

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 608, Page 4,  
2 Section 208.148, Line 27, by inserting after all of said section and line the following:

3 "208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy  
4 persons as [defined] described in section 208.151 who are unable to provide for it in whole or in  
5 part, with any payments to be made on the basis of the reasonable cost of the care or reasonable  
6 charge for the services as defined and determined by the MO HealthNet division, unless otherwise  
7 hereinafter provided, for the following:

8 (1) Inpatient hospital services, except to persons in an institution for mental diseases who  
9 are under the age of sixty-five years and over the age of twenty-one years; provided that the MO  
10 HealthNet division shall provide through rule and regulation an exception process for coverage of  
11 inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional  
12 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and  
13 provided further that the MO HealthNet division shall take into account through its payment system  
14 for hospital services the situation of hospitals which serve a disproportionate number of low-income  
15 patients;

16 (2) All outpatient hospital services, payments therefor to be in amounts which represent no  
17 more than eighty percent of the lesser of reasonable costs or customary charges for such services,  
18 determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97,  
19 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.), but the MO  
20 HealthNet division may evaluate outpatient hospital services rendered under this section and deny  
21 payment for services which are determined by the MO HealthNet division not to be medically  
22 necessary, in accordance with federal law and regulations;

23 (3) Laboratory and X-ray services;

24 (4) Nursing home services for participants, except to persons with more than five hundred  
25 thousand dollars equity in their home or except for persons in an institution for mental diseases who  
26 are under the age of sixty-five years, when residing in a hospital licensed by the department of  
27 health and senior services or a nursing home licensed by the department of health and senior  
28 services or appropriate licensing authority of other states or government-owned and -operated  
29 institutions which are determined to conform to standards equivalent to licensing requirements in  
30 Title XIX of the federal Social Security Act (42 U.S.C. Section 301, et seq.), as amended, for  
31 nursing facilities. The MO HealthNet division may recognize through its payment methodology for  
32 nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The  
33 MO HealthNet division when determining the amount of the benefit payments to be made on behalf  
34 of persons under the age of twenty-one in a nursing facility may consider nursing facilities  
35 furnishing care to persons under the age of twenty-one as a classification separate from other  
36 nursing facilities;

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1 (5) Nursing home costs for participants receiving benefit payments under subdivision (4) of  
2 this subsection for those days, which shall not exceed twelve per any period of six consecutive  
3 months, during which the participant is on a temporary leave of absence from the hospital or  
4 nursing home, provided that no such participant shall be allowed a temporary leave of absence  
5 unless it is specifically provided for in his plan of care. As used in this subdivision, the term  
6 "temporary leave of absence" shall include all periods of time during which a participant is away  
7 from the hospital or nursing home overnight because he is visiting a friend or relative;

8 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or  
9 elsewhere;

10 (7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an  
11 advanced practice registered nurse; except that no payment for drugs and medicines prescribed on  
12 and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice  
13 registered nurse may be made on behalf of any person who qualifies for prescription drug coverage  
14 under the provisions of P.L. 108-173;

15 (8) Emergency ambulance services and, effective January 1, 1990, medically necessary  
16 transportation to scheduled, physician-prescribed nonelective treatments;

17 (9) Early and periodic screening and diagnosis of individuals who are under the age of  
18 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other  
19 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services  
20 shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal  
21 regulations promulgated thereunder;

22 (10) Home health care services;

23 (11) Family planning as defined by federal rules and regulations; provided, however, that  
24 such family planning services shall not include abortions unless such abortions are certified in  
25 writing by a physician to the MO HealthNet agency that, in the physician's professional judgment,  
26 the life of the mother would be endangered if the fetus were carried to term;

27 (12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined  
28 in Title XIX of the federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

29 (13) Outpatient surgical procedures, including presurgical diagnostic services performed in  
30 ambulatory surgical facilities which are licensed by the department of health and senior services of  
31 the state of Missouri; except, that such outpatient surgical services shall not include persons who are  
32 eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the  
33 federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX,  
34 Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

35 (14) Personal care services which are medically oriented tasks having to do with a person's  
36 physical requirements, as opposed to housekeeping requirements, which enable a person to be  
37 treated by his or her physician on an outpatient rather than on an inpatient or residential basis in a  
38 hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be  
39 rendered by an individual not a member of the participant's family who is qualified to provide such  
40 services where the services are prescribed by a physician in accordance with a plan of treatment and  
41 are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those  
42 persons who would otherwise require placement in a hospital, intermediate care facility, or skilled  
43 nursing facility. Benefits payable for personal care services shall not exceed for any one participant  
44 one hundred percent of the average statewide charge for care and treatment in an intermediate care  
45 facility for a comparable period of time. Such services, when delivered in a residential care facility  
46 or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the  
47 services the resident requires and the frequency of the services. A resident of such facility who  
48 qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician,

1 qualify for the tier level with the fewest services. The rate paid to providers for each tier of service  
2 shall be set subject to appropriations. Subject to appropriations, each resident of such facility who  
3 qualifies for assistance under section 208.030 and meets the level of care required in this section  
4 shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care  
5 services per day. Authorized units of personal care services shall not be reduced or tier level  
6 lowered unless an order approving such reduction or lowering is obtained from the resident's  
7 personal physician. Such authorized units of personal care services or tier level shall be transferred  
8 with such resident if he or she transfers to another such facility. Such provision shall terminate  
9 upon receipt of relevant waivers from the federal Department of Health and Human Services. If the  
10 Centers for Medicare and Medicaid Services determines that such provision does not comply with  
11 the state plan, this provision shall be null and void. The MO HealthNet division shall notify the  
12 revisor of statutes as to whether the relevant waivers are approved or a determination of  
13 noncompliance is made;

14 (15) Mental health services. The state plan for providing medical assistance under Title  
15 XIX of the Social Security Act, 42 U.S.C. Section 301, as amended, shall include the following  
16 mental health services when such services are provided by community mental health facilities  
17 operated by the department of mental health or designated by the department of mental health as a  
18 community mental health facility or as an alcohol and drug abuse facility or as a child-serving  
19 agency within the comprehensive children's mental health service system established in section  
20 630.097. The department of mental health shall establish by administrative rule the definition and  
21 criteria for designation as a community mental health facility and for designation as an alcohol and  
22 drug abuse facility. Such mental health services shall include:

23 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,  
24 rehabilitative, and palliative interventions rendered to individuals in an individual or group setting  
25 by a mental health professional in accordance with a plan of treatment appropriately established,  
26 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client  
27 services management;

28 (b) Clinic mental health services including preventive, diagnostic, therapeutic,  
29 rehabilitative, and palliative interventions rendered to individuals in an individual or group setting  
30 by a mental health professional in accordance with a plan of treatment appropriately established,  
31 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client  
32 services management;

33 (c) Rehabilitative mental health and alcohol and drug abuse services including home and  
34 community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions  
35 rendered to individuals in an individual or group setting by a mental health or alcohol and drug  
36 abuse professional in accordance with a plan of treatment appropriately established, implemented,  
37 monitored, and revised under the auspices of a therapeutic team as a part of client services  
38 management. As used in this section, mental health professional and alcohol and drug abuse  
39 professional shall be defined by the department of mental health pursuant to duly promulgated rules.  
40 With respect to services established by this subdivision, the department of social services, MO  
41 HealthNet division, shall enter into an agreement with the department of mental health. Matching  
42 funds for outpatient mental health services, clinic mental health services, and rehabilitation services  
43 for mental health and alcohol and drug abuse shall be certified by the department of mental health to  
44 the MO HealthNet division. The agreement shall establish a mechanism for the joint  
45 implementation of the provisions of this subdivision. In addition, the agreement shall establish a  
46 mechanism by which rates for services may be jointly developed;

47 (16) Such additional services as defined by the MO HealthNet division to be furnished  
48 under waivers of federal statutory requirements as provided for and authorized by the federal Social

1 Security Act (42 U.S.C. Section 301, et seq.) subject to appropriation by the general assembly;

2 (17) The services of an advanced practice registered nurse with a collaborative practice  
3 agreement to the extent that such services are provided in accordance with chapters 334 and 335,  
4 and regulations promulgated thereunder;

5 (18) Nursing home costs for participants receiving benefit payments under subdivision (4)  
6 of this subsection to reserve a bed for the participant in the nursing home during the time that the  
7 participant is absent due to admission to a hospital for services which cannot be performed on an  
8 outpatient basis, subject to the provisions of this subdivision:

9 (a) The provisions of this subdivision shall apply only if:

10 a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO  
11 HealthNet certified licensed beds, according to the most recent quarterly census provided to the  
12 department of health and senior services which was taken prior to when the participant is admitted  
13 to the hospital; and

14 b. The patient is admitted to a hospital for a medical condition with an anticipated stay of  
15 three days or less;

16 (b) The payment to be made under this subdivision shall be provided for a maximum of  
17 three days per hospital stay;

18 (c) For each day that nursing home costs are paid on behalf of a participant under this  
19 subdivision during any period of six consecutive months such participant shall, during the same  
20 period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise  
21 available temporary leave of absence days provided under subdivision (5) of this subsection; and

22 (d) The provisions of this subdivision shall not apply unless the nursing home receives  
23 notice from the participant or the participant's responsible party that the participant intends to return  
24 to the nursing home following the hospital stay. If the nursing home receives such notification and  
25 all other provisions of this subsection have been satisfied, the nursing home shall provide notice to  
26 the participant or the participant's responsible party prior to release of the reserved bed;

27 (19) Prescribed medically necessary durable medical equipment. An electronic web-based  
28 prior authorization system using best medical evidence and care and treatment guidelines consistent  
29 with national standards shall be used to verify medical need;

30 (20) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated  
31 program of active professional medical attention within a home, outpatient and inpatient care which  
32 treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary  
33 team. The program provides relief of severe pain or other physical symptoms and supportive care  
34 to meet the special needs arising out of physical, psychological, spiritual, social, and economic  
35 stresses which are experienced during the final stages of illness, and during dying and bereavement  
36 and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part  
37 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for  
38 room and board furnished by a nursing home to an eligible hospice patient shall not be less than  
39 ninety-five percent of the rate of reimbursement which would have been paid for facility services in  
40 that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L.  
41 101-239 (Omnibus Budget Reconciliation Act of 1989);

42 (21) Prescribed medically necessary dental services. Such services shall be subject to  
43 appropriations. An electronic web-based prior authorization system using best medical evidence  
44 and care and treatment guidelines consistent with national standards shall be used to verify medical  
45 need;

46 (22) Prescribed medically necessary optometric services. Such services shall be subject to  
47 appropriations. An electronic web-based prior authorization system using best medical evidence  
48 and care and treatment guidelines consistent with national standards shall be used to verify medical

1 need;

2 (23) Blood clotting products-related services. For persons diagnosed with a bleeding  
3 disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section  
4 338.400, such services include:

5 (a) Home delivery of blood clotting products and ancillary infusion equipment and supplies,  
6 including the emergency deliveries of the product when medically necessary;

7 (b) Medically necessary ancillary infusion equipment and supplies required to administer  
8 the blood clotting products; and

9 (c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home  
10 health care agency trained in bleeding disorders when deemed necessary by the participant's treating  
11 physician;

12 (24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report  
13 the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of  
14 the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by  
15 third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide  
16 to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and  
17 for third-party payor average dental reimbursement rates. Such plan shall be subject to  
18 appropriation and the division shall include in its annual budget request to the governor the  
19 necessary funding needed to complete the four-year plan developed under this subdivision.

20 2. Additional benefit payments for medical assistance shall be made on behalf of those  
21 eligible needy children, pregnant women and blind persons with any payments to be made on the  
22 basis of the reasonable cost of the care or reasonable charge for the services as defined and  
23 determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

24 (1) Dental services;

25 (2) Services of podiatrists as defined in section 330.010;

26 (3) Optometric services as [defined] described in section 336.010;

27 (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids,  
28 and wheelchairs;

29 (5) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated  
30 program of active professional medical attention within a home, outpatient and inpatient care which  
31 treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary  
32 team. The program provides relief of severe pain or other physical symptoms and supportive care  
33 to meet the special needs arising out of physical, psychological, spiritual, social, and economic  
34 stresses which are experienced during the final stages of illness, and during dying and bereavement  
35 and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part  
36 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for  
37 room and board furnished by a nursing home to an eligible hospice patient shall not be less than  
38 ninety-five percent of the rate of reimbursement which would have been paid for facility services in  
39 that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L.  
40 101-239 (Omnibus Budget Reconciliation Act of 1989);

41 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a  
42 coordinated system of care for individuals with disabling impairments. Rehabilitation services must  
43 be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan  
44 developed, implemented, and monitored through an interdisciplinary assessment designed to restore  
45 an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet  
46 division shall establish by administrative rule the definition and criteria for designation of a  
47 comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any  
48 rule or portion of a rule, as that term is defined in section 536.010, that is created under the

1 authority delegated in this subdivision shall become effective only if it complies with and is subject  
2 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter  
3 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
4 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
5 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
6 August 28, 2005, shall be invalid and void.

7 3. The MO HealthNet division may require any participant receiving MO HealthNet  
8 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1,  
9 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services  
10 except for those services covered under subdivisions (14) and (15) of subsection 1 of this section  
11 and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the  
12 federal Social Security Act (42 U.S.C. Section 1396, et seq.) and regulations thereunder. When  
13 substitution of a generic drug is permitted by the prescriber according to section 338.056, and a  
14 generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or  
15 delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal  
16 Social Security Act. A provider of goods or services described under this section must collect from  
17 all participants the additional payment that may be required by the MO HealthNet division under  
18 authority granted herein, if the division exercises that authority, to remain eligible as a provider.  
19 Any payments made by participants under this section shall be in addition to and not in lieu of  
20 payments made by the state for goods or services described herein except the participant portion of  
21 the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to  
22 pharmacists. A provider may collect the co-payment at the time a service is provided or at a later  
23 date. A provider shall not refuse to provide a service if a participant is unable to pay a required  
24 payment. If it is the routine business practice of a provider to terminate future services to an  
25 individual with an unclaimed debt, the provider may include uncollected co-payments under this  
26 practice. Providers who elect not to undertake the provision of services based on a history of bad  
27 debt shall give participants advance notice and a reasonable opportunity for payment. A provider,  
28 representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall  
29 not make co-payment for a participant. This subsection shall not apply to other qualified children,  
30 pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not  
31 approve the MO HealthNet state plan amendment submitted by the department of social services  
32 that would allow a provider to deny future services to an individual with uncollected co-payments,  
33 the denial of services shall not be allowed. The department of social services shall inform providers  
34 regarding the acceptability of denying services as the result of unpaid co-payments.

35 4. The MO HealthNet division shall have the right to collect medication samples from  
36 participants in order to maintain program integrity.

37 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection  
38 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and  
39 services are available under the state plan for MO HealthNet benefits at least to the extent that such  
40 care and services are available to the general population in the geographic area, as required under  
41 subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal regulations promulgated  
42 thereunder.

43 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health  
44 centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L.  
45 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated  
46 thereunder.

47 7. Beginning July 1, 1990, the department of social services shall provide notification and  
48 referral of children below age five, and pregnant, breast-feeding, or postpartum women who are

1 determined to be eligible for MO HealthNet benefits under section 208.151 to the special  
2 supplemental food programs for women, infants and children administered by the department of  
3 health and senior services. Such notification and referral shall conform to the requirements of  
4 Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

5 8. Providers of long-term care services shall be reimbursed for their costs in accordance  
6 with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. Section 1396a,  
7 as amended, and regulations promulgated thereunder.

8 9. Reimbursement rates to long-term care providers with respect to a total change in  
9 ownership, at arm's length, for any facility previously licensed and certified for participation in the  
10 MO HealthNet program shall not increase payments in excess of the increase that would result from  
11 the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. Section 1396a  
12 (a)(13)(C).

13 10. The MO HealthNet division[,] may enroll qualified residential care facilities and  
14 assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

15 11. Any income earned by individuals eligible for certified extended employment at a  
16 sheltered workshop under chapter 178 shall not be considered as income for purposes of  
17 determining eligibility under this section.

18 12. If the Missouri Medicaid audit and compliance unit changes any interpretation or  
19 application of the requirements for reimbursement for MO HealthNet services from the  
20 interpretation or application that has been applied previously by the state in any audit of a MO  
21 HealthNet provider, the Missouri Medicaid audit and compliance unit shall notify all affected MO  
22 HealthNet providers five business days before such change shall take effect. Failure of the Missouri  
23 Medicaid audit and compliance unit to notify a provider of such change shall entitle the provider to  
24 continue to receive and retain reimbursement until such notification is provided and shall waive any  
25 liability of such provider for recoupment or other loss of any payments previously made prior to the  
26 five business days after such notice has been sent. Each provider shall provide the Missouri  
27 Medicaid audit and compliance unit a valid email address and shall agree to receive communications  
28 electronically. The notification required under this section shall be delivered in writing by the  
29 United States Postal Service or electronic mail to each provider.

30 13. Nothing in this section shall be construed to abrogate or limit the department's statutory  
31 requirement to promulgate rules under chapter 536.

32 14. Beginning July 1, 2016, and subject to appropriations, providers of behavioral, social,  
33 and psychophysiological services for the prevention, treatment, or management of physical health  
34 problems shall be reimbursed utilizing the behavior assessment and intervention reimbursement  
35 codes 96150 to 96154 or their successor codes under the Current Procedural Terminology (CPT)  
36 coding system. Providers eligible for such reimbursement shall include psychologists."; and  
37

38 Further amend said bill and page, Section 208.800, Line 3, by inserting after all of said section and  
39 line the following:

40 "Section B. Because immediate action is necessary to ensure the provision of vital health  
41 care services for MO HealthNet recipients, the repeal and reenactment of section 208.152 of section  
42 A of this act is deemed necessary for the immediate preservation of the public health, welfare,  
43 peace, and safety, and is hereby declared to be an emergency act within the meaning of the  
44 constitution, and the repeal and reenactment of section 208.152 of section A of this act shall be in  
45 full force and effect upon its passage and approval."; and  
46

47 Further amend said bill by amending the title, enacting clause, and intersectional references  
48 accordingly.