurate sampling of MO HealthNet recipients, the demographics of the pilot project**  
39 **population shall reflect, to the extent practicable, the current percentages of recipients in**  
40 **the MO HealthNet program population regarding age, gender, socioeconomic status,**  
41 **healthy versus chronically ill populations, urban versus rural populations, and other**  
42 **relevant demographics as determined by the division. Nothing in this subsection shall be**  
43 **construed as requiring the division to obtain the exact and precise demographics of the**  
44 **current MO HealthNet recipient population in the pilot project or to include or exclude**  
45 **recipients based solely on the pilot project demographic requirements contained in this**  
46 **subsection.**

47           **(2) The division shall compile and include a summary of the demographic**  
48 **information for the pilot project and the current MO HealthNet program in the reports**  
49 **required under subsection 9 of this section.**

50           **4. The division shall permit MO HealthNet recipients in the pilot project areas to**  
51 **volunteer to participate in the pilot project. In order to obtain the necessary demographics**  
52 **of the pilot project, the division may require all or a portion of recipients in a pilot project**  
53 **area to participate.**

54           **5. Any willing provider for the pilot project shall be reimbursed for services**  
55 **provided to pilot project recipients at a rate of one hundred percent of the Medicare**  
56 **reimbursement rate for the same or similar services provided.**

57           **6. (1) Pilot project recipients shall receive a prepaid EBT card to pay for MO**  
58 **HealthNet services received, whether through direct pay to the provider, a health insurance**  
59 **plan, managed care plan, health services plan, health savings account, or any other**  
60 **available health care product providing benefits and payment for services approved by the**  
61 **division. The division shall determine the amount credited to such EBT card for each**  
62 **recipient based on an assessment of the estimated health care costs for services required**  
63 **and the method selected for delivery of such services. For current MO HealthNet**  
64 **recipients, the division shall determine such amount based on prior history of health care**  
65 **usage of recipients. For new MO HealthNet recipients, the division shall determine such**  
66 **amount based on available information obtained in the application process regarding**  
67 **medical history, lifestyle choices, age, preexisting conditions, and other relevant factors as**  
68 **determined by the division by rule.**

69           **(2) Participating recipients shall not be eligible for reimbursement for health care**  
70 **services necessitated as a direct result of alcohol, tobacco, or illegal drug use.**

71           **(3) Participating recipients shall be permitted to designate a third party to act on**  
72 **behalf of the participating recipient in case of incapacity, incompetence, or other physical**  
73 **or mental condition as determined by rule of the division which necessitates a designee to**  
74 **act on behalf of the participating recipient. If no designee is selected by a participating**  
75 **recipient, the division shall act on behalf of the participating recipient.**

76           **7. Providers in the MO HealthNet pilot project shall be required to swipe a**  
77 **recipient's EBT card for every visit or service received, regardless of the balance on the**  
78 **recipient's EBT card. Subject to any federal and state laws, the division shall maintain a**  
79 **record of every visit or service received by a recipient, regardless of whether payment was**  
80 **obtained from a recipient's EBT card. Participating recipients shall be required to permit,**  
81 **and if required sign a waiver for, disclosure of the information required in this subsection**  
82 **to the division. Nothing in this subsection shall be construed as requiring the division to**  
83 **maintain specific medical records of recipients. The disclosure required under this section**  
84 **shall be limited to name of the provider, date, and general nature of the visit or service.**

85           **8. Any remaining balance on a recipient's EBT card at the end of the benefit year**  
86 **shall be apportioned as follows:**

87           **(1) To the recipient:**

88           **(a) For a recipient who does not receive the mandatory health services under**  
89 **subdivision (3) of subsection 1 of this section, no apportionment to the recipient of the**  
90 **remaining amount and the remaining balance shall revert to the division in accordance**  
91 **with subdivision (2) of this subsection;**

92           **(b) For a recipient who receives the mandatory health services under subdivision**  
93 **(3) of subsection 1 of this section, the recipient shall receive any remaining EBT card**  
94 **balance not to exceed twenty-five percent of the total amount credited to the EBT card at**  
95 **the beginning of the benefit year;**

96           **(c) Any remaining balance apportioned to a recipient shall only be carried over to**  
97 **the following benefit year or credited as a benefit under another public assistance program**  
98 **for which the recipient is eligible, including but not limited to temporary assistance for**  
99 **needy families (TANF), women, infants and children (WIC), early periodic screening**  
100 **diagnosis and treatment (EPSDT), supplemental nutrition assistance program (SNAP),**  
101 **supplemental security income (SSI), child care subsidies, and other public assistance**  
102 **programs as determined by the division;**

103           **(2) Any balance not apportioned to the recipient under subdivision (1) of this**  
104 **subsection shall revert to the division. The division shall apportion any amounts reverting**  
105 **to the division as follows:**

106           **(a) Any reverted amounts which, in the aggregate, total twenty-five percent or less**  
107 **of the total amounts credited on all EBT cards under the pilot project shall be deposited**  
108 **in the MO HealthNet EBT payment system emergency fund created under subsection 14**  
109 **of this section;**

110           **(b) All remaining reverted amounts shall be used in the MO HealthNet program**  
111 **for recipients not participating in the pilot project. The division shall reassess the amount**  
112 **of MO HealthNet moneys allocated for the pilot project based on the amounts reverting**  
113 **to the division under this subsection.**

114           **9. The division shall prepare and submit the following reports to the governor and**  
115 **general assembly:**

116           **(1) Beginning with the first calendar quarter of the pilot project, a report detailing**  
117 **the number of participants, amount of MO HealthNet moneys allocated to the pilot project,**  
118 **provider participation, and any information relating to recipient usage. Such reports shall**  
119 **be submitted until termination of the pilot project;**

120           (2) No later than September first of each year, an annual report specifically  
121 detailing the demographics, provider participation, recipient participation, costs of the  
122 pilot project, and recommendations of the division regarding the feasibility of statewide  
123 implementation. Such report shall also include any additional information the division  
124 deems relevant.

125           10. Except as authorized under the MO HealthNet program, the disclosure of any  
126 information provided to or obtained by a provider, business, or vendor under the pilot  
127 project within the MO HealthNet program as established in this section is prohibited.  
128 Such provider, business, or vendor shall not use or sell such information and shall not  
129 divulge the information without a court order. Violation of this subsection is a class A  
130 misdemeanor.

131           11. The MO HealthNet division shall promulgate rules necessary to implement the  
132 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
133 536.010, that is created under the authority delegated in this section shall become effective  
134 only if it complies with and is subject to all of the provisions of chapter 536 and, if  
135 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of  
136 the powers vested with the general assembly pursuant to chapter 536 to review, to delay  
137 the effective date, or to disapprove and annul a rule are subsequently held  
138 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
139 after August 28, 2013, shall be invalid and void.

140           12. (1) There is hereby created in the state treasury the "MO HealthNet EBT  
141 Payment System Emergency Fund", which shall consist of moneys reverting to the division  
142 under paragraph (a) of subdivision (2) of subsection 6 of this section, and moneys collected  
143 under section 1 of this act for the 2013 tax year. The state treasurer shall be custodian of  
144 the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve  
145 disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the  
146 fund shall be used to provide pilot project recipients with additional benefits for health  
147 services costs incurred by recipients due to unanticipated health conditions, such as a  
148 diagnosis of cancer or other serious medical condition, heart attack, or stroke. The  
149 department shall by rule determine the unanticipated health conditions which are eligible  
150 for fund expenditures.

151           (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys  
152 remaining in the fund at the end of the biennium shall not revert to the credit of the  
153 general revenue fund.

154           **(3) The state treasurer shall invest moneys in the fund in the same manner as other**  
155 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
156 **to the fund.**

157           **13. (1) There is hereby created in the state treasury the "MO HealthNet EBT**  
158 **Payment System Supplemental Fund", which shall consist of moneys collected under**  
159 **section 1 of this act beginning with the 2014 tax year. The state treasurer shall be**  
160 **custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state**  
161 **treasurer may approve disbursements. The fund shall be a dedicated fund and, upon**  
162 **appropriation, money in the fund shall be used solely to provide MO HealthNet recipients**  
163 **under this section with additional assistance for health savings accounts, health insurance**  
164 **premiums, and other health-related costs not covered under the MO HealthNet program,**  
165 **and to provide educational opportunities for recipients under subdivision (4) of subsection**  
166 **1 of this section.**

167           **(2) Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**  
168 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**  
169 **the general revenue fund.**

170           **(3) The state treasurer shall invest moneys in the fund in the same manner as other**  
171 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
172 **to the fund.**

173           **14. Beginning July 1, 2017, unless the provisions of this section are repealed by an**  
174 **act of the general assembly, the pilot project described in this section shall automatically**  
175 **be implemented on a statewide basis for all MO HealthNet recipients.**

176           **15. For purposes of this section, the pilot project established and implemented**  
177 **under this section includes the EBT payment system implemented from July 1, 2014, to**  
178 **June 30, 2017, and the EBT payment system automatically implemented on a statewide**  
179 **basis under subsection 14 of this section on and after July 1, 2017.**

**Section 1. 1. As used in this section, the following terms mean:**

2           **(1) "Health care-related nonprofit", any health care-related nonprofit associated**  
3 **or formed as the result of a settlement of a lawsuit filed by the attorney general of Missouri**  
4 **but not including the master settlement agreement entered into by the state and tobacco**  
5 **product manufacturers under sections 196.1000 to 196.1035;**

6           **(2) "Transfer", any action resulting in the health care-related nonprofit no longer**  
7 **having any ownership interest in a particular asset.**

8           **2. For all taxable years beginning on or after January 1, 2013, an excise tax is**  
9 **hereby imposed annually on any health care-related nonprofit. The amount of the tax shall**

10 be equal to three percent of the total value of all assets owned or acquired by the health  
11 care-related nonprofit on or after January 1, 2013.

12         **3. In addition to the excise tax imposed in subsection 2 of this section, for all taxable**  
13 **years beginning on or after January 1, 2013, a tax is hereby imposed on the transfer of any**  
14 **asset owned or acquired by the health care-related nonprofit on or after January 1, 2013,**  
15 **if such transfer occurs on or after January 1, 2013. The amount of the tax shall be equal**  
16 **to fifty percent of the total value of any asset owned or acquired by the health care-related**  
17 **nonprofit on or after January 1, 2013, at the time the asset is transferred. This subsection**  
18 **shall not apply to the transfer or transfers of any such asset or assets unless the cumulative**  
19 **total value of the assets transferred in a taxable year exceeds two percent of the total value**  
20 **of all assets owned or acquired by the health care-related nonprofit.**

21         **4. All revenue collected under this section by the director of the department of**  
22 **revenue, except for one percent for the cost of collection which shall be deposited in the**  
23 **state's general revenue fund, shall be deposited in the MO HealthNet EBT payment system**  
24 **emergency fund created in subsection 12 of section 208.188 for the 2013 tax year, and in**  
25 **the MO HealthNet EBT payment system supplemental fund created under subsection 13**  
26 **of section 208.188.**

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