

# Missouri Revised Statutes

## Chapter 660 Department of Social Services

August 28, 2013

### Department of social services created--divisions and agencies assigned to department--duties, powers--director's appointment.

660.010. 1. There is hereby created a "Department of Social Services" in charge of a director appointed by the governor, by and with the advice and consent of the senate. All the powers, duties and functions of the director of the department of public health and welfare, chapters 191 and 192, and others, not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the department of mental health, are transferred by type I transfer to the director of the department of social services and the office of the director, department of public health and welfare is abolished. The department of public health and welfare is abolished. All employees of the department of social services shall be covered by the provisions of chapter 36 except the director of the department and his secretary, all division directors and their secretaries, and no more than three additional positions in each division which may be designated by the division director.

2. It is the intent of the general assembly in establishing the department of social services, as provided herein, to authorize the director of the department to coordinate the state's programs devoted to those unable to provide for themselves and for the rehabilitation of victims of social disadvantage. The director shall use the resources provided to the department to provide comprehensive programs and leadership striking at the roots of dependency, disability and abuse of society's rules with the purpose of improving service and economical operations. The department is directed to take all steps possible to consolidate and coordinate the field operations of the department to maximize service to the citizens of the state.

3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208, 209, and 210 and

others, are transferred by type I transfer to the "Division of Family Services" which is hereby created in the department of social services. The director of the division shall be appointed by the director of the department. All references to the division of welfare shall hereafter be construed to mean the division of family services of the department of social services.

4. The state's responsibility under public law 452 of the eighty-eighth Congress and others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the department of social services.

5. The state's responsibility under public law 73, Older Americans Act of 1965, of the eighty-ninth Congress is transferred by type I transfer to the department of social services.

6. All the powers, duties and functions vested by law in the curators of the University of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer to the department of social services.

7. All the powers, duties and functions vested in the state board of training schools, chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services" hereby authorized in the department of social services headed by a director appointed by the director of the department. The state board of training schools shall be reconstituted as an advisory board on youth services, appointed by the director of the department. The advisory board shall visit each facility of the division as often as possible, shall file a written report with the director of the department and the governor on conditions they observed relating to the care and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility and any other matters pertinent in their judgment. Copies of these reports shall be filed with the legislative library. Members of the advisory board shall receive reimbursement for their expenses and twenty-five dollars a day for each day they engage in official business relating to their duties. The members of the board shall be provided with identification means by the director of the division permitting immediate access to all facilities enabling them to make unannounced entrance to facilities they wish to inspect.

(L. 1973 1st Ex. Sess. S.B. 1 § 13, A.L. 1982 S.B. 717, A.L. 1986 S.B. 426, A.L. 2011 H.B. 464)

\*Originally section 13 of the Reorganization Act of 1974, Appendix B

**Department of social services administrative trust fund created--disbursements--reports--lapse prohibited, exception.**

660.012. 1. The treasurer of the state shall establish in the state treasury a "Department of Social Services Administrative Trust Fund" which shall be funded annually by appropriations and deposits thereto.

2. This fund shall contain moneys transferred or paid to the department for goods and services provided by the department or its divisions to any governmental entity or to the public.

3. The commissioner of administration shall approve disbursements from the fund at the request of the director of the department or his designee in accordance with appropriations made therefor.

4. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-twelfth of the amount either appropriated or paid or transferred to the fund during such fiscal year, whichever is greater.

5. The director of the department shall prepare an annual report of all receipts and disbursements from the fund.

(L. 1986 H.B. 1366)

**Salary--expenses of the department.**

660.015. The director of the department of social services shall receive as compensation for his or her services the salary provided by statute and additional reimbursement for necessary traveling expenses and other necessary expenditures incurred in the performance of official duties. Compensation for the director and employees of the department of social services and funds for other expenses incident to the performance of their duties prescribed by authority of this and other laws shall be payable from appropriations made in the same manner as for other departments.

(L. 1945 p. 945 § 4, A.L. 1980 H.B. 1266)

\*Transferred 1986; formerly 191.040

**Rules, procedure.**

660.017. The department of social services may adopt, appeal and amend rules necessary to carry out the duties

assigned to it. All rules shall be promulgated pursuant to the provisions of this section and chapter 536. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1993 H.B. 564 § 30, A.L. 1995 S.B. 3)

**In-home services providers, telephone tracking system required, use of--rulemaking authority.**

660.023. 1. All in-home services provider agencies shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of reporting and verifying the delivery of home- and community-based services as authorized by the department of health and senior services or its designee. Use of such system prior to July 1, 2015, shall be voluntary. At a minimum, the telephone tracking system shall:

- (1) Record the exact date services are delivered;
- (2) Record the exact time the services begin and exact time the services end;
- (3) Verify the telephone number from which the services were registered;
- (4) Verify that the number from which the call is placed is a telephone number unique to the client;
- (5) Require a personal identification number unique to each personal care attendant; and
- (6) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service.

2. The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division.

3. The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

4. As new technology becomes available, the department may allow use of a more advanced\* tracking system, provided that such system is at least as capable of meeting the requirements listed in subsection 1 of this section.

5. The department of health and senior services, in collaboration with other appropriate agencies, including in-home services providers, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

6. In the event that a consensus between in-home service providers and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which will detail those elements of substantial dissent from the main report.

7. No interested party, including in-home service providers, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.

(L. 2010 S.B. 842, et al. merged with S.B. 1007)

\*Word "advance" appears in original rolls.

### **Grants from department of social services, purposes--rulemaking procedure.**

660.025. Subject to appropriation from general revenue, the director of social services shall offer grants, on a competitive basis, to programs which are engaged in the resettling of refugees and legal immigrants for the purpose of arranging for day care, transportation or other services that will facilitate a refugee's or immigrant's accessing of English language services. The department of social services may promulgate rules to govern the

grant program, pursuant to the provisions of chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated by the department of social services under the authority of this section, shall become effective only if the department has fully complied with all of the requirements of chapter 536 including but not limited to, section 536.028, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this act\* shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act\* shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

(L. 1998 S.B. 583 & 645 § 4)

\*"This act" (S.B. 583 § 645, 1998) contains numerous sections. Consult Disposition of Sections table for definitive listing.

### **Funding for federally qualified health centers, uses--report to the director.**

660.026. Subject to appropriation, the director of the department of social services, or the director's designee, may contract with and provide funding support to federally qualified health centers, as defined in 42 U.S.C. Section 1396d(1)(2)(B), in this state. Funds appropriated pursuant to this section shall be used to assist such centers in ensuring that health care, including dental care, and mental health services is available to needy persons in this state. Such funds may also be used by centers for capital expansion, infrastructure redesign or other similar uses if federal funding is not available for such purposes. No later than forty-five days following the end of each federal fiscal year, the centers shall report to the director of the department of social services the number of patients served by age, race, gender, method of payment and insurance status.

(L. 2001 S.B. 393)

**Division of aging created--duties--inspectors of nursing homes, training and continuing education requirements--promulgation of rules, procedure--dementia-specific training requirements established.**

660.050. 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. The division shall aid and assist the elderly and low-income handicapped adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The division shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the division shall:

- (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;
- (2) Assure that an information and referral system is developed and operated for the elderly, including information on the Missouri care options program;
- (3) Provide technical assistance, planning and training to local area agencies on aging;
- (4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;
- (5) Serve as liaison between the department of health and senior services and the Federal Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the United States Department of Health and Human Services;
- (6) Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;
- (7) Certify long-term care facilities for participation in the Title XIX program;
- (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security

Administration and the department of health and senior services concerning Supplemental Security Income beneficiaries;

- (9) Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;
- (10) Provide consultation to long-term care facilities in all areas governed by state and federal regulations;
- (11) Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;
- (12) With the advice of the governor's advisory council on aging, develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;
- (13) Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;
- (14) Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;
- (15) Provide information and technical assistance to the governor's advisory council on aging and keep the council continually informed of the activities of the division;
- (16) After consultation with the governor's advisory council on aging, make recommendations for legislative action to the governor and to the general assembly;
- (17) Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;
- (18) Maintain and serve as a clearinghouse for up-to-date information and technical assistance related to the needs and interests of elderly persons and persons with Alzheimer's disease or related dementias, including information on the Missouri care options program, dementia-specific training materials and dementia-

specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;

(19) Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;

(20) Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;

(21) Provide transportation services, home-delivered and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to ensure that services contracted for are delivered and meet standards of quality set by the division;

(22) Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

3. The division director, subject to the supervision of the director of the department of health and senior services, shall be the chief administrative officer of the division and shall exercise for the division the powers and duties of an appointing authority pursuant to chapter 36 to employ such administrative, technical and other personnel as may be necessary for the performance of the duties and responsibilities of the division.

4. The division may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of health and senior services and the governor. In the event that the division withdraws the area agency on aging designation in accordance with the Older Americans Act, the division shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

5. Any person hired by the department of health and senior services after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198 shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of health and senior services shall by rule describe the curriculum and structure of such continuing education.

6. The division may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in this section and sections 198.070 and 198.090 and sections 660.250 and 660.300 to 660.320. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. Missouri care options is a program, operated and coordinated by the division of aging, which informs individuals of the variety of care options available to them when they may need long-term care.

8. The division shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities\*, agencies providing in-home care services authorized by the division of aging, adult day-care programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The department of health and senior services

shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197. Such training shall be incorporated into the home health and hospice agency's new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or ongoing in-service. Training shall include at a minimum, the following:

- (1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;
  - (2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.
- As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

(L. 1984 H.B. 1131 § 2, A.L. 1988 S.B. 602, A.L. 1992 S.B. 573 & 634, A.L. 1993 S.B. 52, A.L. 1994 H.B. 1335 & 1381, A.L. 1995 H.B. 409 merged with S.B. 445 merged with S.B. 3, A.L. 2001 H.B. 603)

\*Revisor's note: The term "residential care facilities" may include "assisted living facilities", see section 198.005 regarding changes to name reference.

(1997) Amendments to this section contained in 1995 CCS HB 409 declared unconstitutional pursuant to sections 21 and 23 of article III of the Missouri Constitution. Missouri Health Care Association v. Attorney General of the State of Missouri, 953 S.W.2d 617 (Mo.banc).

## Definitions.

660.053. As used in section 199.025 and sections 660.050 to 660.057 and 660.400 to 660.420, the following terms mean:

- (1) "Area agency on aging", the agency designated by the division in a planning and service area to develop and administer a plan and administer available funds for a comprehensive and coordinated system of services for the elderly and persons with disabilities who require similar services;

- (2) "Area agency board", the local policy-making board which directs the actions of the area agency on aging under state and federal laws and regulations;
- (3) "Director", the director of the division of aging of the Missouri department of social services;
- (4) "Division", the division of aging of the Missouri department of social services;
- (5) "Elderly" or "elderly persons", persons who are sixty years of age or older;
- (6) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;
- (7) "Local government", a political subdivision of the state whose authority is general or a combination of units of general purpose local governments;
- (8) "Major life activities", functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
- (9) "Medicaid", medical assistance provided under section 208.151, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;
- (10) "Protective services", a service provided by the Missouri division of aging in response to the need for protection from harm or neglect to eligible adults under sections 660.250 to 660.295;
- (11) "Registered caregiver", a person who provides primary long-term care for an elderly person and wishes to receive information, services or support from the shared care program;
- (12) "Shared care", a program administered by the division of aging in which Missouri families who provide primary long-term care for an elderly person and register as a shared care member with the division of aging shall receive access to certain supportive services and may receive a state tax credit;
- (13) "Shared care community project", a project in a community that offers to help support shared care participation through development of programs;
- (14) "Shared care member", a registered caregiver or shared care provider who registers with the division of aging in order to participate in the shared care program;
- (15) "Shared care provider", any state authorized long-term care provider in the state, including, but not limited to, in-home, home health, hospice, adult day care, residential care facility or assisted living facility, or nursing home, who voluntarily registers with the division of aging to be available as a resource for the shared care program;

(16) "Shared care tax credit", a tax credit to registered caregivers who meet the requirements of section 660.055.

(L. 1984 H.B. 1131 § 1, A.L. 1987 S.B. 277, A.L. 1999 H.B. 316, et al.)

\*Reprinted due to editorial change required by § 198.005.

**Shared care program established, goals--  
directors duties.**

660.054. 1. The division of aging of the department of social services shall establish a program to help families who provide the primary long-term care for an elderly person. This program shall be known as "shared care" and has the following goals:

- (1) To provide services and support for families caring for an elderly person;
- (2) To increase awareness of the variety of privately funded services which may be available to those persons caring for an elderly person;
- (3) To increase awareness of the variety of government services which may be available to those caring for an elderly person;
- (4) Recognition on an annual basis by the governor for those families participating in the shared care program and community project groups participating in the shared care program;
- (5) To provide a tax credit to members who meet the qualifications pursuant to section 660.055; and
- (6) To promote community involvement by:
  - (a) Providing local communities information about the shared care program and to encourage the establishment of support groups where none are available and to support existing support groups, and other programs for shared care members and providers to share ideas, information and resources on caring for an elderly person; and
  - (b) Encouraging local home care, adult day care or other long-term care providers, who have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care members to participate in education and training sessions at no cost to the registered caregivers. Such providers shall not be held liable in any civil or criminal action related to or arising out of the participation or training of shared care members in such sessions.

2. To further the goals of the shared care program, the director shall:

- (1) Promulgate specific rules and procedures for the shared care program. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

under the authority delegated in sections 660.050 to 660.057 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void;

- (2) Maintain a registry of names and addresses of shared care members and shared care providers;
- (3) Compile a list, updated annually, of public and private resources, services and programs which may be available to assist and support the registered caregiver with caring for the elderly. Such list shall be given to shared care members along with information on shared care providers in their community. Private organizations and providers shall be responsible for providing information to the division of aging for inclusion on the list. The division of aging shall establish reporting procedures for private organizations and publicly disseminate the division's guidelines statewide;
- (4) Compile and distribute to shared care members information about the services and benefits of the shared care program and a bibliography of resources and materials with information helpful to such members. The bibliography will give members an overview of available information and is not required to be comprehensive;
- (5) Encourage shared care providers, consumer groups, churches and other philanthropic organizations to help local communities develop local support systems where none are available and to support existing support groups for persons caring for elderly persons and make division staff available, if possible;
- (6) In conjunction with the director of revenue, develop a physician certification for shared care tax credit form to be given to registered caregivers upon request. The form shall require, but is not limited to:
  - (a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section 660.055;
  - (b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the physician licensed pursuant to the provisions of chapter 334 for verification and certification purposes;

(d) A description by such physician of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions on completion of the form and how to file for the shared care tax credit with the department of revenue; and

(7) In conjunction with the director of revenue, develop a division of aging certification for shared care tax credit form to be given at the request of the registered caregivers when a division of aging assessment has been completed for other purposes. The form shall require, but is not limited to:

(a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section 660.055;

(b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the division of aging staff for verification and certification purposes;

(d) A description by the division of aging staff of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions for completing the form and how to file for the shared care tax credit with the department of revenue.

3. Funds appropriated for the shared care program shall be appropriated to and administered by the department of social services.

(L. 1999 H.B. 316, et al.)

**Shared care tax credit available, when--eligibility requirements--rulemaking authority--penalty provision.**

660.055. 1. Any registered caregiver who meets the requirements of this section shall be eligible for a shared

care tax credit in an amount not to exceed five hundred dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care tax credit, a registered caregiver shall:

(1) Care for an elderly person, age sixty or older, who:

(a) Is physically or mentally incapable of living alone, as determined and certified by his or her physician licensed pursuant to chapter 334, or by the division of aging staff when an assessment has been completed for the purpose of qualification for other services; and

(b) Requires assistance with activities of daily living to the extent that without care and oversight at home would require placement in a facility licensed pursuant to chapter 198; and

(c) Under no circumstances, is able or allowed to operate a motor vehicle; and

(d) Does not receive funding or services through Medicaid or social services block grant funding;

(2) Live in the same residence to give protective oversight for the elderly person meeting the requirements described in subdivision (1) of this subsection for an aggregate of more than six months per tax year;

(3) Not receive monetary compensation for providing care for the elderly person meeting the requirements described in subdivision (1) of this subsection; and

(4) File the original completed and signed physician certification for shared care tax credit form or the original completed and signed division of aging certification for shared care tax credit form provided for in subsection 2 of section 660.054 along with such caregiver's Missouri individual income tax return to the department of revenue.

2. The tax credit allowed by this section shall apply to any year beginning after December 31, 1999.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 660.050 to 660.057 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to

delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

4. Any person who knowingly falsifies any document required for the shared care tax credit shall be subject to the same penalties for falsifying other tax documents as provided in chapter 143.

(L. 1999 H.B. 316, et al.)

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, 135.800 to 135.830

**Area agencies for aging duties--advisory council, duties--agency records audited, when.**

660.057. 1. On and after August 13, 1984, an area agency on aging shall operate with local administrative responsibility for Title III of the Older Americans Act, and other funds allocated to it by the division. The area agency board shall be responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited to, the accountability for funds and compliance with federal and state laws and rules. Such responsibility shall include all geographic areas in which the area agency on aging is designated to operate. The respective area agency board shall appoint a director of the area agency on aging in its jurisdiction. Beginning January 1, 1995, the director of the area agency on aging shall submit an annual performance report to the division director, the speaker of the house of representatives, the president pro tempore of the senate and the governor. Such performance report shall give a detailed accounting of all funds which were available to and expended by the area agency on aging from state, federal and private sources.

2. Each area agency on aging shall have an area agency on aging advisory council, which shall:

- (1) Recommend basic policy guidelines for the administration of the activities of the area agencies on aging on behalf of elderly persons and advise the area agency on aging on questions of policy;
- (2) Advise the area agency on aging with respect to the development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the division;
- (3) Review and evaluate the effectiveness of the area

agency on aging in meeting the needs of elderly persons in the planning and service area;

(4) Meet at least quarterly, with all meetings being subject to sections 610.010 to 610.030.

3. Each area agency board shall:

- (1) Conduct local planning functions for Title III and Title XX, and such other funds as may be available;
- (2) Develop a local plan for service delivery, subject to review and approval by the division, that complies with federal and state requirements and in accord with locally determined objectives consistent with the state policy on aging;
- (3) Assess the needs of elderly persons within the planning and service delivery area for service for social and health services, and determine what resources are currently available to meet those needs;
- (4) Assume the responsibility of determining services required to meet the needs of elderly persons, assure that such services are provided within the resources available, and determine when such services are no longer needed;
- (5) Endeavor to coordinate and expand existing resources in order to develop within its planning and service area a comprehensive and coordinated system for the delivery of social and health services to elderly persons;
- (6) Serve as an advocate within government and within the community at large for the interests of elderly persons within its planning and service area;
- (7) Make grants to or enter into contracts with any public or private agency for the provision of social or health services not otherwise sufficiently available to elderly persons within the planning and service area;
- (8) Monitor and evaluate the activities of its service providers to ensure that the services being provided comply with the terms of the grant or contract. Where a provider is found to be in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant or contract;
- (9) Conduct research, evaluation, demonstration or training activities appropriate to the achievement of the goal of improving the quality of life for elderly persons within its planning and service area;
- (10) Comply with division requirements that have been developed in consultation with the area agencies for client and fiscal information, and provide to the division information necessary for federal and state reporting, program evaluation, program management, fiscal control and research needs.

4. Beginning January 1, 1995, the records of each area agency on aging shall be audited at least every other year. All audits required by the Older Americans Act of 1965, as amended, shall satisfy this requirement.

(L. 1984 H.B. 1131 § 3, A.L. 1994 H.B. 1335 & 1381)

**Budget allotment tables provided to each area agency on aging, when--area plan submitted, when--on-site monitoring by division.**

660.058. 1. The division of aging shall provide budget allotment tables to each area agency on aging by January first of each year. Each area agency on aging shall submit its area plan, area budget and service contracts to the division of aging by March first of each year. Each April, the area agencies on aging shall present their plans to the division of aging in a public hearing scheduled by the division and held in the area served by the area agency on aging. Within thirty days of such hearing, the division shall report findings and recommendations to the board of directors for the area agency on aging, the area agency on aging advisory council, the members of the senate budget committee and the members of the house appropriations committee for social services and corrections.

2. Each area agency on aging shall include in its area plan performance measures and outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall also be presented to the division during the public hearing.

3. The division of aging shall conduct on-site monitoring of each area agency on aging at least once a year. The division of aging shall send all monitoring reports to the area agency on aging advisory council and the board of directors for the area agency which is the subject of the reports.

(L. 1999 S.B. 326 § 10)

**Transfer of division of aging to the department of health and senior services.**

660.060. All authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging shall be transferred to the department of health and senior services.

(L. 2001 H.B. 603)

**State board of senior services created, members, terms, duties.**

660.062. 1. There is hereby created a "State Board of Senior Services" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of senior services shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of senior services shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of\* senior services for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. One of the persons appointed to the state board of\* senior services shall be a person currently working in the field of gerontology. One of the persons appointed to the state board of\* senior services shall be a physician with expertise in geriatrics. One of the persons appointed to the state board of\* senior services shall be a person with expertise in nutrition. One of the persons appointed to the state board of\* senior services shall be a person with expertise in rehabilitation services of persons with disabilities. One of the persons appointed to the state board of\* senior services shall be a person with expertise in mental health issues. In making the two remaining appointments, the governor shall give consideration to individuals having a special interest in gerontology or disability-related issues, including senior citizens. Four of the seven members appointed to the state board of senior services shall be members of the governor's advisory council on aging. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a chairman and a vice chairman, who shall act as chairman in his or her absence. The board shall meet at the call of the chairman. The chairman may call meetings at such times as he or she deems advisable, and shall call a

meeting when requested to do so by three or more members of the board.

4. The state board of senior services shall advise the department of health and senior services in the:

- (1) Promulgation of rules and regulations by the department of health and senior services;
- (2) Formulation of the budget for the department of health and senior services; and
- (3) Planning for and operation of the department of health and senior services.

(L. 2001 H.B. 603)

\*Word "for" appears in original rolls.

### **Alzheimer's disease and related disorders respite care program--definitions.**

660.067. As used in sections 660.067 to 660.070, the following terms shall mean:

- (1) "Adult day care", a group program that emphasizes appropriate services for persons eighteen years of age or older having Alzheimer's disease and related disorders and that provides services for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's home;
- (2) "Alzheimer's disease and related disorders", diseases resulting from significant destruction of brain tissue and characterized by a decline of memory and other intellectual functions. These diseases include but are not limited to progressive, degenerative and dementing illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;
- (3) "Appropriate services", services that emphasize surveillance, safety, behavior management and other techniques used to assist persons having Alzheimer's disease and related disorders;
- (4) "Director", the director of the division of aging of the department of social services;
- (5) "Division", the division of aging of the department of social services;
- (6) "In-home companion", someone trained to provide appropriate services to persons having Alzheimer's disease and related disorders and who provides those services in the home;
- (7) "Respite care", a program that provides temporary and short-term residential care, sustenance, supervision and other appropriate services for persons having Alzheimer's disease and related disorders who otherwise reside in their own or in a family home.

(L. 1987 S.B. 200 § 6)

### **Respite care program for Alzheimer's purposes.**

660.069. 1. To encourage development of appropriate services for persons having Alzheimer's disease and related disorders, the division may make grants to public and private entities for pilot projects from funds specifically appropriated for this purpose. Pilot projects shall have the following goals:

- (1) To prevent or postpone institutionalization of persons having Alzheimer's disease and related disorders who currently live in their own home or in a family home;
- (2) To offer services that emphasize safety, surveillance and behavior management rather than, or in addition to, medical treatment, homemaker, chore or personal care services;
- (3) To temporarily relieve family members or others who have assumed direct care responsibilities by offering services that allow care givers to leave the home. These services shall include but not be limited to adult day care, in-home companions and respite care;
- (4) To test the practical and economic feasibility of providing services in settings and at levels designed for varying needs; and
- (5) To develop program models that can be adapted and operated by other public and private entities.

2. The director, in accordance with chapter 536, shall promulgate rules that establish procedures for grant application, review, selection, monitoring and auditing of grants made pursuant to sections 660.067 to 660.070.

3. The grants shall be limited to a duration of one year but may be renewable for one additional year at the director's discretion and if funds are appropriated for this purpose.

(L. 1987 S.B. 200 § 7)

### **Rules and regulations for respite care program, procedure.**

660.070. The commissioner of administration, in consultation with the director of the division of aging, shall promulgate rules that establish procedures for contracting with grantees receiving funds under sections 660.067 to 660.070. No rule or portion of a rule promulgated under the authority of sections 660.067 to 660.070 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1987 S.B. 200 § 8, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

**Intermediate care facility for mentally retarded--certificate of authorization needed for provider agreement--exception--certificates not to be issued, when--notice to department, when.**

660.075. 1. The division of medical services shall not issue a provider agreement to an intermediate care facility for the mentally retarded provider after May 29, 1991, unless and until the department of mental health transmits a certification of authorization to provide services, provided, however, a profit or not-for-profit provider may operate a single home of six beds or less without issuance of a certificate to the division of medical services. Such certification shall be provider specific and shall contain the number of beds authorized.

2. Notwithstanding any other provision of law to the contrary, any provider intending to operate an intermediate care facility for the mentally retarded in excess of those beds in existence on May 29, 1991, shall give notice to the department of mental health of any intent to do so between July first and October first of the fiscal year preceding the fiscal year in which they intend to operate such facility.

3. In addition to other good cause as established by administrative rules promulgated by the director of the department of mental health, such intermediate care facility for the mentally retarded operations as may be accommodated within the home and community-based waiver for the developmentally disabled shall be refused certificates of authorization by the department of mental health. The division of medical services shall refuse intermediate care facility for the mentally retarded provider agreements to providers to whom the department of mental health has refused certificates of authorization.

(L. 1991 H.B. 568 § 1)

Effective 5-29-91

**General assembly may make additional appropriations, purposes.**

660.099. 1. The general assembly may appropriate funds in addition to the amount currently being provided per annum for nutrition services for the elderly. Funds so designated to provide nutrition services for the elderly shall be allocated to the Missouri department of health and senior services to be equitably distributed to each area agency on aging throughout the state of Missouri

based upon formulas promulgated by the department of health and senior services.

2. The general assembly may appropriate funds in addition to the amount currently being provided per annum through the Missouri elderly and handicapped transportation program. Funds so designated to provide transportation for the elderly and developmentally disabled shall be allocated to the Missouri department of health and senior services to be equitably distributed to each area agency on aging throughout the state of Missouri based upon formulas promulgated by the department of health and senior services.

3. The general assembly may appropriate funds in addition to the amount currently being provided per annum for home-delivered meals for the elderly. Such additional funds shall be allocated to the Missouri department of health and senior services to be equitably distributed to each area agency on aging throughout the state of Missouri based upon formulas promulgated by the department of health and senior services.

(L. 1988 S.B. 555 §§ 1, 2, 3, A.L. 2008 H.B. 2036)

**Financial assistance for heating--definitions.**

660.100. 1. The department of social services is directed to establish a plan for providing financial assistance to elderly households, disabled households and qualified individual households for the payment of charges for the primary or secondary heating or cooling source for the household. This plan shall be known as "Utilicare".

2. For purposes of sections 660.100 to 660.136, the term "elderly" shall mean having reached the age of sixty-five and the term "disabled" shall mean totally and permanently disabled or blind and receiving federal Social Security disability benefits, federal supplemental security income benefits, veterans administration benefits, state blind pension pursuant to sections 209.010 to 209.160, state aid to blind persons pursuant to section 209.240, or state supplemental payments pursuant to section 208.030. For the purposes of sections 660.100 to 660.136, but not for the purpose of determining "eligible subscribers" pursuant to subdivision (4) of section 660.138, the term "qualified individual household" shall mean a household in which:

(1) One or more residents of the state of Missouri reside and whose combined household income is less than or equal to one hundred and fifty percent of the current federal poverty level or sixty percent of the state median income for the relevant household; and

(2) While the Federal Low Income Home Energy Assistance Program remains in effect, the household is also determined to be eligible for assistance under such program and related state programs of the Missouri department of social services.

(L. 1979 H.B. 545, et al. § 1, A.L. 1980 H.B. 1177, et al., A.L. 1997 S.B. 263, A.L. 2002 S.B. 810)

#### **Eligibility for assistance--income defined.**

660.105. Every qualified individual household for which an application is made, and every applicant household in which the head of the household or spouse is elderly or disabled and the income for the prior calendar year does not exceed one hundred and fifty percent of the current federal poverty level or sixty percent of the state median income, shall be an "eligible household" and shall be entitled to receive assistance under the utilicare program if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. "Income" shall be as defined in section 135.010.

(L. 1979 H.B. 545, et al. § 2, A.L. 1980 H.B. 1177, et al., A.L. 1997 S.B. 263, A.L. 2002 S.B. 810)

#### **Coordination and administration of heating and cooling assistance programs into the Utilicare program by department of social services.**

660.110. The department of social services shall be responsible for coordination of all federal heating assistance programs into the utilicare program and shall provide plans for the implementation and administration of these programs. The department may contract with local not-for-profit community agencies which render energy assistance pursuant to affiliation or contract with the United States Community Service Administration or another federal agency to distribute the federal moneys, to administer the federal heating and cooling assistance programs in accordance with the plan developed by the department and to provide certain administrative services in connection with the utilicare program which may include the processing of utilicare applications and any other service which the department deems practical. Insofar as possible, within the provisions of federal law and regulations, all payments made from funds available from the Crude Oil Windfall Profit Tax Act of 1980 and other federal sources shall be made directly to energy suppliers in a manner similar to payments made under the state utilicare program.

(L. 1979 H.B. 545, et al. § 3, A.L. 1980 H.B. 1177, et al., A.L. 1997 S.B. 263, A.L. 2002 S.B. 810)

#### **Utilicare payment, procedure.**

660.115. 1. For each eligible household, an amount not exceeding eight hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding eight hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both; provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility\* or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less.

(L. 1979 H.B. 545, et al. § 4, A.L. 1980 H.B. 1177, et al., A.L. 1997 S.B. 263, A.L. 2002 S.B. 810, A.L. 2008 S.B. 720)

\*Revisor's note: The term "residential care facility" may include "assisted living facility", see section 198.005 regarding changes to name reference.

#### **Services disconnected or discontinued for failure to pay--eligibility for assistance (cold weather rule).**

660.122. Funds appropriated under the authority of sections 660.100 to 660.136 may be used to pay the expenses of reconnecting or maintaining service to households that have had their primary or secondary heating or cooling source disconnected or service discontinued because of their failure to pay their bill. Any qualified household or other household which has as its head a person who is elderly or disabled, as defined in section 660.100, shall be eligible for assistance under this section if the income for the household is no more than one hundred fifty percent of the current federal poverty level or sixty percent of the

state median income and if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. Payments under this section shall be made directly to the primary or secondary heating or cooling source supplier. Any primary or secondary heating or cooling source supplier subject to the supervision and regulation of the public service commission shall, at any time during the period of the cold weather rule specified in the cold weather rule as established and as amended by the public service commission, reconnect and provide services to each household eligible for assistance under this section in compliance with the terms of such cold weather rule. All home energy suppliers receiving funds under this section shall provide service to eligible households consistent with their contractual agreements with the department of social services.

(L. 1984 S.B. 548, A.L. 1989 S.B. 151, A.L. 1997 S.B. 263, A.L. 1999 S.B. 495, A.L. 2002 S.B. 810)

CROSS REFERENCE:

Hot weather rule, discontinuance of service prohibited, when, 393.108

**False claims.**

660.125. Any false claim knowingly made in an application for \* assistance under the utilicare program or any false claim knowingly made by the recipient of such assistance or by a supplier of the primary or secondary heating or cooling source or of heating fuel in a request for payment under the utilicare program shall be deemed a false declaration as defined in section 575.060.

(L. 1979 H.B. 545, et al. § 6, A.L. 1997 S.B. 263)

Effective 7-14-97

\*Word "a" appears in original rolls.

**Rules, regulations, forms--rule requirements.**

660.130. The department of social services shall design the forms and issue rules and regulations necessary to carry out the provisions of sections 660.100 to 660.136. No rule or portion of a rule promulgated under the authority of sections 660.100 to 660.136 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024. Such rules shall provide that in order for a homeowner to be eligible such homeowner shall have met federal energy conservation guidelines for insulation, or have made application for insulation under the department of natural resources

program or like program offered in the state of Missouri. Large notices of the availability of this program shall be posted in application areas and local offices of the division of family services.

(L. 1979 H.B. 545, et al. § 7, A.L. 1980 H.B. 1177, et al., A.L. 1995 S.B. 3, A.L. 1997 S.B. 263)

Effective 7-14-97

**Expenditures--utilicare stabilization fund.**

660.135. 1. The utilicare stabilization fund for any fiscal year shall be funded, subject to appropriations, by the general assembly.

2. The department of social services shall, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861.

(L. 1979 H.B. 545, et al. § 8, A.L. 1980 H.B. 1177, et al., A.L. 1997 S.B. 263, A.L. 2002 S.B. 810, A.L. 2008 S.B. 720)

**Utilicare stabilization fund created--used for utilicare program.**

660.136. 1. The "Utilicare Stabilization Fund" is hereby created in the state treasury to support the provisions of sections 660.100 to 660.136. Funds for the utilicare program may come from state, federal or other sources including funds received by this state from the federal government under the provisions of the Community Opportunities Accountability and Training and Educational Services Act of 1998 (Title III, Section 301-309, Public Law 93.568), together with any interest or other earnings on the principal of this fund. Except as provided in subsection 3, moneys in the utilicare stabilization fund shall be used for the purposes established in the Federal Low Income Home Energy Assistance Program and sections 660.100 to 660.136.

2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from

the fund for the preceding fiscal year. The amount, if any, in the fund, which shall lapse, is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year. Moneys in the utilicare fund not needed currently for the purposes designated in sections 660.100 to 660.136 may be invested by the state treasurer in the manner that other moneys of the state are authorized by law to be invested. All interest, income and returns from moneys of the utilicare stabilization fund shall be deposited in the state treasury to the credit of the utilicare stabilization fund.

3. When the utilicare stabilization fund receives a transfer pursuant to section 470.270, the moneys from that transfer shall be held in the fund for one full year after the date of transfer and shall be used to pay for heating or cooling assistance as provided in sections 660.100 to 660.136. Any moneys remaining at the end of that year shall be deposited in the state treasury to the credit of the general revenue fund of the state.

(L. 1997 S.B. 263, A.L. 2002 S.B. 810)

CROSS REFERENCE:

Utilicare stabilization fund, refund of natural gas or electric rates to be transferred to fund, 470.270

### **Federal low income telephone assistance matching funds, compliance to obtain.**

660.137. The public service commission, the department of social services, and participating providers of local exchange telecommunications service shall comply with all requirements expressly provided by federal order, regulation, and statute for eligible subscribers to qualify for, and to receive matching federal low income telephone assistance.

(L. 1988 H.B. 1290)

### **Definitions.**

660.138. As used in sections 660.137 to 660.149, the following terms mean:

- (1) "Basic access line", a telephone line which provides switched voice residential communications service from the local exchange telecommunication company central office to the customer's premises which enables the customer to originate and terminate long distance and local calling;
- (2) "Commission", the public service commission;

- (3) "Economy rate telephone service", a class of local exchange telephone service provided to eligible subscribers which is designed to meet their minimum residential communication needs excluding all extras and fringe benefits including call waiting, call forwarding and other such services but providing access to telephone service for emergency calls and for the maintenance of necessary social contacts;
- (4) "Eligible subscriber", an individual who has been certified by the department of social services to be eligible to receive utilicare benefits pursuant to sections 660.100 to 660.135;
- (5) "Zone or mileage charges", any charges required for receipt of a basic access line which are based upon distance, by mileage or zones, of the customer from the company central office.

(L. 1986 H.B. 1301 § 1, A.L. 1988 H.B. 1290)

### **Waiver of interstate line charges for companies providing economy rates--procedure--effect on economy rates.**

660.139. Every local exchange telecommunications company which elects to provide economy rate telephone service shall apply to the Federal Communications Commission for the appropriate waiver of the monthly interstate subscriber line charge. Upon federal approval, the discount provided by the local exchange telecommunications company to subscribers of economy rate telephone service shall be increased to include the extent of the monthly waiver of the interstate subscriber line charge.

(L. 1988 H.B. 1290)

### **Economy rates, how established, applications--limited to one residence.**

660.141. 1. Notwithstanding the provisions of section 392.220 to the contrary, the public service commission may designate one or more classes of economy rate telephone service for eligible subscribers pursuant to the provisions of this section.

2. The rates to be charged to eligible subscribers for economy rate telephone service shall be:
  - (1) Determined by the commission separately for each local exchange telecommunications company which elects to provide the service, however, the commission may hear and decide issues relating to the provision of the service common to all such companies in one proceeding;

(2) Set at levels which enhance the affordability to eligible subscribers of such service in comparison to other comparable levels of service offered by the local exchange telecommunications company. Such rates shall not apply to any service or charge other than that for a basic access line, including any mileage or zone charges, except as provided in this section.

3. Every local exchange telecommunications company which elects to provide economy rate telephone service shall accept applications for economy rate telephone service according to a procedure approved by the commission.

4. An economy rate telephone service subscriber shall not be provided with more than one basic access line in his or her principal place of residence. An applicant for economy rate telephone service may report only one address in this state as the principal place of residence.

(L. 1986 H.B. 1301 § 2 subsecs. 1 to 4, A.L. 1988 H.B. 1290)

**Installation cost to be reduced, how determined--changes in service or disconnecting because no longer eligible, charges prohibited.**

660.143. 1. When initial installation or connection of service for an eligible subscriber for economy rate telephone service occurs, the applicable and approved rate for such installation or connection shall be a significantly reduced one which shall be determined by the commission.

2. A local exchange telecommunications company which elects to provide economy rate telephone service may not require the payment of an order processing charge or line change charge for an eligible subscriber's change to economy rate telephone service from any other class of residential service. If a subscriber to economy rate telephone service no longer qualifies as an eligible subscriber under sections 660.137 to 660.149, that subscriber may not be charged a fee for disconnecting from economy rate telephone service and connecting to another class of telephone service, except that the commission may allow the local exchange telecommunications company by commission regulations to charge a fee for eligible subscribers who frequently change, initiate, or terminate service.

(L. 1986 H.B. 1301 § 2 subsecs. 5, 6, A.L. 1988 H.B. 1290)

**Rules and regulations by commission--economy**

**rate telephone service fund established, purpose--fund not to lapse at end of fiscal year.**

660.145. 1. The commission shall promulgate such rules and regulations as are necessary to implement the provisions of sections 660.138 to 660.149. Such rules and regulations shall take into consideration available federal programs to reduce telephone costs to specified subscribers. No rule or portion of a rule promulgated under the authority of sections 660.138 to 660.149 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

2. The general revenues of the state shall be used to fund the discount provided to eligible subscribers of economy rate telephone service. The amount of the discount shall determine the amount of the waiver of the federal interstate subscriber line charge in section 660.139.

3. There is hereby created the "Economy Rate Telephone Service Fund" which shall be administered by the commission and which shall contain such moneys as appropriated to it by the general assembly. Moneys in the fund shall be kept separate from all other funds of the commission and shall be expended for the purpose specified in subsection 4\* of this section and for no other purpose.

4. Each participating local exchange telecommunications company shall determine and report quarterly to the commission the costs incurred for providing economy rate telephone service. Upon appropriation by the general assembly, the commission shall authorize reimbursement for those costs from the economy rate telephone service fund.

5. Notwithstanding the provisions of section 33.080, the unexpended balance in the economy rate telephone service fund at the end of each fiscal year shall not be transferred into general revenue.

(L. 1986 H.B. 1301 § 2 subsecs. 7, 8, A.L. 1988 H.B. 1290, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

\*"Subsection 11" appears in original rolls. Due to renumbering, subsection changed.

**Eligible persons, department's powers and duties.**

660.147. The department of social services shall provide to the participating local exchange telecommunications companies information identifying persons who the

department finds are eligible to receive economy rate telephone service. The department of social services shall on an annual basis during the time period that applications for utilicare assistance under sections 660.100 to 660.135 are normally accepted validate a list of those persons receiving economy rate telephone service as provided by the local telecommunications companies to determine continued eligibility.

(L. 1986 H.B. 1301 § 3, A.L. 1988 H.B. 1290)

### **Exemption from sales and use taxes--gross receipt tax, exemption or reduction may be made by political subdivisions.**

660.149. 1. In addition to the exemptions granted under the provisions of section 144.030, economy rate telephone service shall also be specifically exempted from the provisions of sections 144.010 to 144.510 and 144.600 to 144.745, and from the computation of the tax levied, assessed or payable under sections 144.010 to 144.510 and 144.600 to 144.745.

2. Notwithstanding any other provision of the law to the contrary, any local political subdivision may choose to reduce or exempt from its gross receipts tax on economy rate telephone service.

(L. 1986 H.B. 1301 §§ 4, 5)

### **Plan to be established.**

660.150. The department of social services is directed to devise and formulate a program of emergency financial assistance to needy families with children under twenty-one years of age which will qualify the state of Missouri for federal funds pursuant to Sections 603 and 606 of Title 42, United States Code, and such portions of the code of federal regulations as may apply to said sections. Upon receiving approval of the state plan from the United States Department of Health, Education and Welfare, the department shall implement the plan.

(L. 1979 H.B. 545, et al. § 9)

### **Grants may be made, to whom.**

660.155. The plan formulated by the department of social services under section 8\* shall provide for one-time financial grants, which may be money payments or vendor payments or payments in kind, to qualified

families during defined periods of emergency need. Such grants shall be made pursuant to regulations specified in the plan, which shall be in accordance with and approved by the United States Department of Health, Education and Welfare, and shall be known as "Emergency Assistance Grants".

(L. 1979 H.B. 545, et al. § 10)

\*Original rolls show figure "8", but apparently should have the figure "9", which is now § 660.150. Section 8, now § 660.135, does not require the formulation of a plan.

### **Department may define emergency situations.**

660.160. For the purposes of this plan, individual family emergencies may be declared by the department of social services when any crisis situation exists with respect to a family which threatens the family and creates urgent needs with respect to food, clothing, utilities or shelter for such family and which results from a sudden occurrence or set of circumstances which cause an immediate or extraordinary food, clothing, utility or shelter need for such family. No funds shall be allocated for the payment of utility expenses unless the applicant is determined to be ineligible for available assistance under the Federal Utility Crisis Intervention Program.

(L. 1979 H.B. 545, et al. § 11)

### **Limitation on periods of emergency--when assistance to be granted.**

660.165. Subject to the sufficiency of funds appropriated for this program, emergency assistance grants may be authorized by the director of the department of social services, or his delegate, when a finding is made that an individual family emergency exists. Such emergency assistance may be authorized during only one period of thirty consecutive days in any twelve-consecutive-month period, including payments which are to meet needs which arose before the thirty-day period or which extend beyond the thirty-day period. The program shall provide that a finding that an emergency does or does not exist will be made and, if applicable, assistance will be granted within three days after receipt by the department of a properly completed application.

(L. 1979 H.B. 545, et al. § 12)

### **Eligibility for assistance.**

660.170. Eligibility for emergency assistance to needy

families with children shall be as authorized in the state plan approved by the United States Department of Health, Education and Welfare.

(L. 1979 H.B. 545, et al. § 13)

### **Department's duties--no reduction in other benefits.**

660.175. The availability of emergency assistance shall not relieve the department of social services of any duty to cooperate with other agencies to reduce dependency nor its obligation to provide assistance in the form of general relief orders in emergency situations not covered by this plan. Receipt of assistance under this plan shall not reduce, offset, or eliminate entitlement to any other assistance provided to any qualified family under any other state or federal program, except as may be required by federal law or regulation.

(L. 1979 H.B. 545, et al. § 14)

### **Director to make regulations.**

660.180. The director of the department of social services, or his delegate, is authorized, subject to the provisions of this act\*, to promulgate regulations not inconsistent with this act\* as necessary to qualify for maximum federal funds, subject to section 660.185 and the appropriation of state funds for this program.

(L. 1979 H.B. 545, et al. § 15)

\*Original rolls contain words "this act" but apparently refer only to sections 660.150 to 660.200.

### **Limitation on state participation--expiration of program.**

660.185. Not more than one-half the cost of instituting or maintaining the services provided for in this act\* shall be appropriated or paid from the general revenue fund of this state, and this act\* shall terminate thirty days after federal financial support is ended or curtailed which would cause more than fifty percent of the cost of providing or maintaining the services provided for in this act\* to be paid by the state from its general revenue fund.

(L. 1979 H.B. 545, et al. § 16)

\*Original rolls contain words "this act" but apparently refer only to sections 660.150 to 660.200.

### **Limitation on expenditures.**

660.190. Not more than three hundred thousand dollars from general revenue shall be appropriated by the general assembly for the support of the program established by this act\* for the first fiscal year and not more than three percent of any funds appropriated shall be used for the administrative expenses involved in administering the program. No funds shall be expended under the provisions of this act\* until there is a specific appropriation for that purpose.

(L. 1979 H.B. 545, et al. § 17)

\*Original rolls contain words "this act" but apparently refer only to sections 660.150 to 660.200.

### **Plan to terminate, when.**

660.195. In the event that additional services in addition to those required by this act\* are required by federal law, rule or court decision, the department of social services shall immediately cease to operate the plan and shall make no further emergency assistance grants.

(L. 1979 H.B. 545, et al. § 18)

\*Original rolls contain words "this act" but apparently refer only to sections 660.150 to 660.200.

### **Rules, procedure.**

660.200. No rule or portion of a rule promulgated under the authority of sections 660.150 to 660.200 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1979 H.B. 545, et al. § 19, A.L. 1981 S.B. 200, A.L. 1995 S.B. 3)

### **Division to use services of certain organizations, when.**

660.225. The division of aging shall use the services of community based, not-for-profit organizations including senior centers for the provision of home delivered meals to qualified recipients prepared by such organizations if such service is available at not more than seventy-five percent of the cost currently incurred by the division for the provision of such service.

(L. 1992 S.B. 573 & 634)

**Definitions.**

660.250. As used in sections 660.250 to 660.321, the following terms mean:

- (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation;
- (2) "Court", the circuit court;
- (3) "Department", the department of health and senior services;
- (4) "Director", director of the department of health and senior services or his or her designees;
- (5) "Eligible adult", a person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in section 660.053, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;
- (6) "Home health agency", the same meaning as such term is defined in section 197.400;
- (7) "Home health agency employee", a person employed by a home health agency;
- (8) "Home health patient", an eligible adult who is receiving services through any home health agency;
- (9) "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;
- (10) "In-home services employee", a person employed by an in-home services provider agency;
- (11) "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement, which employs persons to deliver any kind of services provided for eligible adults in their private homes;
- (12) "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;
- (13) "Likelihood of serious physical harm", one or more of the following:
  - (a) A substantial risk that physical harm to an eligible adult will occur because of his or her failure or inability to provide for his or her essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted by an eligible adult upon himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his or her financial resources by another person;

(14) "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

(15) "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs.

(L. 1980 S.B. 576 § 1, A.L. 1987 S.B. 277, A.L. 1992 S.B. 573 & 634, A.L. 1994 H.B. 1335 & 1381, A.L. 2003 S.B. 556 & 311)

**Reports, contents--department to maintain telephone for reporting.**

660.255. 1. Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services shall report such information to the department.

2. The report shall be made orally or in writing. It shall include, if known:

- (1) The name, age, and address of the eligible adult;
- (2) The name and address of any person responsible for the eligible adult's care;
- (3) The nature and extent of the eligible adult's condition; and
- (4) Other relevant information.

3. Reports regarding persons determined not to be eligible adults as defined in section 660.250 shall be referred to the appropriate state or local authorities.

4. The department shall maintain a statewide toll free phone number for receipt of reports.

(L. 1980 S.B. 576 § 2, A.L. 1987 S.B. 277)

**Investigations of reports of eligible adults, department procedures.**

660.260. Upon receipt of a report, the department shall make a prompt and thorough investigation to determine whether or not an eligible adult is facing a likelihood of serious physical harm and is in need of protective services. The department shall provide for any of the following:

- (1) Identification of the eligible adult and determination that the eligible adult is eligible for services;
- (2) Evaluation and diagnosis of the needs of eligible adults;
- (3) Provision of social casework, counseling or referral to the appropriate local or state authority;
- (4) Assistance in locating and receiving alternative living arrangements as necessary;
- (5) Assistance in locating and receiving necessary protective services; or
- (6) The coordination and cooperation with other state agencies and public and private agencies in exchange of information and the avoidance of duplication of services.

(L. 1980 S.B. 576 § 3, A.L. 1987 S.B. 277)

**Investigations of reports of eligible adults between eighteen and fifty-nine, department procedures.**

660.261. Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall:

- (1) Investigate or refer the report to appropriate law enforcement or state agencies; and
- (2) Provide services or refer to local community or state agencies.

(L. 1987 S.B. 277, A.L. 2003 S.B. 556 & 311)

**Records, what confidential, what subject to disclosure--procedure--central registry to receive complaints of abuse and neglect.**

660.263. 1. Reports made pursuant to sections 660.250 to 660.295 shall be confidential and shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610.

2. Such reports shall be accessible for examination and copying only to the following persons or offices, or to their designees:

- (1) The department or any person or agency designated by the department;
- (2) The attorney general;
- (3) The department of mental health for persons referred to that department;
- (4) Any appropriate law enforcement agency; and
- (5) The eligible adult or his legal guardian.

3. The name of the reporter shall not be disclosed unless:

- (1) Such reporter specifically authorizes disclosure of his name; and
- (2) The department determines that disclosure of the name of the reporter is necessary in order to prevent further harm to an eligible adult.

4. Any person who violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the central registry and in reports and records made pursuant to sections 660.250 to 660.295, shall be guilty of a class A misdemeanor.

5. The department shall maintain a central registry capable of receiving and maintaining reports received in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information. The department shall electronically record any telephone report of suspected abuse and neglect received by the department and such recorded reports shall be retained by the department for a period of one year after recording.

6. Although reports to the central registry may be made anonymously, the department shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect, attempt to obtain the name and address of any person making a report.

(L. 1987 S.B. 277)

**Assistance to be given.**

660.265. When an eligible adult gives consent to receive protective services, the department shall assist the adult in locating and arranging for necessary services in the least restrictive environment reasonably available.

(L. 1980 S.B. 576 § 4)

**Procedure when abuse, neglect, or physical harm may be involved--remedies.**

660.270. When the department receives a report that there has been abuse or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and that he or she is in need of protective services and the department is unable to conduct an investigation because access to the eligible adult is barred by any person, the director may petition the appropriate court for a warrant or other order to enter upon the described premises and investigate the report or to produce the information. The application for the warrant or order shall identify the eligible adult and the facts and circumstances which require the issuance of the warrant or order. The director may also seek an order to enjoin the person from barring access to an eligible adult or from interfering with the investigation. If the court finds that, based on the report and relevant circumstances and facts, probable cause exists showing that the eligible adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in need of protective services and the director has been prevented by another person from investigating the report, the court may issue the warrant or enjoin the interference with the investigation or both.

(L. 1980 S.B. 576 § 5, A.L. 2003 S.B. 556 & 311)

**Interference with delivery of services, effect--remedy.**

660.275. If an eligible adult gives consent to receive protective services and any other person interferes with or prevents the delivery of such services, the director may petition the appropriate court for an order to enjoin the interference with the delivery of the services. The petition shall allege the consent of the eligible adult and shall allege specific facts sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need of the protective services and that delivery is barred by the person named in the petition. If the court finds upon a preponderance of evidence that the allegations in the petition are true, the court may issue an order enjoining the interference with the delivery of the protective services and may establish such conditions and restrictions on the delivery as the court deems necessary and proper under the circumstances.

(L. 1980 S.B. 576 § 6)

**Recipient unable to give consent, procedure, remedy.**

660.280. When an eligible adult facing the likelihood of serious physical harm and in need of protective services is unable to give consent because of incapacity or legal disability and the guardian of the eligible adult refuses to provide the necessary services or allow the provision of such services, the director shall inform the court having supervisory jurisdiction over the guardian of the facts showing that the eligible adult faces the likelihood of serious physical harm and is in need of protective services and that the guardian refuses to provide the necessary services or allow the provision of such services under the provisions of sections 660.250 to 660.295. Upon receipt of such information, the court may take such action as it deems necessary and proper to insure that the eligible adult is able to meet his essential human needs.

(L. 1980 S.B. 576 § 7, A.L. 1983 S.B. 44 & 45)

**Director may proceed under other law, when--legal counsel may be retained, when.**

660.285. 1. If the director determines after an investigation that an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202 or chapter 475, if appropriate.

2. In order to expedite adult guardianship and conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

(L. 1980 S.B. 576 § 8, A.L. 2002 S.B. 810)

**Peace officer may act, when, how--involuntary treatment may be ordered, how, where rendered--religious beliefs to be observed.**

660.290. 1. When a peace officer has probable cause to believe that an eligible adult will suffer an imminent likelihood of serious physical harm if not immediately placed in a medical facility for care and treatment, that the adult is incapable of giving consent, and that it is not possible to follow the procedures in section 660.285, the officer may transport, or arrange transportation for, the eligible adult to an appropriate medical facility which may admit the eligible adult and shall notify the next of kin, if known, and the director.

2. Where access to the eligible adult is barred and a substantial likelihood exists of serious physical harm resulting to the eligible adult if he is not immediately afforded protective services, the peace officer may apply to the appropriate court for a warrant to enter upon the described premises and remove the eligible adult. The application for the warrant shall identify the eligible adult and the circumstances and facts which require the issuance of the warrant.

3. If immediately upon admission to a medical facility, a person who is legally authorized to give consent for the provision of medical treatment for the eligible adult, has not given or refused to give such consent, and it is the opinion of the medical staff of the facility that treatment is necessary to prevent serious physical harm, the director or the head of the medical facility shall file a petition in the appropriate court for an order authorizing specific medical treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the above, if a licensed physician designated by the facility for such purpose examines the eligible adult and determines that the treatment is immediately or imminently necessary and any delay occasioned by the hearing provided in this subsection would jeopardize the life of the person affected, the medical facility may treat the eligible adult prior to such court hearing.

4. The court shall conduct a hearing pursuant to chapter 475 forthwith and, if the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person of the eligible adult to determine the nature and extent of the medical treatment necessary for the benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad litem shall promptly report the completion of treatment to the court, who shall thereupon conduct a restoration hearing or a hearing to appoint a permanent guardian.

5. The medical care under this section may not be rendered in a mental health facility unless authorized pursuant to the civil commitment procedures in chapter 632.

6. Nothing contained in this section or in any other section of sections 660.250 to 660.295 shall be construed as requiring physician or medical care or hospitalization of any person who, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of sections 660.250 to 660.295 be construed so as to designate any person as an eligible adult who presents a

likelihood of suffering serious physical harm and is in need of protective services solely because such person, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering.

(L. 1980 S.B. 576 § 9, A.L. 1983 S.B. 44 & 45)

### **Discontinuance of services, when--exception.**

660.295. If an eligible adult does not consent to the receipt of reasonable and necessary protective services, or if an eligible adult withdraws previously given consent, the protective services shall not be provided or continued; except that, if the director has reasonable cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court order pursuant to the provisions of section 660.285.

(L. 1980 S.B. 576 § 10)

### **Report of abuse or neglect of in-home services or home health agency client, duty--penalty--contents of report--investigation, procedure--confidentiality of report--immunity--retaliation prohibited, penalty--employee disqualification list--safe at home evaluations, procedure.**

660.300. 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue

an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section 660.320.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an

administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to

establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections 660.250 to 660.300 shall be reimbursed to the in-home services provider agency.

(L. 1992 S.B. 573 & 634, A.L. 2003 S.B. 556 & 311, A.L. 2003 2nd Ex. Sess. S.B. 4, A.L. 2010 S.B. 842, et al. merged with S.B. 1007)

**In-home services client, misappropriation of property, report--investigation--penalty--confidentiality of report--immunity--retaliation prohibited--employee disqualification list.**

660.305. 1. Any person having reasonable cause to believe that a misappropriation of an in-home services client's property or funds, or the falsification of any documents verifying service delivery to the in-home services client has occurred, may report such information to the department.

2. For each report the department shall attempt to obtain the names and addresses of the in-home services

provider agency, the in-home services employee, the in-home services client, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any in-home services provider agency or in-home services employee who puts to his or her own use or the use of the in-home services provider agency or otherwise diverts from the in-home services client's use any personal property or funds of the in-home services client, or falsifies any documents for service delivery, is guilty of a class A misdemeanor.

4. Upon receipt of a report, the department shall immediately initiate an investigation and report information gained from such investigation to appropriate law enforcement authorities.

5. If the investigation indicates probable misappropriation of property or funds, or falsification of any documents for service delivery of an in-home services client, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action.

6. Reports shall be confidential, as provided under section 660.320.

7. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

8. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

9. No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the in-home services provider agency or any in-home

services employee which he or she has reasonable cause to believe has been committed or has occurred.

10. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who are or have been employed by an in-home service provider agency and who have been finally determined by the department to, pursuant to section 660.315, have misappropriated any property or funds, or falsified any documents for service delivery of an in-home services client and who came to be known to the person, directly, or indirectly while employed by an in-home services provider agency.

(L. 1992 S.B. 573 & 634, A.L. 2003 S.B. 556 & 311)

#### **Alteration of in-home services provider agency contracts, procedure--letters of censure--staying of suspensions--appeal process.**

660.310. 1. Notwithstanding any other provision of law, if the department of health and senior services proposes to deny, suspend, place on probation, or terminate an in-home services provider agency contract, the department of health and senior services shall serve upon the applicant or contractor written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or contractor shall have thirty days from the date of mailing or delivery of the notice to file a complaint requesting a hearing before the administrative hearing commission. The administrative hearing commission may consolidate an applicant's or contractor's complaint with any proceeding before the administrative hearing commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156 involving a common question of law or fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145 shall apply. With respect to cases in which the department has denied a contract to an in-home services provider agency, the administrative hearing commission shall conduct a hearing to determine the underlying basis for such denial. However, if the administrative hearing commission finds that the contract denial is supported by the facts and the law, the case need not be returned to the department. The administrative hearing commission's decision shall constitute affirmation of the department's contract denial.

2. The department of health and senior services may issue letters of censure or warning without formal notice or hearing.

3. The administrative hearing commission may stay the suspension or termination of an in-home services provider agency's contract, or the placement of the contractor on probation, pending the commission's findings and determination in the cause, upon such conditions, with or without the agreement of the parties, as the commission deems necessary and appropriate, including the posting of bond or other security except that the commission shall not grant a stay, or if a stay has already been entered shall set aside its stay, unless the commission finds that the contractor has established that servicing the department's clients pending the commission's final determination would not present an imminent danger to the health, safety, or welfare of any client or a substantial probability that death or serious physical harm would result. The commission may remove the stay at any time that it finds that the contractor has violated any of the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the commission, pending the decision of the commission and any subsequent departmental action at which time the stay shall be removed. In any case in which the department has refused to issue a contract, the commission shall have no authority to stay or to require the issuance of a contract pending final determination by the commission.

4. Stays granted to contractors by the administrative hearing commission shall, as a condition of the stay, require at a minimum that the contractor under the stay operate under the same contractual requirements and regulations as are in effect, from time to time, as are applicable to all other contractors in the program.

5. The administrative hearing commission shall make its final decision based upon the circumstances and conditions as they existed at the time of the action of the department and not based upon circumstances and conditions at the time of the hearing or decision of the commission.

6. In any proceeding before the administrative hearing commission pursuant to this section, the burden of proof shall be on the contractor or applicant seeking review.

7. Any person, including the department, aggrieved by a final decision of the administrative hearing commission

may seek judicial review of such decision as provided in section 621.145.

(L. 2003 S.B. 556 & 311)

**Employee disqualification list, notification of placement, contents--challenge of allegation, procedure--hearing, procedure--appeal--removal of name from list--list provided to whom--prohibition of employment.**

660.315. 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

- (1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;
- (2) The person's name will be included in the employee disqualification list of the department;
- (3) The consequences of being so listed including the length of time to be listed; and
- (4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

- (1) Whether the person acted recklessly or knowingly, as defined in chapter 562;
- (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;
- (3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

- (4) Whether the person has previously been listed on the employee disqualification list;
- (5) Any mitigating circumstances;
- (6) Any aggravating circumstances; and
- (7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

- (1) Is licensed as an operator under chapter 198;
  - (2) Provides in-home services under contract with the department;
  - (3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;
  - (4) Is approved by the department to issue certificates for nursing assistants training;
  - (5) Is an entity licensed under chapter 197;
  - (6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or
  - (7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity.
- The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person,

corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 660.250 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

- (1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section 660.317;
- (2) Was placed on the employee disqualification list under this section after the date of hire;
- (3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;
- (4) Has a disqualifying finding under this section, section 660.317, or is on any of the background check

lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section 660.317.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

(L. 1992 S.B. 573 & 634, A.L. 2003 S.B. 556 & 311, A.L. 2007 S.B. 272, A.L. 2012 H.B. 1563, A.L. 2013 S.B. 127)

**Criminal background checks of employees, required when--persons with criminal history not to be hired, when, penalty--failure to disclose, penalty--improper hirings, penalty--definitions--rules to waive hiring restrictions.**

660.317. 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

- (1) Is licensed as an operator pursuant to chapter 198;
  - (2) Provides in-home services under contract with the department;
  - (3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;
  - (4) Is an entity licensed pursuant to chapter 197;
  - (5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health;
- or
- (6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the

case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's central repository. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section 660.315.

4. When the provider requests a criminal background check pursuant to section 43.540, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the

obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540 so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937.

8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

10. Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section 660.315, the department of health and senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

(L. 1996 H.B. 1362, A.L. 1997 S.B. 358, A.L. 1998 H.B. 1046 merged with H.B. 1907, A.L. 2003 S.B. 556 & 311, A.L. 2003 2nd Ex. Sess. S.B. 4)  
Effective 9-15-03

**Prohibition against disclosure of reports, exceptions--employment security provided reports upon request.**

660.320. 1. Reports confidential under section 198.070 and sections 660.300 to 660.315 shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610. The name of the complainant or any person mentioned in the reports shall not be disclosed unless:

- (1) The complainant, resident or the in-home services client mentioned agrees to disclosure of his or her name;
- (2) The department determines that disclosure is necessary in order to prevent further abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying service delivery to an in-home services client;
- (3) Release of a name is required for conformance with a lawful subpoena;
- (4) Release of a name is required in connection with a review by the administrative hearing commission in accordance with section 198.039;
- (5) The department determines that release of a name is appropriate when forwarding a report of findings of an investigation to a licensing authority; or
- (6) Release of a name is requested by the division of family services for the purpose of licensure under chapter 210.

2. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports that led to an employee being placed on the disqualification list.

(L. 1992 S.B. 573 & 634, A.L. 2003 S.B. 556 & 311)

**Confidentiality of records, records disclosed, when.**

660.321. Notwithstanding any other provision of law, the department shall not disclose personally identifiable medical, social, personal, or financial records of any eligible adult being served by the division of senior services except when disclosed in a manner that does not identify the eligible adult, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

- (1) The department or any person or agency designated by the department for such purposes as the department may determine;
- (2) The attorney general, to perform his or her constitutional or statutory duties;
- (3) The department of mental health for residents placed through that department, to perform its constitutional or statutory duties;
- (4) Any appropriate law enforcement agency, to perform its constitutional or statutory duties;
- (5) The eligible adult, his or her legal guardian or any other person designated by the eligible adult; and
- (6) The department of social services for individuals who receive Medicaid benefits, to perform its constitutional or statutory duties.

(L. 2003 S.B. 556 & 311)

**Definitions.**

660.325. As used in sections 660.327 to 660.355, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Department", the Missouri department of social services or any division thereof;
- (2) "Entity" includes any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit as a business in the state of Missouri;
- (3) "Public assistance", assistance received by or paid on behalf of any person under chapter 205, 207, 208, or 209.

(L. 1983 S.B. 285 § 1)

**Withdrawal and deposits by persons applying or receiving public assistance--information to be furnished, procedure.**

660.327. Any entity shall, upon request by the department, inform the department of the amount deposited in the entity to the credit of any person named in such request who is the applicant for or recipient of public assistance. The entity shall, after ten days' written notice to such person by the department also upon request of the department, furnish records of any deposits and withdrawals during the past five years concerning any applicant for or recipient of public assistance.

(L. 1983 S.B. 285 § 2)

**Delinquent support obligations with unsatisfied judgment, information to be furnished, procedure.**

660.330. Any entity shall, upon request by the department, inform the department of the last known address of any person or of any moneys deposited on behalf of any person named in the request who owes a duty of support to or for any applicant for or recipient of public assistance wherein such support obligation has been assigned to the department or any of its divisions either by written assignment or operation of law and the department or division has obtained an unsatisfied judgment for such child support and after ten days' written notice has been provided to such person. Before any such information is provided, the department shall provide to the entity an affidavit with specificity that all of the requirements of this section have been met.

(L. 1983 S.B. 285 § 3)

**Requests by department for information, form--content.**

660.335. Requests made by the department pursuant to sections 660.327 and 660.330 shall be in writing and shall include sufficient information to identify each person named in the request in a form that is compatible with the record-keeping methods of the entity. Requests may be made in the form of magnetic computer tape.

(L. 1983 S.B. 285 § 4)

**Cost of record search.**

660.340. The department shall reimburse any entity for the cost of computer time expended by the entity in making a search of its records as a result of a request made pursuant to sections 660.325 to 660.355, at a reasonable rate. If the request asks for records of any deposits and withdrawals during the past five years, and the entity cannot obtain such information by automated search of its records, the department shall reimburse the entity at the rate of six dollars per man hour expended.

(L. 1983 S.B. 285 § 5)

**Requested information to be provided, when--failure to provide, penalty--attorney general's powers and duties.**

660.343. Any entity which has received a request from the department as provided by sections 660.327 and 660.330 shall provide the requested information within sixty days of receipt of the request. Willful failure of an entity to provide the requested information within such period shall result in liability to the state for civil penalties of up to ten dollars for each day thereafter. The attorney general shall, upon request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

(L. 1983 S.B. 285 § 6)

**Immunity from civil liability for providing requested information.**

660.345. Any entity, officer, agent, or employee of such entities participating in good faith in providing the requested information under sections 660.327, 660.330 and this section shall be immune from civil liability that might otherwise result from the release of such information to the department.

(L. 1983 S.B. 285 § 7)

**Disclosure of information, penalty.**

660.350. The disclosure of any information provided to the entity by the department or the disclosure of any information regarding the identity of any applicant for or

recipient of public assistance, by an officer or employee of any entity, or by any person receiving such information from such employee or officer is prohibited. Any person violating this section shall be guilty of a class A misdemeanor.

(L. 1983 S.B. 285 § 8)

### **Application or receipt of public assistance to be deemed consent to request for information.**

660.355. The application for or the receipt of public assistance shall be deemed consent by any such applicant or recipient for the department to request any information regarding such applicant or recipient from any entity.

(L. 1983 S.B. 285 § 9)

### **Definitions.**

660.370. As used in sections 660.370 to 660.374, unless the context requires otherwise, the following words and terms shall mean:

(1) "Community action agency", a not-for-profit corporation which has authority under its charter and bylaws to receive funds to administer community action programs and which was officially designated as a community action agency or a community action program under the provisions of federal law Section 210 of the Economic Opportunity Act of 1964 for fiscal year 1981, unless such community action agency or a community action program lost its designation pursuant to the aforementioned act as a result of failure to comply with the provisions of such act;

(2) "Community action program", a community based and operated program which includes an intake assessment and referral capability in each of its counties and is designed to include a number of projects or components to provide a range of services and activities having\* a measurable and potentially major impact on causes and conditions of poverty in the community or those areas of the community where poverty is a particularly acute problem. These services and activities may include, but are not limited to, activities designed to provide opportunities for eligible persons to:

- (a) Secure and retain meaningful employment;
- (b) Attain an adequate education;
- (c) Make better use of available income;
- (d) Obtain and maintain adequate housing and suitable living environment;
- (e) Obtain emergency assistance through grants to meet immediate and urgent individual and family needs,

- including the need for health services, nutritious food, housing and employment related assistance;
- (f) Maximize the role community action agencies play in supportive mechanisms available to Missouri families;
- (g) Remove obstacles and solve problems which block the achievement of self-sufficiency;
- (h) Achieve greater participation in the affairs of the community; and
- (i) Make more effective use of other programs.

(L. 1984 S.B. 564 § 1)

\*Word "have" appears in original rolls.

### **Board of directors--number--qualifications--powers--duties.**

660.372. 1. Each community action agency shall have a board of directors, as provided by the bylaws of the corporations, of not less than twelve nor more than thirty-six members. One-third of the members of the board shall be elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board by appointive public officials may be counted in meeting such one-third requirement. At least one-third of the members shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served, and the remainder of the members shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

2. The governing board shall determine personnel, fiscal and program policies and approve proposals for financial assistance and the disbursement of funds.

(L. 1984 S.B. 564 §§ 2, 3)

### **Funding--agency's share of funds, how determined--use of state revenue.**

660.374. 1. In the event that the Congress of the United States approves a block grant system to fund social programs, the state may, subject to appropriation, use such block grant funds or in-kind services to provide a level of financial assistance for community action agencies to carry out community action programs through the community services block grants pursuant to the federal Community Services Block Grant Act and

other such federal funding sources which may be appropriate. Each agency shall in accordance with section 660.376 receive a portion of available Community Services Block Grant Act funds based on that agency's poverty population relative to the state's total poverty population. Poverty levels shall be determined by the department of social services using criteria established by the United States Office of Management and Budget.

2. In the event that federal funds are not available for the support of community action agencies, state funds may be appropriated or expended therefor, however only in an amount as defined in subsection 1 of this section.

(L. 1984 S.B. 564 § 4, A.L. 1995 S.B. 445)

### **Rules and regulations--department of social services, authority.**

660.376. Each community action agency shall be governed by rules and regulations promulgated by the department of social services as it relates to the community services block grant program.

(L. 1984 S.B. 564 § 5)

### **Definitions.**

660.400. As used in sections 199.025 and 660.403 to 660.420, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Adult", an individual over the age of eighteen;
- (2) "Adult day care program", a group program designed to provide care and supervision to meet the needs of functionally impaired adults for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's own home;
- (3) "Adult day care provider", the person, corporation, partnership, association or organization legally responsible for the overall operation of the adult day care program;
- (4) "Department", the department of social services;
- (5) "Director", the director of the division of aging;
- (6) "Division", the division of aging;
- (7) "Functionally impaired adult", an adult who by reason of age or infirmity requires care and supervision;
- (8) "License", the document issued by the division in accordance with the provisions of sections 199.025 and 660.403 to 660.420 to an adult day care program which authorizes the adult day care provider to operate the program in accordance with the provisions of sections

199.025 and 660.403 to 660.420 and the applicable rules promulgated pursuant thereto;

(9) "Participant", a functionally impaired adult who is enrolled in an adult day care program;

(10) "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization regardless of the name used;

(11) "Provisional license", the document issued by the division in accordance with the provisions of sections 199.025 and 660.403 to 660.420 to an adult day care provider which is not currently meeting the requirements necessary to obtain a license;

(12) "Related", any of the following by blood, marriage or adoption: parent, child, grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first cousin;

(13) "Staff participant ratio", the number of adult care staff required by the division in relation to the number of adults being cared for by such staff.

(L. 1984 H.B. 1131 § 4)

Revisor's note: Definitions contained in section 660.053 are also applicable to sections 660.400 to 660.420.

### **License required to operate day care program--forms--investigation--requirements--license validity period, provisional license issued, when.**

660.403. 1. It shall be unlawful for any person to establish, maintain, or operate an adult day care program, or to advertise or hold himself out as being able to perform any adult day care service, unless he has obtained the proper license.

2. All applications for licenses shall be made on forms provided by the division and in the manner prescribed by the division. All forms provided shall include a fee schedule.

3. The division shall conduct an investigation of the adult day care program, and the applicant, for which a license is sought in order to determine if such program is complying with the following:

- (1) Local fire safety requirements or fire safety requirements of the division if there are no local codes;
- (2) Local or state sanitation requirements;
- (3) Local building and zoning requirements, where applicable;
- (4) Staff/adult ratios required by the division; and

(5) Other applicable provisions of sections 199.025 and 660.403 to 660.420 and all applicable rules promulgated pursuant thereto, including but not limited to:

- (a) The applicant's ability to render adult day care;
- (b) The proposed plan for providing adult day care;
- (c) The proposed plan of operation of the adult day care program, so that, in the judgment of the division, minimum standards are being met to insure the health and safety of the participants.

4. Following completion of its investigation made pursuant to subsection 3 of this section and a finding that the applicant for a license has complied with all applicable rules promulgated pursuant to sections 199.025 and 660.403 to 660.420 the division shall issue a license to such applicant. Such license shall be valid for the period designated by the division, which period shall not exceed two years from the date of issuance, for the premises and persons named in the application.

5. Each license issued under sections 199.025 and 660.403 to 660.420 shall include the name of the provider, owner and operator; the name of the adult day care program; the location of the adult day care program; the hours of operations; the number and any limitations or the type of participants who may be served; and the period for which such license is valid.

6. The division may issue a provisional license to an adult day care program that is not currently meeting requirements for a license but which demonstrates the potential capacity to meet full requirements for license; except that, no provisional license shall be issued unless the director is satisfied that the operation of the adult day care program is not detrimental to the health and safety of the participants being served. The provisional license shall be nonrenewable and shall be valid for the period designated by the division, which period shall not exceed six months from the date of issuance. Upon issuance of a regular license, a day care program's provisional license shall immediately be null and void.

(L. 1984 H.B. 1131 § 5)

### **Exceptions to licensure requirements for adult day care centers.**

660.405. 1. The provisions of sections 199.025 and 660.403 to 660.420 shall not apply to the following:

(1) Any adult day care program operated by a person in which care is offered for no more than two hours per day;

- (2) Any adult day care program maintained or operated by the federal government except where care is provided through a management contract;
- (3) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;
- (4) Any adult day care program which cares for no more than four persons unrelated to the provider;
- (5) Any adult day care program licensed by the department of mental health under chapter 630 which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability as defined;
- (6) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a license or receiving a license if the adult day care program owned or operated by such person conforms to the provisions of sections 199.025 and 660.403 to 660.420 and all applicable rules promulgated pursuant thereto.

(L. 1984 H.B. 1131 § 6)

### **Right to enter premises for compliance inspections or to investigate complaints--failure to permit, effect.**

660.407. 1. The director, or his authorized representative, shall have the right to enter the premises of an applicant for or holder of a license at any time during the hours of operation of a center to determine compliance with provisions of sections 199.025 and 660.403 to 660.420 and applicable rules promulgated pursuant thereto. Entry shall also be granted for investigative purposes involving complaints regarding the operations of an adult day care program. The division shall make at least two inspections per year, at least one of which shall be unannounced to the operator or provider. The division may make such other inspections, announced or unannounced, as it deems necessary to carry out the provisions of sections 199.025 and 660.403 to 660.420.

2. The applicant for or holder of a license shall cooperate with the investigation and inspection by providing access to the adult day care program, records and staff, and by providing access to the adult day care program to determine compliance with the rules promulgated pursuant to sections 199.025 and 660.403 to 660.420.

3. Failure to comply with any lawful request of the division in connection with the investigation and inspection is a ground for refusal to issue a license or for the suspension or revocation of a license.

4. The division may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the division to be competent to investigate and inspect applicants for or holders of licenses.

(L. 1984 H.B. 1131 § 7)

### **Fee for license or renewal, limitation.**

660.409. Each application for a license, or the renewal thereof, issued pursuant to sections 199.025 and 660.403 to 660.420 shall be accompanied by a nonrefundable fee in the amount required by the division. The fee, to be determined by the director of the division, shall not exceed one hundred dollars and shall be based on the licensed capacity of the applicant.

(L. 1984 H.B. 1131 § 8)

### **Division to assist applicants or holders of licenses.**

660.411. The division shall offer technical assistance or consultation to assist applicants for or holders of licenses or provisional licenses in meeting the requirements of sections 199.025 and 660.403 to 660.420, staff qualifications, and other aspects involving the operation of an adult day care program, and to assist in the achievement of programs of excellence related to the provision of adult day care.

(L. 1984 H.B. 1131 § 9)

### **Inspections, when--refusal to permit access, court order issued when--injunction authorized.**

660.414. 1. Whenever the division is advised or has reason to believe that any person is operating an adult day care program without a license, or provisional license, or that any holder of license, or provisional

license is not in compliance with the provisions of sections 199.025 and 660.403 to 660.420, the division shall make an investigation and inspection to ascertain the facts. If the division is not permitted access to the adult day care program in question, the division may apply to the circuit court of the county in which the program is located for an order authorizing entry for inspection. The court shall issue the order if it finds reasonable grounds necessitating the inspection.

2. If the division finds that the adult day care program is being operated in violation of sections 199.025 and 660.403 to 660.420, it may seek, among other remedies, injunctive relief against the adult day care program.

(L. 1984 H.B. 1131 § 10)

### **License denied--suspended--revoked--hearing procedure--appeals.**

660.416. 1. Any person aggrieved by an official action of the division either refusing to issue a license or revoking or suspending a license may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 161.272, et seq.; except that, the petition must be filed with the administrative hearing commission within thirty days after the mailing or delivery of notice to the applicant for or holder of such license or certificate. When the notification of the official action is mailed to the applicant for or holder of such a license, there shall be included in the notice a statement of the procedure whereby the applicant for or holder of such license may appeal the decision of the division before the administrative hearing commission. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing or exhaust any other procedure within the division.

2. The administrative hearing commission may stay the revocation or suspension of such certificate or license, pending the commission's findings and determination in the cause, upon such conditions as the commission deems necessary and appropriate including the posting of bond or other security; except that, the commission shall not grant a stay or if a stay has already been entered shall set aside its stay, if, upon application of the division, the commission finds reason to believe that continued operation of the facility to which the certificate or license in question applies pending the commission's final determination would present an imminent danger to the health, safety or welfare of any

person or a substantial probability that death or serious physical harm would result. In any case in which the division has refused to issue a certificate or license, the commission shall have no authority to stay or to require the issuance of a license pending final determination by the commission.

3. The administrative hearing commission shall make the final decision as to the issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the administrative hearing commission, including the division, may seek judicial review of such decision by filing a petition for review in the court of appeals for the district in which the adult day care program to which the license in question applies is located. Review shall be had in accordance with the provisions of sections 161.337 and 161.338.

(L. 1984 H.B. 1131 § 11)

### **Rules, authority, procedure.**

660.418. The director of the division shall have the authority to promulgate rules pursuant to this section and chapter 536 in order to carry out the provisions of sections 199.025 and 660.403 to 660.420. No rule or portion of a rule promulgated under the authority of section 199.025 and sections 660.403\* to 660.420 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1984 H.B. 1131 § 12, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

\*Original rolls contain "660.430". This is an apparent typographical error.

### **Violations, penalties.**

660.420. 1. Any person who violates any provision of sections 199.025 and 660.403 to 660.420, or who, for himself or for any other person, makes materially false statements in order to obtain a certificate or license, or the renewal thereof, issued pursuant to sections 199.025 and 660.403 to 660.420, shall be guilty of a class A misdemeanor.

2. Any person who is convicted pursuant to this section shall, in addition to all other penalties provided by law, have any license issued to him under sections 199.025 and 660.403 to 660.420 revoked, and shall not operate, nor hold any license to operate, any adult day care program, or other entity governed by the provisions of

sections 199.025 and 660.403 to 660.420 for a period of three years after such conviction.

(L. 1984 H.B. 1131 § 13)

### **Home services providers tax imposed, definitions.**

660.425. 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services.

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

- (1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services;
- (2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. "In-home services" shall not include home health services as defined by federal and state law;
- (3) "In-home services provider", any provider or vendor, as defined in section 208.900, of compensated in-home services and under a provider agreement or contracted with the department of social services or the department of health and senior services.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al. merged with S.B. 1007)

Expires 9-01-12

### **Amount of tax, formula--rulemaking authority--appeals.**

660.430. 1. Each in-home services provider in this state providing in-home services shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the

department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al.)

Expires 9-01-12

#### **List of vendors to be provided--record-keeping requirements--report of total payments.**

660.435. 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total

payments received for the provision of in-home services to the department of social services.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al.)

Expires 9-01-12

#### **Effective date of tax.**

660.440. 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.

(L. 2009 H.B. 740 merged with S.B. 307)

Effective 6-26-09 (H.B. 740)

8-28-09 (S.B. 307)

Expires 9-01-12

#### **Determination of tax amount--notification to provider--quarterly tax adjustments permitted.**

660.445. 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided. The department of social services may define such adjustment criteria by rule.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al.)

Expires 9-01-12

**Offset of tax permitted, when.**

660.450. The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

(L. 2009 H.B. 740 merged with S.B. 307)

Effective 6-26-09 (H.B. 740)

8-28-09 (S.B. 307)

Expires 9-01-12

**Remittance of tax--fund created--record-keeping requirements.**

660.455. 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al.)

Expires 9-01-12

**Notification of taxes due--unpaid or delinquent amounts, effect of--failure to pay, penalty.**

660.460. 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al.)  
Expires 9-01-12

**Expiration date.**

660.465. 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2012.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2012.

(L. 2009 H.B. 740 merged with S.B. 307, A.L. 2010 S.B. 842, et al. merged with S.B. 1007)

Expires 9-01-12

### **Rulemaking under authority of chapter 210.**

660.512. No rule or portion of a rule promulgated under the authority of chapter 210 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1989 S.B. 241 § 10, Repealed L. 1995 H.B. 574, A.L. 1995 S.B. 3)

### **State technical assistance team for child sexual abuse cases, duties--counties may develop team, members--availability of records.**

660.520. 1. There is hereby established in the department of social services a special team, to be known as the "state technical assistance team", to assist in cases of child abuse, child neglect, child sexual abuse, child exploitation, child pornography, or child fatality. It shall be the priority of the team to focus on those cases in which more than one report has been received. The team shall:

- (1) Provide assistance, expertise, and training to child protection agencies and multidisciplinary teams for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, child pornography, or child fatality cases;
- (2) Assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation, child pornography, or child fatality cases, upon the request of a local, county, state, or federal law enforcement agency, county, state, or federal prosecutor, a representative of the family courts, medical examiner, coroner, juvenile officer, or department of social services staff. Upon being requested to assist in an investigation, the state technical assistance team shall notify appropriate parties specified in this subdivision of the team's involvement. State technical assistance team investigators licensed as peace officers by the director of the department of public safety pursuant to chapter 590 shall be deemed to be peace officers within the state of Missouri while acting in an investigation or on behalf of a child. The power of

arrest of a state technical assistance team investigator acting as a peace officer shall be limited to offenses involving child abuse, child neglect, child sexual abuse, child exploitation, child pornography, child fatality, or in situations of imminent danger to the investigator or another person;

(3) Assist county multidisciplinary teams to develop and implement protocols for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, child pornography, or child fatality cases.

2. The team may call upon the expertise of the office of the attorney general, the Missouri office of prosecution services, the state highway patrol, the department of health and senior services, the department of mental health or any other agency or institution.

3. Each county may develop a multidisciplinary team for the purpose of determining the appropriate investigative and therapeutic action to be initiated on complaints referenced in subsection 1 of this section reported to the children's division. The multidisciplinary team may include, but is not limited to, a prosecutor, or his or her representative, an investigator from the children's division, a physician, a representative from a mental health care services agency and a representative of the police agency of primary jurisdiction.

4. All reports and records made and maintained by the state technical assistance team or local law enforcement relating to criminal investigations conducted pursuant to this section, including arrests, shall be available in the same manner as law enforcement records, as set forth in sections 610.100 to 610.200, and to the individuals identified in subdivision (13) of subsection 2 of section 210.150. All other records shall be available in the same manner as provided for in section 210.150.

(L. 1990 H.B. 1370, et al. § 1, A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1055)

### **Uniform rules for investigation of child sexual abuse cases--training provided for division of family services, staff.**

660.523. 1. By January 1, 1991, using approved state child abuse and neglect federal grant funds, the department of social services shall develop uniform protocols for investigations of child sexual abuse cases pursuant to chapter 210 and shall provide training to division of family services employees who investigate reports of such cases.

2. The department of social services shall develop separate protocols for multiple-suspect and multiple-victim cases.

(L. 1990 H.B. 1370, et al. § 2)

**Treatment for child sexual abuse victims provided by family services, when.**

660.525. The division of family services may provide treatment services for child sexual abuse victims in instances where the perpetrator is not listed in section 210.110 as a person responsible for the care, custody and control of the child, if treatment funds are available and such treatment services are requested by the family of the child.

(L. 1990 H.B. 1370, et al. § 4)

**Child sexual abuse cases, annual training required by division of family services.**

660.526. The division of family services shall ensure that all employees and persons with contracts with the division and who specialize in either the treatment, prosecution, or investigation of child sexual abuse cases receive a minimum of fifteen hours of annual training. Such training shall be in the investigation, prosecution, treatment, nature, extent and causes of sexual abuse.

(L. 1994 S.B. 595)

**Pilot project by department to formulate community response to child abuse and neglect.**

660.528. The department of social services shall engage community-based public and private organizations in Jackson County to participate in a pilot project for the purpose of formulating a community response to child abuse and neglect, including hot line investigations, assessments and their dispositions.

(L. 2000 S.B. 757 & 602 § 1)

**Definitions.**

660.600. As used in sections 660.600 to 660.608, the following terms mean:

- (1) "Division", the division of aging of the department of social services;
- (2) "Long-term care facility", any facility licensed pursuant to chapter 198 and long-term care facilities

connected with hospitals licensed pursuant to chapter 197;

(3) "Office", the office of the state ombudsman for long-term care facility residents;

(4) "Ombudsman", the state ombudsman for long-term care facility residents;

(5) "Regional ombudsman coordinators", designated individuals working for, or under contract with, the area agencies on aging, and who are so designated by the area agency on aging and certified by the ombudsman as meeting the qualifications established by the division;

(6) "Resident", any person who is receiving care or treatment in a long-term care facility.

(L. 1991 H.B. 444 § 1)

**Office of state ombudsman for long-term care facility residents created in department of health and senior services--purpose--powers and duties.**

660.603. 1. There is hereby established within the department of health and senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

- (1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the

facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the department changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by regulation of the department statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

- (1) Establish and conduct recruitment programs for volunteers;
- (2) Establish and conduct training seminars, meetings and other programs for volunteers; and
- (3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536 for implementation of this subsection.

12. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

13. The administrator of each facility shall ensure that such written notice is given to every resident or the resident's guardian upon admission to the facility and to every person already in residence, or to his guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the department.

14. The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

(L. 1991 H.B. 444 § 2, A.L. 2003 S.B. 556 & 311)

### **Confidentiality of ombudsman's files and records, exceptions, violations, penalty.**

660.605. 1. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

- (1) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or
- (2) Such disclosure is required by court order.

2. Any representative of the office conducting or participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination,

shall be guilty of a class A misdemeanor. However, the ombudsman conducting or participating in any examination of a complaint shall disclose the final result of the examination to the facility with the consent of the resident.

3. Any statement or communication made by the office relevant to a complaint received by, proceedings before or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 660.600 to 660.608, or where otherwise required by court order.

(L. 1991 H.B. 444 § 3)

**Immunity from liability for official duties for staff and volunteers--information furnished office, no reprisals against employees of facilities or residents, violations, penalty.**

660.608. 1. Any regional coordinator or local program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his official duties under the provisions of sections 660.600 to 660.608 and shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711.

2. No reprisal or retaliatory action shall be taken against any resident or employee of a long-term care facility for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor. Any person who serves or served on a quality assessment and assurance committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as amended, shall be immune from civil liability only for acts done directly as a member of such committee so long as the acts are performed in good faith, without malice and are required by the activities of such committee as defined in 42 CFR sec. 483.75(r).

(L. 1991 H.B. 444 § 4)

**Office of advocacy and assistance for senior citizens established in office of lieutenant governor, duties and procedure.**

660.620. 1. There is hereby established an "Office of Advocacy and Assistance for Senior Citizens" within the office of lieutenant governor.

2. The senior citizen advocate shall coordinate activities with the long-term care ombudsman program, as defined in section 660.600, on complaints made by or on behalf of senior citizens residing in long-term care facilities.

3. The senior citizen advocate shall conduct a suitable investigation into any actions complained of unless the senior citizen advocate finds that the complaint pertains to a matter outside the scope of the authority of the senior citizen advocate, the complainant has no substantive or procedural interest which is directly affected by the matter complained about, or the complaint is trivial, frivolous, vexatious or not made in good faith.

4. After completing his investigation of a complaint, the senior citizen advocate shall inform the complainant, the agency, official or employee of action recommended by the senior citizen advocate. The senior citizen advocate shall make such reports and recommendations to the affected agencies, the governor and the general assembly as he deems necessary to further the purposes of sections 660.620 and 660.625.

5. The senior citizen advocate shall, in conjunction with the division of senior services, act as a clearinghouse for information pertaining to and of interest to senior citizens and shall disseminate such information as is necessary to inform senior citizens of their rights and of governmental and nongovernmental services available to them.

(L. 1992 S.B. 676 § 1 Adopted by Referendum, Proposition C, November 3, 1992, A.L. 2005 H.B. 681)

**Advocate to maintain confidentiality, exception.**

660.625. The senior citizen advocate shall maintain confidentiality with respect to all matters, including the identities of the complainants or witnesses coming

before the senior citizen advocate unless the complainant consents to the use of his or her name in the course of the investigation.

(L. 1992 S.B. 676 § 2 Adopted by Referendum, Proposition C, November 3, 1992, A.L. 2005 H.B. 681)

### **Definitions.**

660.650. As used in sections 660.650 to 660.657, the following terms shall mean:

- (1) "Early head start program", any head start program as defined in subdivision (4) of this subsection which provides services to children age three and under, and their families;
- (2) "Head start delegate agency", any organization that operates a head start program pursuant to a contract with a head start grantee;
- (3) "Head start grantee", any private not-for-profit or public organization that operates a head start program pursuant to federal law and regulations. A head start grantee shall be responsible for the administration of a local head start program and, in partnership with the head start policy council, provide policy direction for the program; and
- (4) "Head start program", a community program that is operated in compliance with federal performance standards pursuant to 42 U.S.C. Section 9801, and 45 CFR Section 1301, et seq., and that provides comprehensive services to children and their families. The program shall focus on preschool children from low-income families who have not reached the age of compulsory school attendance. A head start program shall encompass early child development and health services, family and community partnerships, and program design and management. Head start services include, but are not limited to, health, education, parent involvement, nutrition, social services, special services for children with disabilities and other services to help children and their families attain their full potential.

(L. 1998 H.B. 1274 § 660.650 subsec. 1)

### **Policy council or committee, members' qualifications, duties.**

660.653. Each head start program shall have a head start policy council or committee, with not less than fifty-one percent of the members of such council or committee being parents of children enrolled in a head start program. The remaining members of such council or

committee may be community representatives from the geographic area serviced by the program. Pursuant to federal regulations, the head start policy council or committee shall, in partnership with the head start grantee or delegate agency, provide policy direction for the local head start program.

(L. 1998 H.B. 1274 § 660.650 subsec. 2)

### **Grantees, duties--health services advisory committee--promulgation of policies, requirements.**

660.657. 1. Head start grantees shall take an active role in community planning to encourage strong communication, cooperation and the sharing of information among the agencies and their community partners, and to improve the delivery of community services to children and families. Head start grantees shall take affirmative steps to establish ongoing collaborative relationships with community organizations in order to promote access for children and their families to community services that are responsive to their needs, and to ensure that early head start and head start programs respond to community needs. Head start grantees shall perform outreach to encourage volunteers from the community to participate in early head start and head start programs. To enable the effective participation of children with disabilities and their families, a head start grantee shall make specific efforts to develop interagency agreements with local education agencies and other organizations within the grantee's service area.

2. Each head start grantee directly operating an early head start or head start program, shall establish and maintain a health services advisory committee which includes professionals and volunteers from the community. Head start grantees shall also establish and maintain such other service advisory committees as they deem appropriate to address program service issues, such as the development of community partnerships, and to help agencies respond to community needs.

3. A head start grantee shall establish and maintain procedures to support successful transitions for enrolled children and families from head start and other child care and development programs into elementary school, preschool programs or other child care settings.

4. Each head start grantee, with the concurrence of the head start policy council or committee, may promulgate and implement local policies and procedures that shall be consistent with federal and state laws and regulations.

(L. 1998 H.B. 1274 § 660.650 subsecs. 3, 4, 5, 6)

**Protection against spousal impoverishment and premature placement in institutional care, determination of eligibility for Medicaid and medical assistance benefits.**

660.690. In order to protect the community spouse of an individual living in a residential care facility or assisted living facility, as defined in section 198.006, from impoverishment and to prevent premature placement in a more expensive, more restrictive environment, the division of family services shall comply with the provisions of subsection 6 of section 208.010 when determining the eligibility for benefits pursuant to section 208.030.

(L. 2002 S.B. 810)

\*Editorial change required by § 198.005.

**Liaisons for faith-based organizations to be designated, duties.**

660.750. 1. This act shall be known as the "Faith-Based Organization Liaison Act".

2. The director of the department of social services shall designate existing regional department employees to serve as liaisons to faith-based organizations in their regions.

3. The director shall ensure that the primary function of each employee designated as a liaison under this section is to:

- (1) Communicate with faith-based organizations regarding the need for private community services to benefit persons in need of assistance who otherwise would require financial or other assistance under public programs administered by the department;
- (2) Promote the involvement of faith-based organizations in working to meet community needs for assistance;
- (3) Coordinate the department's efforts to promote involvement of faith-based organizations in providing community services with similar efforts of other state agencies; and

(4) Provide clear guidance to faith-based organizations of all the rights and responsibilities afforded to them under federal law, including but not limited to federal equal treatment, charitable choice regulations, and the establishment clause of the United States Constitution.

4. No liaison shall discriminate against any faith-based organization in carrying out the provisions of this section.

(L. 2007 S.B. 46)

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