

FIRST REGULAR SESSION

SENATE BILL NO. 128

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SATER.

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

ADRIANE D. CROUSE, Secretary.

0378S.011

AN ACT

To repeal sections 208.909 and 208.918, RSMo, and to enact in lieu thereof two new sections relating to vendors of consumer-directed services.

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

Section A. Sections 208.909 and 208.918, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.909 and 208.918, to read as follows:

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

- (1) Supervising their personal care attendant;
- (2) Verifying wages to be paid to the personal care attendant;
- (3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;
- (4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence;
- (5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; and
- (6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number.

2. Participating vendors shall be responsible for:

- (1) Collecting time sheets or reviewing reports of delivered services and

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

19 certifying the accuracy thereof;

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

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

24 (4) Monitoring the performance of the personal care assistance services
25 plan. **Such monitoring shall be unscheduled and occur in person during**
26 **a time when the personal care attendant is scheduled to be at the**
27 **consumer's home. The vendor shall document that the attendant was**
28 **present and providing services to the consumer as set forth in the plan**
29 **of care. If the attendant was not present or not providing services, the**
30 **vendor shall notify the department and may suspend services to the**
31 **consumer.**

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

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

45 5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a
46 telephone tracking system for the purpose of reporting and verifying the delivery
47 of consumer-directed services as authorized by the department of health and
48 senior services or its designee. Use of such a system prior to July 1, 2015, shall
49 be voluntary. The telephone tracking system shall be used to process payroll for
50 employees and for submitting claims for reimbursement to the MO HealthNet
51 division. At a minimum, the telephone tracking system shall:

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

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

54 end;

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

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

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

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

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

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

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

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

89 6. In the event that a consensus between centers for independent living
90 and representatives from the executive branch cannot be reached, the telephony

91 report issued to the general assembly and governor shall include a minority
92 report which shall detail those elements of substantial dissent from the main
93 report.

94 7. No interested party, including a center for independent living, shall be
95 required to contract with any particular vendor or provider of telephony services
96 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 consumers that falsification of personal care attendant time**
10 **sheets shall be considered fraud and shall be reported to the**
11 **department. Such orientation shall take place in the presence of the**
12 **personal care attendant, to the fullest extent possible;**

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

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

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

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

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

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

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

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

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

31 program compliance and accuracy of records; and

32 (4) Comply with all provisions of sections 208.900 to 208.927, and the

33 regulations promulgated thereunder.

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