

**IN THE
CIRCUIT COURT OF ST. LOUIS, MISSOURI
22nd JUDICIAL CIRCUIT**

PLANNED PARENTHOOD OF ST. LOUIS)
REGION)
4251 Forest Park Avenue)
St. Louis, MO 63018 (314/531-7526),)

and)

REPRODUCTIVE HEALTH SERVICES)
OF PLANNED PARENTHOOD)
OF ST. LOUIS)
REGION)
4251 Forest Park Avenue)
St. Louis, MO 63018 (314/531-7526),)

Petitioner,)

v.)

Case No. _____

MISSOURI DEPARTMENT OF SOCIAL)
SERVICES,)
Steve Corsi, Director)
P.O. Box 1527)
Jefferson City, MO 65101 (573/751-4815))

MO HEALTHNET DIVISION,)
Jennifer Tidball, Acting Director)
P.O. Box 6500)
Jefferson City, MO 65102 (573/751-3425),)

and)

MISSOURI MEDICAID AUDIT &)
COMPLIANCE UNIT,)
Dale Carr, Director)
P.O. Box 6500)
Jefferson City, MO 65102 (573/751-3399))

Respondents.)

PETITION FOR JUDICIAL REVIEW

Planned Parenthood of St. Louis Region and Reproductive Health Services of Planned

Parenthood of St. Louis Region (collectively "the Providers") petition this court for review of the Administrative Hearing Commission's (the "Commission") Decisions in Case Nos. 18-0848 and 18-0846. §§208.156.10, 536.100 *et seq.*, 621.145, RSMo and Mo. Const. art. V, sect.18. In support, the Providers state as follows:

Introduction

Missouri's Medicaid program, known as MO HealthNet, provides medical assistance to eligible low-income individuals who are otherwise unable to pay for their medical care. In order to participate in the MO HealthNet program as an authorized MO HealthNet provider, the provider signs an agreement with the State to furnish covered services to eligible individuals and in turn receive reimbursement from the State.

The Providers are two entities with valid MO HealthNet provider agreements. On or around August 23, 2018, the Missouri Medicaid Audit and Compliance Unit ("MMAC") sent each Provider a letter, attached herein as **Exhibit A**, indicating that it would deny all claims submitted for payment under the Providers' MO HealthNet provider numbers for all claims submitted in Fiscal Year 2019 (FY 19). The refusal to reimburse the Providers for covered services rendered was based upon language that purported to eliminate the authority to pay the Providers in an appropriation bill, Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2011, Gen. Assem., 2nd Reg. Sess. (2018)("HB 2011"), attached herein as **Exhibit B**.

After receipt of the letters and denial of payment, each Provider filed a Complaint with the Commission to appeal the State's denial of payment. Subsequently, the Providers and the State filed motions for summary decision. Based on those motions, the Commission issued a final decision on January 16, 2018 in each case, (the "Decisions"), attached herein as **Exhibit C**.

In its Decisions, the Commission ruled that the State lacked the appropriation authority to reimburse the Providers and the Providers' MO HealthNet numbers were placed on inactive status, not suspended. This, however, was a limited decision because the Commission indicated that it did not believe it had the authority to rule on the Constitutional claims raised by the Providers or the State.

This Petition for Judicial Review is filed by the Providers seeking this Court's ruling that the State's decisions to refuse payment to the Providers and to suspend the Providers' MO HealthNet numbers are unauthorized by law, and arbitrary, capricious and/or unreasonable, for the reasons set forth below. The Providers also seek the Court's ruling regarding the Providers' Constitutional claims, including the claim that HB 2011 violates the prohibition of legislating through an appropriation bill and HB 2011 is an appropriation bill that references a general statute in violation of the Missouri Constitution.

Parties

1. The Providers are two entities operating health centers around the State. Each Provider filed a Complaint with the Commission. The Complaints were assigned case numbers (18-0848 and 18-0846).
2. The Missouri Department of Social Services (the "Department") is a state agency created by Article IV, section 37 of the Missouri Constitution and section 660.010, RSMo.
3. The MO HealthNet Division ("MHD") is a division within the Department, created by statute, responsible for administering MO HealthNet, Missouri's Medicaid program. *Decision*, page 2, ¶2.
4. The Missouri Medicaid Audit and Compliance Unit ("MMAC") is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program.

Decision, page 2, ¶2.

5. The Department, MHD, and MMAC were Respondents in AHC Case Nos. 18-0848 and 18-0846.

6. The Department, MHD, and MMAC are herein referred to collectively as “the State.”

Jurisdiction and Venue

7. The Providers filed their Complaints with the Commission to appeal the State's decision to refuse to pay the Providers for providing Medicaid covered services in FY 19 and to suspend the Providers' MO HealthNet provider numbers. §§ 208.156 and 621.055, RSMo.

8. The amount in dispute for each Provider is in excess of \$500. §208.156, RSMo.

9. The Providers are aggrieved by the Decisions of the Commission in Case Nos. 18-0848 and 18-0846 dated January 16, 2019. §536.100, RSMo.

10. This Court has jurisdiction to review the Commission's Decisions. §§208.156.10, 536.100 *et seq.*, 621.145, RSMo and Mo. Const. art. V, sect.18.

11. Venue is proper here because the Providers' registered office is located at 4251 Forest Park Avenue, St. Louis, Missouri. §536.110.3, RSMo.

12. This Petition is timely filed. §536.110.1 RSMo.

Factual and Procedural History

13. The Missouri medical assistance program on behalf of needy persons is known as MO HealthNet. *Decision, page 5.*

14. MO HealthNet covers a wide range of services for eligible MO HealthNet beneficiaries. 208.152, RSMo.

15. Family planning and physicians' services, like those provided by the Providers are covered services. §208.152.1(6) and (12), RSMo and *Decision, page 5.*

16. Eligible MO HealthNet beneficiaries are entitled to obtain services "from any provider of services with which an agreement is in effect under this section and which undertakes to provide the services, as authorized by the MO HealthNet division." §208.153.1, RSMo.
17. The Providers have valid MO HealthNet provider agreements.
18. The Providers have historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients. *Decision, page 2, ¶1.*
19. During the 2018 legislative session, the General Assembly passed an appropriation bill, HB 2011, which was subsequently approved by the Governor. HB 2011 contained two provisions, which purported to limit the appropriation authority of the State to pay the Providers.
20. On August 23, 2018, the Providers received letters from the State:
 - a. "[C]laims submitted for payment to its provider number...will be denied by MO HealthNet Division (MHD)." *See Decision, page 2, ¶4 and Ex. A.*
 - b. Under House Bill 2011 (HB 2011) "the Department of Social Services (DSS) does not have appropriation authority to pay the claim." *See Decision, page 2, ¶4 and Ex. A.*
 - c. HB 2011 states, "that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law" and "that no funds shall be expended to any abortion facility... or any affiliate or associate thereof." *See Decision, page 2, ¶4 and Ex. A.*
 - d. "DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, §28." *See Decision, page 2, ¶4 and Ex. A.*
 - e. These claims will be denied because the Providers are "ineligible for payments on

the specified dates of services, pursuant to 13 CSR 10-4.010(3), MO Const. art. IV, §28, and §§11.715 and 11.800 of HB 2011 (2018)." *See Decision, page 2, ¶4* and Ex. A.

- f. It is a "final decision regarding administration of the medical assistance program in Missouri," appealable to the Commission. *See Decision, page 2, ¶4* and Ex. A.

21. No payments have been made by the State for any FY 19 claims submitted by the Providers. *Decision, page 3, ¶ 5.*

22. The Providers are providing, and intend to continue to provide, services to Medicaid-eligible patients. *Decision, page 4, ¶7.*

23. The Providers do not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law. *Decision, page 4, ¶8.*

24. The State provides an automated system utilized by providers to look up patient enrollment in managed care plans by entering the provider's MO HealthNet number to access the system.

25. The Providers have been unable to utilize this system with their MO HealthNet provider numbers.

26. On information and belief, the State suspended the Providers' MO HealthNet provider numbers.

27. Because the Providers' MO HealthNet numbers were suspended, they are unable to participate in MO HealthNet managed care.

28. The Providers timely filed a Complaint with the Commission to appeal the State's final decision to deny payment for valid claims for the provision of MO HealthNet covered services and suspend the Providers' MO HealthNet provider numbers.

29. The Providers alleged in their Complaints that the State unlawfully refused to reimburse

the Providers and suspended the Providers' MO HealthNet provider numbers for the following reasons:

- a. The State's denial of reimbursement to the Providers was an unlawful sanction in violation of 13 CSR 70-3.030. *See Decision, page 4.*
- b. The State's suspension of the Providers' MO HealthNet provider numbers was an unlawful sanction in violation of 13 CSR 70-3.030. *See Decision, page 4.*
- c. The State's refusal to pay the Providers' based on HB 2011 is unlawful because HB 2011 does not direct denial of payment to MO HealthNet providers for valid claims for allowable services. *See Decision, pages 4 and 5.*
- d. The State's refusal to pay the Providers is unlawful because Missouri law requires payment to Providers for providing covered services. *See Decision, page 5.*

30. The Providers also raised claims regarding the constitutionality of HB 2011, aware the Commission was unlikely to decide those issues, however, the Providers wanted to preserve those claims for the purposes of appeal to this Court. *See Decision, page 4.*

31. This Court has authority to review the Providers' constitutional claims. *See Fayne v. Department of Social Services*, 802 S.W. 565, 567 (Mo. App. 1991)(stating that because the Commission cannot decide constitutional questions, it is "the duty of courts of competent jurisdiction to review justiciable constitutional claims put before them.").

32. The Providers filed motions for summary decision. The State subsequently filed cross-motions for summary decision. *See Decision, page 5*

33. Without waiting for reply briefing, the Commission concluded that the State did not have appropriation authority to reimburse the Providers nor had the State sanctioned the Providers. However, the Commission concluded that it lacked the authority to decide the Constitutional

claims, and therefore preserved them for judicial review. *See Decision.*

34. As a result, the Commission denied the Providers' claims for payment and decided the Providers' MO HealthNet provider numbers had not been suspended, rather they were placed on inactive status.

35. The Providers jointly bring this action arising from the State's decision to refuse to pay the Providers for providing MO HealthNet covered services and to suspended the Providers' MO HealthNet provider numbers. Rule 52.05(a) The Providers seek identical relief of payment for FY 19 claims. *Id.*

Causes of Action

Count I- The State's refusal to reimburse the Providers for the provision of MO HealthNet covered services was unauthorized by law, and arbitrary, capricious and/or unreasonable, because the statutes require reimbursement and there was appropriation authority to pay the claims.

36. The Providers incorporate by reference all preceding paragraphs.

37. The State's denial of payments to the Providers was unauthorized by law, and arbitrary, capricious, and/or unreasonable. The State claimed to deny the payments based on Part 2 of HB 2011 which states that "no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions provided by federal law." Ex. B.

38. Part 2 of HB 2011 does not prevent reimbursement to the Providers for covered services that are not abortion services or counseling women to have an abortion.

39. The State's denial of payment to the Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable because the Providers were denied payment for valid claims for allowable family planning services, not performing abortions or counseling women to have an abortion.

40. The State has the appropriation authority to reimburse providers for the provision of family

planning and other services to MO HealthNet beneficiaries.

41. The State's refusal to pay the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable. *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004) (stating if there is an appropriation for Medicaid services, the state must pay unless the statute for the particular service states it is "subject to appropriation.")

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious and/or unreasonable;
- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious and/or unreasonable decision refusing to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count II- The State's refusal to reimburse the Providers for the provision of MO HealthNet covered services was unauthorized by law and arbitrary, capricious, and/or unreasonable because the appropriations allow payment of the Providers' claims and there was therefore no basis to deny the claims.

42. The Providers incorporate by reference all preceding paragraphs.

43. The State's denial of payments to the Providers was unauthorized by law, and arbitrary, capricious, and/or unreasonable.

44. The State claims to have denied payment to the Providers because Part 3 of HB 2011 states "no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any

affiliate or associate thereof." Ex. B.

45. HB 2011 defines the language in Part 3 as "guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act." Ex. B.

46. The State's denial of payment to the Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable because the language in Part 3 of HB 2011 does not mandate denial of payment to the Providers for valid claims for covered services, rather it is a mere suggestion to the Department for how to implement the language in HB 2011.

47. The State has the appropriation authority to reimburse for the provision of family planning and other services to MO HealthNet beneficiaries

48. The State's refusal to pay the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable. *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004) (stating if there is an appropriation for Medicaid services, the state must pay unless the statutes for the particular service states it is "subject to appropriation.")

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious, and/or unreasonable;
- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious, and/or unreasonable decision to refuse to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count III: The State's denial of payment to the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable because there is an appropriation for payments to all eligible providers for family planning services.

49. The Providers incorporate by reference all preceding paragraphs.
50. Eligible MO HealthNet providers are entitled to payment for valid claims for covered services. §§208.152 and 208.153, RSMo.
51. The State denied payment to Providers based on its purported lack of appropriation authority due to the language in Part 2 and Part 3 of HB 2011. *See* Section 11.455 of Ex. B.
52. HB 2011 includes an appropriation for the purposes of funding "physician services" and "family planning services" provided by eligible MO HealthNet providers.
53. The State's denial of payment to Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable.
54. The State must reimburse for valid MO HealthNet claims by providers if there is an appropriation and the statute does not make payment of that particular service "subject to appropriation." *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004).

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious, and/or unreasonable;
- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious and/or unreasonable refusal to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the

circumstances.

Count IV: The language of HB 2011, purporting to withhold funds from eligible providers, is unconstitutional because the appropriation bill refers to another statute in violation of the Constitution and therefore the State's decision to refuse payment on the basis of language in HB 2011 was in violation of constitutional provisions.

55. The Providers incorporate by reference all preceding paragraphs.
56. HB 2011 is the appropriation bill for the Department. Ex. B.
57. Part 3 of HB 2011 states "[n]o funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof." Ex. B.
58. Appropriation bills are prohibited from referencing "any other law to fix the amount or purpose" of the appropriation. Mo. Const. art. IV, §23.
59. Part 3 of HB 2011 refers to another section of law, section 188.015, RSMo.
60. The reference to 188.015 RSMo fixes the purpose of the appropriations in Part 1 and Part 2 of HB 2011.
61. Because the State's denial of the Providers claims is based on the language in HB 2011, the State's decision was in violation of constitutional provisions.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that Part 3 of HB 2011 unconstitutionally refers to another section of law to fix the purpose of the appropriation in Part 1 and Part 2 of HB 2011;
- b. that the language in HB2011 referring to Section 188.015 to fix the purpose of the appropriation is unlawful and must be disregarded;
- c. that the State's decision to deny payments to the Providers have been denied payments to which they are entitled under the law because of unconstitutional provisions in HB 2011;
- d. that the State's denial of the Providers' claims was in violation of constitutional

provisions;

- e. making the Providers whole for the State's unlawful refusal to reimburse the Providers;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count V: HB 2011 is unconstitutional because it unlawfully amends §§ 208.152 and 208.153, RSMo, therefore the State's decision to refuse payment on the basis of language in HB 2011 was in violation of constitutional provisions.

62. The Providers incorporate all preceding paragraphs.

63. "MO HealthNet payments shall be made on behalf of those eligible needy persons..." §208.152.1, RSMo.

64. "Any person entitled to MO HealthNet benefits may obtain it from any provider of services with which an agreement is in effect... and which undertakes to provide the services, as authorized by the MO HealthNet division." § 208.153.1, RSMo.

65. Parts 2 and 3 of HB 2011 that limits which providers are eligible for reimbursement for providing covered services to MO HealthNet beneficiaries.

66. Parts 2 and 3 of HB 2011 constitute a statute of a general nature in violation of the Missouri Constitution. Mo. Const. art. IV, §23.

67. The Missouri Constitution provides that no bill shall contain more than one subject. Mo. Const. art. IV, §23.

68. "Legislation of a general character cannot be included in an appropriation bill. To do so

would violate section 28 of article 4 of the constitution, which provides that no bill shall contain more than one subject which shall be clearly expressed in its title." *State ex rel. Gaines v. Canada*, 113 S.W. 2d 783, 790 (Mo. banc 1937).

69. HB 2011 contains more than one subject because Parts 2 and 3 are legislation of a "general character" that unconstitutionally amend sections 208.152 and 208.153, RSMo.

70. Because the State's decision to refuse payment to the Providers was based on the unconstitutional language in HB2011, the State's decision was in violation of constitutional provisions.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that HB 2011 unconstitutionally amends another section of law;
- b. that the language in HB 2011 amending section 208.152 and 208.153, RSMo is unlawful and must be disregarded;
- c. that the Providers have been denied payments to which they are entitled under the law because of unconstitutional provisions in HB 2011;
- d. that the State's denial of the Providers' claims was in violation of constitutional provisions;
- e. making the Providers whole for the State's unlawful refusal to reimburse the Providers;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VI: The State's refusal to pay the Providers for providing covered services to MO HealthNet beneficiaries is unauthorized by law and violates § 208.153.

71. The Providers incorporate by reference all preceding paragraphs.
72. "Any person entitled to MO HealthNet benefits may obtain it from any provider of services with which an agreement is in effect... and which undertakes to provide the services, as authorized by the MO HealthNet division." § 208.153.1, RSMo.
73. The Providers have a valid provider agreement with the State—the State has not terminated their contract with the Providers.
74. The State's decision to withhold payment from the Providers is unauthorized by law.
75. Therefore, the State's refusal to pay the Providers violates the directive in section 208.153, RSMo by withholding payment from the Providers when they have active provider agreements.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the providers is unauthorized by law and violates section 208.153, RSMo;
- b. that the Providers have been unlawfully denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized refusal to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VI: The State's refusal to pay the Providers for valid claims for providing MO HealthNet covered services is an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

76. The Providers incorporate by reference all preceding paragraphs.
77. There are approximately 44 permitted grounds for sanctioning providers under the MO HealthNet program, which are incorporated herein by reference. 13 CSR 70.3.030.
78. The State cited no specific ground in 13 CSR 70-3.030(3) for the sanction of refusal to pay claims submitted under the Providers' MO HealthNet provider numbers.
79. There are no grounds for sanctioning the Providers.
80. If grounds exist, the sanctions that may be imposed include "[s]uspending or withholding of payments to a provider." 13 CSR 70-3.030(4)(D).
81. The State is required to consider various factors in determining the sanction to be imposed. 13 CSR 70-3.030(5)(A).
82. The State failed to consider any of the required factors.
83. When the sanction involves the withholding of MO HealthNet payments from a provider, the sanction becomes effective ten days from the date of delivery of mailing of said notice. 13 CSR 3.030(5)(C).
84. When any other sanction is imposed, it shall become effective thirty days from the date of mailing a decision of the Department or its designated division. *Id.* If it is determined that serious abuse or harm may result from the delaying the imposition of the sanction, any sanction may be made effective immediately upon receipt of notice by the provider. *Id.*
85. The State refused to pay valid claims submitted by the Providers in FY 19.
86. The State did not impose the sanction for any authorized ground. 13 CSR 70-3.030(3).
87. The State imposed the sanction upon the Providers without considering the required

factors. 13 CSR 70-3.030(5)(A).

88. The State imposed the sanction to be effective prior to the dates authorized. 13 CSR 70-3.030(5)(C).

89. The State's decision to suspend the Provider's MO HealthNet provider numbers was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State imposed a sanction upon the Providers by refusing to pay valid claims submitted in FY 19;
- b. that the State was without grounds to impose a sanction upon the Providers;
- c. that in imposing a sanction upon the Providers, the State failed to comply with 13 CSR 70-3.030;
- d. that the State's decision to impose the sanction was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable;
- e. making the Providers whole for the State's violation of 13 CSR 70-3.030;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VI: The suspension of the Providers' MO HealthNet provider numbers is an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

90. The Providers incorporate by reference all preceding paragraphs.

91. Upon information and belief, the Providers' MO HealthNet provider numbers have been suspended

92. The Providers are unable to access the State's automated system utilizing their MO HealthNet provider numbers.
93. The State's suspension of the Providers' MO HealthNet provider numbers is a sanction because the Providers would not be allowed to participate in the Medicaid program absent a valid provider number.
94. The Providers are unable to participate in MO HealthNet managed care because of the suspension.
95. Suspension of participation in the MO HealthNet program for a specified period of time is a sanction. 13 CSR 70-3.030(4)(C).
96. MO HealthNet is required to consider various factors in determining the sanction to be imposed. 13 CSR 70-3.030(5)(A).
97. When the sanction involves the withholding of MO HealthNet payments from the provider, the sanction becomes effective ten days from the date of delivery of mailing of said notice. 13 CSR 70-3.030(5)(C). When any other sanction is imposed, it shall become effective thirty days from the date of mailing a decision of the Department or its designated division. *Id.* If it is determined that serious abuse or harm may result from delaying the imposition of the sanction, any sanction may be effective immediately upon receipt of notice by the provider. *Id.*
98. The State imposed a sanction upon the Providers by suspending the Providers' MO HealthNet provider numbers.
99. The State did not impose the sanction for any authorized ground. 13 CSR 70-3.030.
100. The State impose the sanction upon the Providers without consideration of the required factors. 13 CSR 70-3.030(5)(A).
101. The State imposed the sanction be effective prior to the dates authorized. 13 CSR 70-

3.030(5)(C).

102. Therefore, the suspension of the Provider's MO HealthNet provider numbers was an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State imposed a sanction upon the Providers by suspending the Providers' MO HealthNet provider numbers;
- b. that the State was without grounds to impose a sanction upon the Providers;
- c. that in imposing a sanction upon the Providers, the State failed to comply with 13 CSR 70-3.030;
- d. that the State's decision to impose the sanction was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable;
- e. making the Providers whole for the State's violation of 13 CSR 70-3.030;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMO.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

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Respectfully Submitted,

STINSON LEONARD STREET LLP

By: s/ Charles W. Hatfield

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ATTORNEY FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that on this February 15, 2019, a copy of the above and foregoing was served upon the Administrative Hearing Commission and counsel of record pursuant to 536.110.2, RSMo. via the AHCeFile system by e-mail upon the following counsel of record:

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/s/Charles W. Hatfield
Attorney for Petitioner

Exhibit A



MICHAEL L. PARSON, GOVERNOR • STEVE CORSI, Psy.D., DIRECTOR

MISSOURI MEDICAID AUDIT & COMPLIANCE UNIT
P.O. BOX 6500 • JEFFERSON CITY, MO 65102-6500
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August 23, 2018

Planned Parenthood of St. Louis Region
4251 Forest Park Ave.
St. Louis, MO 63108

CERTIFIED MAIL 7017 1000 0000 1095 7994

NPI: 1205898574

Dear Planned Parenthood of St. Louis Region:

Missouri Medicaid Audit and Compliance, (MMAC) is hereby notifying Planned Parenthood of the St. Louis Region (PPSLR) that claims submitted for payment to its provider number beginning in 52 will be denied by the MO HealthNet Division (MHD).

PPSLR will receive notice of the denial(s) on the respective remittance advice(s) (RA). The RA will contain the claim adjustment reason code (CARC) "B7", which indicates "This provider was not certified/eligible to be paid for this procedure/service on this date of service."

The Department of Social Services (DSS) does not have appropriation authority to pay the claim under HB 2011 (2018). DSS's appropriation authority to expend funds for state fiscal year 2019 is set forth in House Bill 2011 (2018). Section 11.715 of House Bill 2011 provides that no funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law. Additionally, Section 11.800 of House Bill 2011 provides that no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof. DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. MO Const. art IV, §28.

MHD will deny these claims because PPSLR is ineligible for payments on the specified dates of service, pursuant to 13 CSR 10-4.010(3). MO Const. art. IV, §28, and §§ 11.715 and 11.800 of HB 2011 (2018). MMAC has determined that PPSLR is an affiliate of Reproductive Health Services of Planned Parenthood of St. Louis Region (RHSPPSLR), a licensed abortion facility. Factors considered to make the determination of affiliation include but are not limited to the following: PPSLR shares resources with RHSPPSLR including, same practice location, some employees, trade names, and information and education materials. MMAC has further determined that PPSLR is an associate of an abortion facility. Factors considered to make the determination of association include but are not limited to the following: PPSLR shares part of its name with RHSPPSLR, PPSLR has the public appearance of association, and is commonly identified as an advocate for abortion or has held itself out publicly in a way that demonstrates a connection with RHSPPSLR.

RELAY MISSOURI

FOR HEARING AND SPEECH IMPAIRED

1-800-735-2466 VOICE • 1-800-735-2966 TEXT PHONE

An Equal Opportunity Employer, services provided on a nondiscriminatory basis.
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This is a final decision regarding administration of the medical assistance program in Missouri. If PPSLR is adversely affected by this decision, §208.156, RSMo, provides for appeal to the Administrative Hearing Commission.

To appeal, PPSLR must file a petition with the Administrative Hearing Commission within 30 days from the date of mailing or delivery of this decision, whichever is earlier. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. An appeal of this decision can only be made to the Administrative Hearing Commission and not to MMAC or MHD. PPSLR may contact the Administrative Hearing Commission at:

Street Address:

United States Post Office Bldg.
Third Floor
131 West High Street
Jefferson City, MO 65101
Website: <https://ahc.mo.gov>

Mailing Address:

PO Box 1557
Jefferson City, MO 65102-1557
Telephone: (573) 751-2422
Fax: (573) 751-5018
Email: AHC@oa.mo.gov

Please contact MMAC Legal Counsel Mary Moulton at 573-751-3399 with any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dale Carr", with a stylized flourish extending from the end.

Dale Carr, Director
Missouri Medicaid Audit & Compliance



MICHAEL L. PARSON, GOVERNOR • STEVE CORSI, Psy.D., DIRECTOR

MISSOURI MEDICAID AUDIT & COMPLIANCE UNIT
P.O. BOX 6500 • JEFFERSON CITY, MO 65102-6500
WWW.DSS.MO.GOV • 573-751-3399

August 23, 2018

Reproductive Health Services
of Planned Parenthood of the St. Louis Region
4251 Forest Park Ave.
St. Louis, MO 63108

CERTIFIED MAIL 7017 1000 0000 1095 8014

NPI: 1184686511

Dear Reproductive Health Services of Planned Parenthood of the St. Louis Region:

Missouri Medicaid Audit and Compliance, (MMAC) is hereby notifying Reproductive Health Services of Planned Parenthood of the St. Louis Region (RHSPPSLR) that claims submitted for payment to its provider number beginning in 52 will be denied by the MO HealthNet Division (MHD).

RHSPPSLR will receive notice of the denial(s) on the respective remittance advice(s) (RA). The RA will contain the claim adjustment reason code (CARC) "B7", which indicates "This provider was not certified/eligible to be paid for this procedure/service on this date of service."

The Department of Social Services (DSS) does not have appropriation authority to pay the claim under HB 2011 (2018). DSS's appropriation authority to expend funds for state fiscal year 2019 is set forth in House Bill 2011 (2018). Section 11.715 of House Bill 2011 provides that no funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law. Additionally, Section 11.800 of House Bill 2011 provides that no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof. DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. MO Const. art IV, §28.

MHD will deny these claims because RHSPPSLR is ineligible for payments on the specified dates of service, pursuant to 13 CSR 10-4.010(3). MO Const. art. IV, §28, and §§ 11.715 and 11.800 of HB 2011 (2018). MMAC has determined that RHSPPSLR is licensed by the Missouri Department of Health and Senior Services as an Abortion Facility.

This is a final decision regarding administration of the medical assistance program in Missouri. If RHSPPSLR is adversely affected by this decision, §208.156, RSMo, provides for appeal to the Administrative Hearing Commission.

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To appeal, RHSPPSLR must file a petition with the Administrative Hearing Commission within 30 days from the date of mailing or delivery of this decision, whichever is earlier. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. An appeal of this decision can only be made to the Administrative Hearing Commission and not to MMAC or MHD. RHSPPSLR may contact the Administrative Hearing Commission at:

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Fax: (573) 751-5018
Email: AHC@oa.mo.gov

Please contact MMAC Legal Counsel Mary Moulton at 573-751-3399 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Carr", with a stylized flourish at the end.

Dale Carr, Director
Missouri Medicaid Audit & Compliance

Exhibit B

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2011
99TH GENERAL ASSEMBLY

2011H.06T

2018

AN ACT

To appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2018, and ending June 30, 2019.

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

There is appropriated out of the State Treasury, to be expended only as provided in
2 Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each
3 department, division, agency, and program described herein for the item or items stated, and for
4 no other purpose whatsoever chargeable to the fund designated for the period beginning July 1,
5 2018, and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or
2 items in each section of Part 1 of this act, for the amount and
3 purpose and from the fund designated in each section of Part 1, as
4 well as all additional clarifications of purpose in Part 2 of this act
5 that make reference by section to said item or items in Part 1. Any
6 clarification of purpose in Part 2 shall state the section or sections
7 in Part 1 to which it attaches and shall, together with the language
8 of said section(s) in Part 1, form the complete statement of purpose
9 of the appropriation. As such, the provisions of Part 2 of this act

10 shall not be severed from Part 1, and if any clarification of purpose
 11 in Part 2 is for any reason held to be invalid, such decision shall
 12 invalidate all of the appropriations in this act of which said
 13 clarification of purpose is a part. Part 3 of this act shall consist of
 14 guidance to the Department of Social Services in implementing the
 15 appropriations found in Part 1 and Part 2 of this act.

Section 11.005. To the Department of Social Services

2	For the Office of the Director, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	Personal Service.....	\$104,564
5	Annual salary adjustment in accordance with Section 105.005,	
6	RSMo.. ..	503
7	Expense and Equipment.. ..	<u>33,543</u>
8	From General Revenue Fund (0101).....	138,610
9	Personal Service.....	147,765
10	Annual salary adjustment in accordance with Section 105.005,	
11	RSMo.. ..	76
12	Expense and Equipment.. ..	<u>1,197</u>
13	From Department of Social Services Federal Fund (0610).....	149,038
14	Personal Service.....	31,081
15	Annual salary adjustment in accordance with Section 105.005,	
16	RSMo.. ..	<u>63</u>
17	From Child Support Enforcement Fund (0169).....	<u>31,144</u>
18	Total (Not to exceed 3.25 F.T.E.)	\$318,792

Section 11.010. To the Department of Social Services

2	For the Office of the Director	
3	For the purpose of receiving and expending grants, donations, contracts,	
4	and payments from private, federal, and other governmental	
5	agencies which may become available between sessions of the	
6	General Assembly provided that the General Assembly shall be	
7	notified of the source of any new funds and the purpose for which	
8	they shall be expended, in writing, prior to the use of said funds	
9	From Department of Social Services Federal Fund (0610).....	\$4,443,552
10	From Family Services Donations Fund (0167).	<u>33,999</u>
11	Total.....	\$4,477,551

Section 11.015. To the Department of Social Services

2 For the Office of the Director

3 For the Human Resources Center, provided that not more than three

4 percent (3%) flexibility is allowed from this section to Section

5 11.600

6 Personal Service..... \$268,421

7 Expense and Equipment..... 11,036

8 From General Revenue Fund (0101)..... 279,457

9 Personal Service..... 203,515

10 Expense and Equipment..... 29,74911 From Department of Social Services Federal Fund (0610)..... 233,26412 Total (Not to exceed 10.52 F.T.E.)..... \$512,721

Section 11.020. To the Department of Social Services

2 For the Office of the Director

3 For the Missouri Medicaid Audit and Compliance Unit, provided that not

4 more than three percent (3%) flexibility is allowed from this

5 section to Section 11.600

6 Personal Service..... \$1,202,202

7 Expense and Equipment..... 185,578

8 From General Revenue Fund (0101)..... 1,387,780

9 Personal Service..... 1,628,718

10 Expense and Equipment..... 860,03911 From Department of Social Services Federal Fund (0610)..... 2,488,757

12 Expense and Equipment

13 From Recovery Audit and Compliance Fund (0974)..... 82,087

14 Personal Service..... 91,115

15 Expense and Equipment..... 141,88616 From Medicaid Provider Enrollment Fund (0990)..... 233,00117 Total (Not to exceed 76.05 F.T.E.)..... \$4,191,625

Section 11.025. To the Department of Social Services

2 For the Office of the Director

3 For the Missouri Medicaid Audit and Compliance Unit

4 For the purpose of funding a case management, provider enrollment, and

5 a fraud abuse and detection system, provided that not more than

6 three percent (3%) flexibility is allowed from this section to

7 Section 11.600

8 Expense and Equipment

9 From General Revenue Fund (0101)..... \$917,552

10 From Department of Social Services Federal Fund (0610)..... 4,082,44811 Total..... \$5,000,000

Section 11.030. To the Department of Social Services

- 2 For the Office of the Director
 3 For the purpose of funding recovery audit services
 4 Expense and Equipment
 5 From Recovery Audit and Compliance Fund (0974). \$1,200,000

Section 11.035. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services, provided that
 3 not more than three percent (3%) flexibility is allowed from this
 4 section to Section 11.600
 5 Personal Service. \$1,769,812
 6 Expense and Equipment. 375,468
 7 From General Revenue Fund (0101). 2,145,280

 8 Personal Service. 1,078,374
 9 Expense and Equipment. 170,113
 10 From Department of Social Services Federal Fund (0610). 1,248,487

 11 Personal Service
 12 From Child Support Enforcement Fund (0169). 49,281

 13 Personal Service. 4,184
 14 Expense and Equipment. 317
 15 From Department of Social Services Administrative Trust Fund (0545). 4,501

 16 For the purpose of funding the centralized inventory system, for
 17 reimbursable goods and services provided by the department, and
 18 for related equipment replacement and maintenance expenses
 19 From Department of Social Services Administrative Trust Fund (0545). 1,200,000
 20 Total (Not to exceed 65.95 F.T.E.). \$4,647,549

Section 11.040. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services
 3 For the payment of fees to contractors who engage in revenue
 4 maximization projects on behalf of the Department of Social
 5 Services
 6 From Department of Social Services Federal Fund (0610). \$3,250,000

Section 11.045. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services
 3 For the purpose of funding the receipt and disbursement of refunds and
 4 incorrectly deposited receipts to allow the over-collection of
 5 accounts receivables to be paid back to the recipient
 6 From Title XIX Federal Fund (0163). \$5,821,789

7	From Federal and Other Fund (0189).	1,500,000
8	From Temporary Assistance for Needy Families Federal Fund (0199).	27,000
9	From Department of Social Services Federal Fund (0610).	5,000,000
10	From Pharmacy Rebates Fund (0114).	25,000
11	From Third Party Liability Collections Fund (0120).	369,000
12	From Premium Fund (0885).	<u>2,827,100</u>
13	Total.	\$15,569,889

Section 11.050. To the Department of Social Services

2	For the Division of Finance and Administrative Services	
3	For the purpose of funding payments to counties and the City of St. Louis	
4	toward the care and maintenance of each delinquent or dependent	
5	child as provided in Section 211.156, RSMo, provided that not	
6	more than three percent (3%) flexibility is allowed from this	
7	section to Section 11.600	
8	From General Revenue Fund (0101).	\$1,354,000

Section 11.055. To the Department of Social Services

2	For the Division of Legal Services, provided that any positions added to	
3	this section in fiscal year 2019 include not less than one	
4	investigator position dedicated to child fatality investigations, and	
5	further provided that not more than three percent (3%) flexibility	
6	is allowed from this section to Section 11.600	
7	Personal Service.	\$1,807,412
8	Expense and Equipment.	<u>49,322</u>
9	From General Revenue Fund (0101).	1,856,734
10	Personal Service.	3,157,637
11	Expense and Equipment.	<u>390,834</u>
12	From Department of Social Services Federal Fund (0610).	3,548,471
13	Personal Service.	588,048
14	Expense and Equipment.	<u>90,076</u>
15	From Third Party Liability Collections Fund (0120).	678,124
16	Personal Service	
17	From Child Support Enforcement Fund (0169).	<u>168,409</u>
18	Total (Not to exceed 129.88 F.T.E.).	\$6,251,738

Section 11.060. To the Department of Social Services

2	For the Family Support Division, provided that not more than three	
3	percent (3%) flexibility is allowed from this section to Section	
4	11.600	
5	Personal Service.	\$1,374,154
6	Expense and Equipment.	<u>8,407</u>
7	From General Revenue Fund (0101).	1,382,561

8	Personal Service.....	655,576
9	Expense and Equipment.....	<u>1,906,084</u>
10	From Temporary Assistance for Needy Families Federal Fund (0199).....	2,561,660
11	Personal Service.....	4,745,088
12	Expense and Equipment.....	<u>8,974,775</u>
13	From Department of Social Services Federal Fund (0610).....	13,719,863
14	Personal Service	
15	From Child Support Enforcement Fund (0169).....	<u>569,159</u>
16	Total (Not to exceed 166.10 F.T.E.)	\$18,233,243

Section 11.065. To the Department of Social Services

2	For the Family Support Division	
3	For the income maintenance field staff and operations, provided that not	
4	more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Personal Service.....	\$14,960,986
7	Expense and Equipment.....	<u>3,207,874</u>
8	From General Revenue Fund (0101).....	18,168,860
9	Personal Service.....	20,255,815
10	Expense and Equipment.....	<u>2,654,182</u>
11	From Temporary Assistance for Needy Families Federal Fund (0199).....	22,909,997
12	Personal Service.....	33,076,314
13	Expense and Equipment.....	<u>8,050,631</u>
14	From Department of Social Services Federal Fund (0610).....	41,126,945
15	Personal Service.....	820,916
16	Expense and Equipment.....	<u>27,917</u>
17	From Health Initiatives Fund (0275).....	<u>848,833</u>
18	Total (Not to exceed 2,052.73 F.T.E.).....	\$83,054,635

Section 11.070. To the Department of Social Services

2	For the Family Support Division	
3	For income maintenance and child support staff training, provided that not	
4	more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Expense and Equipment	
7	From General Revenue Fund (0101).....	\$111,397
8	From Department of Social Services Federal Fund (0610).....	<u>131,270</u>
9	Total.....	\$242,667

Section 11.075. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the electronic benefit transfers (EBT) system	
4	Expense and Equipment	
5	From General Revenue Fund (0101).	\$1,696,622
6	From Temporary Assistance for Needy Families Federal Fund (0199).	146,888
7	From Department of Social Services Federal Fund (0610).	<u>1,399,859</u>
8	Total.	\$3,243,369

Section 11.080. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the receipt of funds from the Polk County and	
4	Bolivar Charitable Trust for the exclusive benefit and use of the	
5	Polk County Office	
6	From Family Services Donations Fund (0167).	\$10,000

Section 11.085. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding contractor, hardware, and other costs	
4	associated with planning, development, and implementation of a	
5	Family Assistance Management Information System (FAMIS),	
6	provided that not more than three percent (3%) flexibility is	
7	allowed from this section to Section 11.600	
8	Expense and Equipment	
9	From General Revenue Fund (0101).	\$575,453
10	From Temporary Assistance for Needy Families Federal Fund (0199).	1,084,032
11	From Department of Social Services Federal Fund (0610).	<u>138,339</u>
12	Total.	\$1,797,824

Section 11.090. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of planning, designing, and purchasing an eligibility and	
4	enrollment system, provided the Department of Social Services	
5	shall procure a contractor to provide verification of initial and	
6	ongoing eligibility data for assistance under the supplemental	
7	nutrition assistance program, temporary assistance for needy	
8	families, MO HealthNet, child care services, and any other	
9	assistance programs as directed by the General Assembly; the	
10	contractor shall utilize public records as well as other established,	
11	credible data sources to evaluate income, resources, and assets of	
12	each applicant on no less than a quarterly basis; the contractor	
13	shall also, on a monthly basis, identify participants of covered	
14	programs who have died, moved out of state, or been incarcerated	

15	longer than 90 days, and further provided that not more than three	
16	percent (3%) flexibility is allowed from this section to Section	
17	11.600	
18	Expense and Equipment	
19	From General Revenue Fund (0101).	\$7,566,986
20	From Department of Social Services Federal Fund (0610).	63,459,631
21	From Health Initiatives Fund (0275).	<u>1,000,000</u>
22	Total.	\$72,026,617

Section 11.095. To the Department of Social Services

2	For the Family Support Division	
3	For grants and contracts to Community Partnerships and other community	
4	initiatives and related expenses, provided that not more than ten	
5	percent (10%) flexibility is allowed between this section and	
6	Section 11.110, and further provided that not more than three	
7	percent (3%) flexibility is allowed from this section to Section	
8	11.600	
9	From General Revenue Fund (0101).	\$632,328
10	From Temporary Assistance for Needy Families Federal Fund (0199).	4,201,624
11	From Department of Social Services Federal Fund (0610).	3,402,175
12	For the Missouri Mentoring Partnership	
13	From Temporary Assistance for Needy Families Federal Fund (0199).	508,700
14	From Department of Social Services Federal Fund (0610).	935,000
15	For a program for adolescents with the goal of preventing teen	
16	pregnancies to be distributed to an organization that: provides	
17	structured after school and summer activities for at-risk youth;	
18	provides tested and proven programs other than the Adolescent	
19	Program funded herein; utilizes trained youth development	
20	personnel; and maintains a dedicated youth-centric facility and	
21	provides services at a minimum of 10 locations throughout the	
22	state	
23	From Temporary Assistance for Needy Families Federal Fund (0199).	<u>600,000</u>
24	Total.	\$10,279,827

Section 11.100. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the Food Nutrition and Employment Training	
4	Programs.	\$14,343,755
5	For the purpose of funding the Missouri SkillUp Program.	<u>5,500,000</u>
6	From Department of Social Services Federal Fund (0610).	\$19,843,755

Section 11.105. To the Department of Social Services

- 2 For the Family Support Division
- 3 For the purpose of funding the Healthcare Industry Training and
- 4 Education (HITE) Program, under the provisions of the Health
- 5 Profession Opportunity Grant (HPOG)
- 6 From Department of Social Services Federal Fund (0610). \$3,000,000

Section 11.110. To the Department of Social Services

- 2 For the Family Support Division, provided that not more than ten percent
- 3 (10%) flexibility is allowed between this section and Section
- 4 11.095, and further provided that not more than three percent (3%)
- 5 flexibility is allowed from this section to Section 11.600
- 6 For the purpose of funding Temporary Assistance for Needy Families
- 7 (TANF) benefits; Temporary Assistance (TA) Diversion
- 8 transitional benefits and payments to qualified agencies for TANF
- 9 or TANF Maintenance of Effort activities, provided that total
- 10 funding herein is sufficient to fund TANF benefits
- 11 From General Revenue Fund (0101). \$3,856,800
- 12 From Temporary Assistance for Needy Families Federal Fund (0199). 39,507,541
- 13 For the purpose of funding work assistance programs
- 14 From General Revenue Fund (0101). 1,855,554
- 15 From Temporary Assistance for Needy Families Federal Fund (0199). 35,394,658
- 16 For support to Food Banks' effort to provide services and food to
- 17 low-income individuals
- 18 From Temporary Assistance for Needy Families Federal Fund (0199). 10,000,000
- 19 For the purpose of funding payments to qualified agencies for TANF or
- 20 TANF maintenance of effort after school and out of school support
- 21 programs
- 22 From Temporary Assistance for Needy Families Federal Fund (0199). 3,000,000
- 23 For the Summer Jobs Program
- 24 From Temporary Assistance for Needy Families Federal Fund (0199). 5,500,000
- 25 For the purpose of funding the attendance of low-income individuals at
- 26 adult high schools as designated by the Department of Elementary
- 27 and Secondary Education
- 28 From Temporary Assistance for Needy Families Federal Fund (0199). 3,000,000
- 29 For the purpose of funding the Foster Care Jobs program
- 30 From Temporary Assistance for Needy Families Federal Fund (0199). 1,000,000

31	For the purpose of funding an evidence-based program through a	
32	school-based early warning and response system that improves	
33	student attendance, behavior and course performance in	
34	reading and math by identifying the root causes for student	
35	absenteeism, classroom disruption and course failure	
36	From Temporary Assistance for Needy Families Federal Fund (0199).....	500,000
37	For the purpose of funding services that provide assistance and	
38	engagement to address critical areas of need for low-income	
39	individuals, families, and children located in a city not within a	
40	county	
41	From Temporary Assistance for Needy Families Federal Fund (0199).....	100,000
42	For Jobs for America's Graduates	
43	From Temporary Assistance for Needy Families Federal Fund (0199).....	<u>1,000,000</u>
44	Total.....	\$104,714,553

Section 11.115. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding alternatives to abortion services, including the	
4	provision of diapers and other infant hygiene products to women	
5	who qualify for alternative to abortion services	
6	From General Revenue Fund (0101).....	\$2,033,561
7	From Temporary Assistance for Needy Families Federal Fund (0199).....	4,300,000
8	From Department of Social Services Federal Fund (0610).....	50,000
9	For the alternatives to abortion public awareness program	
10	From General Revenue Fund (0101).....	75,000
11	For the purpose of funding a healthy marriage and fatherhood initiative	
12	From Temporary Assistance for Needy Families Federal Fund (0199).....	<u>2,500,000</u>
13	Total.....	\$8,958,561

Section 11.120. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding supplemental payments to aged or disabled	
4	persons	
5	From General Revenue Fund (0101).....	\$25,525

Section 11.125. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding nursing care payments to aged, blind, or	
4	disabled persons, and for personal funds to recipients of	
5	Supplemental Nursing Care payments as required by Section	
6	208.030, RSMo	
7	From General Revenue Fund (0101).....	\$25,420,885

Section 11.130. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding Blind Pension and supplemental payments to

4 blind persons, provided that the Department of Social Services,

5 whenever it calculates a new estimated rate or rates for the Blind

6 Pension and/or supplemental payments to blind persons for the

7 upcoming fiscal year, shall transmit the new estimated rate or

8 rates, as well as the accompanying assumptions and calculations

9 used to create the new estimated rate or rates, to the following

10 organizations: Missouri Council for the Blind, National Federation

11 of the Blind of Missouri, and the State Rehabilitation Council

12 From General Revenue Fund (0101). \$3,917,114

13 From Blind Pension Fund (0621). 35,762,368

14 For payments to Eligible Members in accordance with the class action

15 settlement agreement entered into by the Department of Social

16 Services in resolution of case number 06AC-CC00123-03

17 From General Revenue Fund (0101). 15,750,000

18 Total. \$55,429,482

Section 11.135. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding benefits and services as provided by the

4 Refugee Act of 1980 as amended

5 From Department of Social Services Federal Fund (0610). \$35,000

Section 11.140. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding community services programs provided by

4 Community Action Agencies or other not-for-profit organizations

5 under the provisions of the Community Services Block Grant

6 From Department of Social Services Federal Fund (0610). \$23,637,000

Section 11.145. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Emergency Solutions Grant Program

4 From Department of Social Services Federal Fund (0610). \$4,130,000

Section 11.150. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Food Distribution Program and the receipt

4 and disbursement of Donated Food Program payments

5 From Department of Social Services Federal Fund (0610). \$1,500,000

Section 11.155. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Low-Income Home Energy Assistance

4 Program, provided that ten percent (10%), up to \$7,750,000, be

5 used for the Low-Income Weatherization Assistance Program

6 (LIWAP) administered by the Division of Energy within the

7 Department of Economic Development

8 From Department of Social Services Federal Fund (0610). \$77,547,867

9 For the Low-Income Weatherization Assistance Program (LIWAP)

10 administered by the Division of Energy within the Department of

11 Economic Development, in addition to any other appropriations

12 made for this purpose elsewhere in this section

13 From Energy Futures Fund (0935). 1,000,000

14 Total. \$78,547,867

Section 11.160. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding grants to not-for-profit organizations for

4 services and programs to assist victims of domestic violence,

5 provided that not more than three percent (3%) flexibility is

6 allowed from this section to Section 11.600

7 From General Revenue Fund (0101). \$5,000,000

8 From Temporary Assistance for Needy Families Federal Fund (0199). 1,600,000

9 From Department of Social Services Federal Fund (0610). 3,956,524

10 For the purpose of funding emergency shelter services to assist victims

11 of domestic violence

12 From Temporary Assistance for Needy Families Federal Fund (0199). 562,137

13 Total. \$11,118,661

Section 11.165. To the Department of Social Services

2 For the Family Support Division

3 For the Victims of Crime Program

4 Personal Service. \$357,750

5 Expense and Equipment. 201,097

6 Program Specific Distribution. 45,125,000

7 From Department of Social Services Federal Fund (0610) (Not to

8 exceed 9.00 F.T.E.). \$45,683,847

Section 11.170. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding grants to not-for-profit organizations for

4 services and programs to assist victims of sexual assault, provided

5	that not more than three percent (3%) flexibility is allowed from	
6	this section to Section 11.600	
7	From General Revenue Fund (0101).	\$750,000
8	From Department of Social Services Federal Fund (0610).	<u>160,000</u>
9	Total.	\$910,000

Section 11.175. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding administration of blind services, provided that	
4	not more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Personal Service.	\$801,541
7	Expense and Equipment.	<u>132,737</u>
8	From General Revenue Fund (0101).	934,278
9	Personal Service.	3,097,139
10	Expense and Equipment.	<u>743,274</u>
11	From Department of Social Services Federal Fund (0610).	<u>3,840,413</u>
12	Total (Not to exceed 102.69 F.T.E.).	\$4,774,691

Section 11.180. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding services for the visually impaired, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	From General Revenue Fund (0101).	\$1,483,831
7	From Department of Social Services Federal Fund (0610).	6,372,075
8	From Family Services Donations Fund (0167).	99,995
9	From Blindness Education, Screening and Treatment Program Fund (0892).	<u>349,000</u>
10	Total.	\$8,304,901

Section 11.185. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of supporting business enterprise programs for the	
4	blind	
5	From Department of Social Services Federal Fund (0610).	\$35,000,000

Section 11.190. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding Child Support Enforcement field staff and	
4	operations, provided that no more than ten percent (10%)	
5	flexibility is allowed between personal service and expense and	
6	equipment within this section to allow staff or contractual services	
7	to complete child support interstate collection activities, and	

8	further provided that not more than three percent (3%) flexibility	
9	is allowed from this section to Section 11.600	
10	Personal Service.....	\$2,998,060
11	Expense and Equipment.....	<u>3,867,086</u>
12	From General Revenue Fund (0101).....	6,865,146
13	Personal Service.....	16,236,785
14	Expense and Equipment.....	<u>7,192,819</u>
15	From Department of Social Services Federal Fund (0610).....	23,429,604
16	Personal Service.....	2,210,255
17	Expense and Equipment.....	<u>959,784</u>
18	From Child Support Enforcement Fund (0169).....	3,170,039
19	For Child Support Mediation	
20	Expense and Equipment	
21	From Child Support Enforcement Fund (0169).....	<u>615,000</u>
22	Total (Not to exceed 651.24 F.T.E.).....	\$34,079,789

Section 11.195. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding reimbursements to counties and the City of St.	
4	Louis and contractual agreements with local governments	
5	providing child support services, provided that not more than three	
6	percent (3%) flexibility is allowed from this section to Section	
7	11.600	
8	From General Revenue Fund (0101).....	\$2,240,491
9	From Department of Social Services Federal Fund (0610).....	14,886,582
10	From Child Support Enforcement Fund (0169).....	<u>400,212</u>
11	Total.....	\$17,527,285

Section 11.200. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding reimbursements to the federal government for	
4	federal Temporary Assistance for Needy Families payments,	
5	refunds of bonds, refunds of support payments or overpayments,	
6	and distributions to families	
7	From Department of Social Services Federal Fund (0610).....	\$51,500,000
8	From Debt Offset Escrow Fund (0753).....	<u>9,000,000</u>
9	Total.....	\$60,500,000

Section 11.205. To the Department of Social Services

2	Funds are to be transferred out of the State Treasury, chargeable to	
3	the Debt Offset Escrow Fund, to the Department of Social	
4	Services Federal Fund	
5	From Debt Offset Escrow Fund (0753).....	\$955,000

6	Funds are to be transferred out of the State Treasury, chargeable to	
7	the Debt Offset Escrow Fund, to the Child Support Enforcement	
8	Fund	
9	From Debt Offset Escrow Fund (0753).....	<u>245,000</u>
10	Total.....	\$1,200,000

Section 11.210. To the Department of Social Services

2	For the Children's Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	Personal Service.....	\$719,758
5	Expense and Equipment.....	<u>30,236</u>
6	From General Revenue Fund (0101).....	749,994
7	Personal Service.....	3,293,538
8	Expense and Equipment.....	<u>2,661,367</u>
9	From Department of Social Services Federal Fund (0610).....	5,954,905
10	Personal Service.....	47,124
11	Expense and Equipment.....	<u>11,548</u>
12	From Early Childhood Development, Education and Care Fund (0859).....	58,672
13	Expense and Equipment	
14	From Third Party Liability Collections Fund (0120).....	<u>50,000</u>
15	Total (Not to exceed 87.94 F.T.E.).....	\$6,813,571

Section 11.215. To the Department of Social Services

2	For the Children's Division, provided that not more than ten percent (10%)	
3	flexibility is allowed between this section and Section 11.250, and	
4	further provided that not more than three percent (3%) flexibility	
5	is allowed from this section to Section 11.600	
6	For the Children's Division field staff and operations	
7	Personal Service.....	\$32,285,090
8	Expense and Equipment.....	<u>2,629,691</u>
9	From General Revenue Fund (0101).....	34,914,781
10	Personal Service.....	46,264,039
11	Expense and Equipment.....	<u>4,665,971</u>
12	From Department of Social Services Federal Fund (0610).....	50,930,010
13	Personal Service.....	73,208
14	Expense and Equipment.....	<u>27,846</u>
15	From Health Initiatives Fund (0275).....	101,054

16	For the purpose of funding recruitment and retention services	
17	From General Revenue Fund (0101).....	572,787
18	From Department of Social Services Federal Fund (0610).....	<u>793,132</u>
19	Total (Not to exceed 1,958.38 F.T.E.).....	\$87,311,764

Section 11.220. To the Department of Social Services

2	For the Children's Division	
3	For Children's Division staff training, provided that not more than three	
4	percent (3%) flexibility is allowed from this section to Section	
5	11.600	
6	Expense and Equipment	
7	From General Revenue Fund (0101).....	\$949,616
8	From Department of Social Services Federal Fund (0610).....	<u>477,142</u>
9	Total.....	\$1,426,758

Section 11.225. To the Department of Social Services

2	For the Children's Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding children's treatment services including, but not	
5	limited to, home-based services, day treatment services, preventive	
6	services, child care, family reunification services, or intensive	
7	in-home services	
8	From General Revenue Fund (0101).....	\$12,493,368
9	From Temporary Assistance for Needy Families Federal Fund (0199).....	2,573,418
10	From Department of Social Services Federal Fund (0610).....	7,088,175
11	For the purpose of funding crisis care	
12	From General Revenue Fund (0101).....	<u>2,050,000</u>
13	Total.....	\$24,204,961

Section 11.230. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding grants to community-based programs to	
4	strengthen the child welfare system locally to prevent child abuse	
5	and neglect and divert children from entering into the custody of	
6	the Children's Division, provided that not more than three percent	
7	(3%) flexibility is allowed from this section to Section 11.600	
8	From General Revenue Fund (0101).....	\$3,074,500
9	From Temporary Assistance for Needy Families Federal Fund (0199).....	<u>1,290,000</u>
10	Total.....	\$4,364,500

Section 11.235. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding placement costs including foster care	
4	payments; related services; expenses related to training of foster	

5	parents; residential treatment placements and therapeutic treatment	
6	services; and for the diversion of children from inpatient	
7	psychiatric treatment and services provided through	
8	comprehensive, expedited permanency systems of care for children	
9	and families, provided that no children enrolled in or receiving	
10	foster care services shall have any additional behavioral health	
11	services administered through a managed care entity, other than	
12	the services required pursuant to the MO HealthNet managed care	
13	contract in effect on May 1, 2018, until the Department of Social	
14	Services and the Department of Mental Health have jointly	
15	submitted a plan regarding the design of the management of	
16	additional behavioral health services for children in foster care to	
17	any interested stakeholders and the House Budget and Senate	
18	Appropriations Committees, and such plan has been approved in	
19	the respective budgets, and further provided that not more than	
20	five percent (5%) flexibility is allowed between this section and	
21	Sections 11.255 and 11.265	
22	From General Revenue Fund (0101).	\$82,072,392
23	From Department of Social Services Federal Fund (0610).	40,731,528
24	From Temporary Assistance for Needy Families Federal Fund (0199).	1,366,385
25	For the purpose of funding placement costs in an outdoor learning	
26	residential licensed or accredited program located in south central	
27	Missouri related to the treatment of foster children	
28	From General Revenue (0101).	183,385
29	From Department of Social Services Federal Fund (0610).	316,615
30	For the purpose of funding awards to licensed community-based foster	
31	care and adoption recruitment programs	
32	From Foster Care and Adoptive Parents Recruitment and Retention Fund	
33	(0979).	<u>15,000</u>
34	Total.	\$124,685,305

Section 11.240. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding contractual payments for expenses related to	
4	training of foster parents	
5	From General Revenue Fund (0101).	\$403,479
6	From Department of Social Services Federal Fund (0610).	<u>172,920</u>
7	Total.	\$576,399

Section 11.245. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding costs associated with attending post-secondary	
4	education including, but not limited to: tuition, books, fees, room,	

5	and board for current or former foster youth, provided that not	
6	more than three percent (3%) flexibility is allowed from this	
7	section to Section 11.600	
8	From General Revenue Fund (0101).....	\$188,848
9	From Temporary Assistance for Needy Families Federal Fund (0199).....	450,000
10	From Department of Social Services Federal Fund (0610).....	<u>1,050,000</u>
11	Total.....	\$1,688,848

Section 11.250. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of providing comprehensive case management contracts	
4	through community-based organizations as described in Section	
5	210.112, RSMo; the purpose of these contracts shall be to provide	
6	a system of care for children living in foster care, independent	
7	living, or residential care settings; services eligible under this	
8	provision may include, but are not limited to, case management,	
9	foster care, residential treatment, intensive in-home services,	
10	family reunification services, and specialized recruitment and	
11	training of foster care families, provided that not more than ten	
12	percent (10%) flexibility is allowed between this section and	
13	Section 11.215, and further provided that not more than three	
14	percent (3%) flexibility is allowed from this section to Section	
15	11.600	
16	From General Revenue Fund (0101).....	\$21,814,120
17	From Department of Social Services Federal Fund (0610).....	<u>17,369,683</u>
18	Total.....	\$39,183,803

Section 11.255. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Adoption and Guardianship subsidy payments	
4	and related services, provided that not more than five percent (5%)	
5	flexibility is allowed between this section and Sections 11.235 and	
6	11.265	
7	From General Revenue Fund (0101).....	\$66,044,996
8	From Department of Social Services Federal Fund (0610).....	<u>23,916,291</u>
9	Total.....	\$89,961,287

Section 11.260. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Adoption Resource Centers, provided that not	
4	more than fifty percent (50%) flexibility is allowed between this	
5	subsection and the extreme recruitment program within this	
6	section	
7	From General Revenue Fund (0101).....	\$875,000
8	From Department of Social Services Federal Fund (0610).....	600,000

9	For the purpose of funding extreme recruitment for older youth with	
10	significant mental health and behavioral issues, provided that not	
11	more than fifty percent (50%) flexibility is allowed between this	
12	subsection and adoption resource centers within this section	
13	From General Revenue Fund (0101).	875,000
14	From Department of Social Services Federal Fund (0610).	900,000
15	For the purpose of funding the Community Connections for Youth	
16	Program for an adoption resource center located in southwest	
17	Missouri and one center located in western Missouri to provide	
18	advocacy support services for youth between the ages of sixteen	
19	and twenty-six to: prevent foster care youth from becoming	
20	missing, locate missing foster care youth, prevent sex trafficking	
21	of foster care youth, and assist youth who have aged out of the	
22	foster care system	
23	From Department of Social Services Federal Fund (0610).	<u>600,000</u>
24	Total.	<u>\$3,850,000</u>

Section 11.265. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding independent living placements and transitional	
4	living services, provided that not more than five percent (5%)	
5	flexibility is allowed between this section and Sections 11.235 and	
6	11.255	
7	From General Revenue Fund (0101).	\$2,097,584
8	From Department of Social Services Federal Fund (0610).	<u>3,821,203</u>
9	Total.	<u>\$5,918,787</u>

Section 11.270. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Regional Child Assessment Centers, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	From General Revenue Fund (0101).	\$1,649,475
7	From Department of Social Services Federal Fund (0610).	800,000
8	From Health Initiatives Fund (0275).	<u>501,048</u>
9	Total.	<u>\$2,950,523</u>

Section 11.275. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding residential placement payments to counties for	
4	children in the custody of juvenile courts	
5	From Department of Social Services Federal Fund (0610).	\$400,000

Section 11.280. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding CASA IV-E allowable training costs
- 4 From Department of Social Services Federal Fund (0610). \$200,000

Section 11.285. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding the Child Abuse and Neglect Prevention Grant
- 4 and Children's Justice Act Grant
- 5 From Department of Social Services Federal Fund (0610). \$188,316

Section 11.290. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding transactions involving personal funds of
- 4 children in the custody of the Children's Division
- 5 From Alternative Care Trust Fund (0905). \$13,000,000

Section 11.295. To the Department of Social Services

- 2 For the Children's Division, provided that not more than three percent
- 3 (3%) flexibility is allowed from this section to Section 11.600
- 4 For the purpose of funding child care services, the general administration
- 5 of the programs, including development and implementation of
- 6 automated systems to enhance time, attendance reporting, contract
- 7 compliance and payment accuracy, and to support the Educare
- 8 Program; provided that the income thresholds for childcare
- 9 subsidies shall be a full benefit for individuals with an income
- 10 which is less than or equal to 138 percent of the federal poverty
- 11 level; a benefit of 75 percent for individuals with an income which
- 12 is less than or equal to 165 percent of the federal poverty level but
- 13 greater than 138 percent of the federal poverty level; a benefit of
- 14 50 percent for individuals with an income which is less than or
- 15 equal to 190 percent of the federal poverty level but greater than
- 16 165 percent of federal poverty level; a benefit of 25 percent for
- 17 individuals with an income which is less than or equal to 215
- 18 percent of the federal poverty level but greater than 190 percent of
- 19 federal poverty level, and further provided that all funds available
- 20 for disproportionate share rate increases shall go only to licensed
- 21 or religiously exempt in compliance providers who are accredited
- 22 or making progress toward accreditation, and further provided that
- 23 the Children's Division may provide one-time funding to
- 24 providers, not to exceed \$5,000 per provider, to assist providers
- 25 who otherwise meet the department's qualifications, to meet
- 26 requirements for accreditation

27	From General Revenue Fund (0101).	\$33,782,158
28	From Department of Social Services Federal Fund (0610).	113,059,215
29	From Temporary Assistance for Needy Families Fund (0199).	37,857,515
30	From Early Childhood Development, Education and Care Fund (0859).	7,574,500
31	Personal Service	
32	From General Revenue Fund (0101).	13,662
33	Personal Service	
34	From Department of Social Services Federal Fund (0610).	488,679
35	For the purpose of funding early childhood development, education, and	
36	care programs for low-income families	
37	From General Revenue Fund (0101).	3,500,000
38	For the purpose of funding the Hand Up pilot program	
39	From General Revenue Fund (0101).	40,000
40	From Department of Social Services Federal Fund (0610).	60,000
41	Total (Not to exceed 12.00 F.T.E.).	\$196,375,729

Section 11.300. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding Central Office and regional offices, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	Personal Service.	\$1,214,553
7	Expense and Equipment.	80,694
8	From General Revenue Fund (0101).	1,295,247
9	Personal Service.	515,128
10	Expense and Equipment.	100,340
11	From Department of Social Services Federal Fund (0610).	615,468
12	Expense and Equipment	
13	From Youth Services Treatment Fund (0843).	999
14	Total (Not to exceed 39.30 F.T.E.).	\$1,911,714

Section 11.305. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding treatment services, including foster care and	
4	contractual payments, provided that not more than three percent	
5	(3%) flexibility is allowed from this section to Section 11.600	
6	Personal Service.	\$15,982,661
7	Expense and Equipment.	740,399
8	From General Revenue Fund (0101).	16,723,060

9	Personal Service.....	22,714,815
10	Expense and Equipment.....	<u>6,299,111</u>
11	From Department of Social Services Federal Fund (0610).....	29,013,926
12	Personal Service.....	3,267,564
13	Expense and Equipment.....	<u>3,852,302</u>
14	From DOSS Educational Improvement Fund (0620).....	7,119,866
15	Personal Service.....	138,387
16	Expense and Equipment.....	<u>9,106</u>
17	From Health Initiatives Fund (0275).....	147,493
18	Expense and Equipment	
19	From Youth Services Products Fund (0764).....	5,000
20	For the purpose of paying overtime to non-exempt state employees and/or	
21	paying otherwise authorized personal service expenditures in lieu	
22	of such overtime payments; non-exempt state employees identified	
23	by Section 105.935, RSMo, will be paid first with any remaining	
24	funds to be used to pay overtime to any other state employees	
25	From General Revenue Fund (0101).....	895,221
26	For the purpose of funding payment distribution of Social Security	
27	benefits received on behalf of youth in care	
28	From Division of Youth Services Child Benefits Fund (0727).....	<u>200,000</u>
29	Total (Not to exceed 1,164.88 F.T.E.).....	\$54,104,566

Section 11.310. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding incentive payments to counties for	
4	community-based treatment programs for youth, provided that not	
5	more than three percent (3%) flexibility is allowed from this	
6	section to Section 11.600	
7	From General Revenue Fund (0101).....	\$3,479,486
8	From Gaming Commission Fund (0286).....	<u>500,000</u>
9	Total.....	\$3,979,486

Section 11.400. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding administrative services, provided that not more	
4	than one quarter of one percent (0.25%) flexibility is allowed	
5	between this section and Sections 11.435, 11.455, 11.470, 11.480,	
6	11.505, and 11.510, and further provided that not more than three	
7	percent (3%) flexibility is allowed from this section to Section	
8	11.600	

9	Personal Service.....	\$2,971,252
10	Expense and Equipment.....	<u>8,963,766</u>
11	From General Revenue Fund (0101).....	11,935,018
12	Personal Service.....	5,895,206
13	Expense and Equipment.....	<u>11,604,743</u>
14	From Department of Social Services Federal Fund (0610).....	17,499,949
15	Personal Service.....	422,795
16	Expense and Equipment.....	<u>55,553</u>
17	From Pharmacy Rebates Fund (0114).....	478,348
18	Personal Service.....	402,781
19	Expense and Equipment.....	<u>488,041</u>
20	From Third Party Liability Collections Fund (0120).....	890,822
21	Personal Service.....	98,453
22	Expense and Equipment.....	<u>7,708</u>
23	From Federal Reimbursement Allowance Fund (0142).....	106,161
24	Personal Service.....	26,777
25	Expense and Equipment.....	<u>356</u>
26	From Pharmacy Reimbursement Allowance Fund (0144).....	27,133
27	Personal Service.....	86,951
28	Expense and Equipment.....	<u>10,281</u>
29	From Nursing Facility Quality of Care Fund (0271).....	97,232
30	Personal Service.....	433,997
31	Expense and Equipment.....	<u>41,385</u>
32	From Health Initiatives Fund (0275).....	475,382
33	Personal Service.....	45,167
34	Expense and Equipment.....	<u>372</u>
35	From Ground Emergency Medical Transportation Fund (0422).....	45,539
36	Personal Service	
37	From Missouri Rx Plan Fund (0779).....	358,726
38	Personal Service.....	18,590
39	Expense and Equipment.....	<u>3,466</u>
40	From Ambulance Service Reimbursement Allowance Fund (0958).....	<u>22,056</u>
41	Total (Not to exceed 234.70 F.T.E.).....	\$31,936,366

Section 11.405. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding clinical services management related to the	
4	administration of the MO HealthNet Pharmacy fee-for-service and	
5	managed care programs and administration of the Missouri Rx	
6	Plan, provided that not more than three percent (3%) flexibility is	
7	allowed from this section to Section 11.600	
8	Expense and Equipment	
9	From General Revenue Fund (0101).	\$461,917
10	From Department of Social Services Federal Fund (0610).	12,214,032
11	From Pharmacy Rebates Fund (0114).	1,497,648
12	From Third Party Liability Collections Fund (0120).	924,911
13	From Missouri Rx Plan Fund (0779).	<u>62,947</u>
14	Total.	\$15,161,455

Section 11.410. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding women and minority health care outreach	
4	programs, provided that not more than ten percent (10%)	
5	flexibility is allowed between this section and Sections 11.435,	
6	11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,	
7	11.550, 11.555, and 11.595, and further provided that not more	
8	than three percent (3%) flexibility is allowed from this section to	
9	Section 11.600	
10	Expense and Equipment	
11	From General Revenue Fund (0101).	\$529,796
12	From Department of Social Services Federal Fund (0610).	<u>568,625</u>
13	Total.	\$1,098,421

Section 11.415. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding fees associated with third-party collections and	
4	other revenue maximization cost avoidance fees	
5	Expense and Equipment	
6	From Department of Social Services Federal Fund (0610).	\$4,250,000
7	From Third Party Liability Collections Fund (0120).	<u>4,250,000</u>
8	Total.	\$8,500,000

Section 11.420. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding the operation of the information systems,	
4	provided that not more than one quarter of one percent (0.25%)	
5	flexibility is allowed between this section and Sections 11.435,	
6	11.455, 11.470, 11.480, 11.505, and 11.510, and further provided	

7	that not more than three percent (3%) flexibility is allowed from	
8	this section to Section 11.600	
9	From General Revenue Fund (0101).	\$21,575,946
10	From Department of Social Services Federal Fund (0610).	61,206,127
11	From Health Initiatives Fund (0275).	1,591,687
12	From Uncompensated Care Fund (0108).	<u>430,000</u>
13	Total.	\$84,803,760

Section 11.425. To the Department of Social Services

2	For the MO HealthNet Division	
3	For Healthcare Technology Incentives and administration	
4	From Federal Stimulus-Social Services Fund (2292).	\$28,000,000

Section 11.430. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the Money Follows the Person Program	
4	From Department of Social Services Federal Fund (0610).	\$532,549

Section 11.435. To the Department of Social Services

2	For the MO HealthNet Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding: pharmaceutical payments under the MO	
5	HealthNet fee-for-service program, professional fees for	
6	pharmacists, professional fees implementing the CMS Covered	
7	Outpatient Therapy rule, a generic incentive adjustment of \$1, a	
8	comprehensive chronic care risk management program, and	
9	clinical medication therapy services (MTS) provided by	
10	pharmacists with MTS Certificates as allowed under 338.010	
11	RSMo. to MO HealthNet (MHD) participants, provided that not	
12	more than ten percent (10%) flexibility is allowed between this	
13	subsection and Sections 11.410, 11.435, 11.455, 11.460, 11.465,	
14	11.470, 11.480, 11.490, 11.505, 11.510, 11.550, 11.555, and	
15	11.595, and further provided that not more than one quarter of one	
16	percent (0.25%) flexibility is allowed between this subsection and	
17	Sections 11.400 and 11.420	
18	From General Revenue Fund (0101).	\$79,111,633
19	From Title XIX - Federal Fund (0163).	761,603,995
20	From Pharmacy Rebates Fund (0114).	236,745,912
21	From Third Party Liability Collections Fund (0120).	4,217,574
22	From Pharmacy Reimbursement Allowance Fund (0144).	64,827,527
23	From Health Initiatives Fund (0275).	3,543,350
24	From Life Sciences Research Trust Fund (0763).	10,556,250
25	From Premium Fund (0885).	3,800,000

26 For the purpose of funding Medicare Part D Clawback payments, provided
 27 that not more than ten percent (10%) flexibility is allowed between
 28 this subsection and Sections 11.410, 11.435, 11.455, 11.460,
 29 11.465, 11.470, 11.480, 11.490, 11.505, 11.510, 11.550, 11.555,
 30 and 11.595, and further provided that not more than one quarter of
 31 one percent (0.25%) flexibility is allowed between this subsection
 32 and Sections 11.400 and 11.420
 33 From General Revenue Fund (0101). 226,750,733
 34 Total. \$1,391,156,974

Section 11.436. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding pharmaceutical payments under the Missouri
 4 Rx Plan authorized by Sections 208.780 through 208.798, RSMo.
 5 for individuals who are eligible for both MO HealthNet and
 6 Medicare
 7 From General Revenue Fund (0101). \$6,715,564
 8 From Missouri Rx Plan Fund (0779). 4,655,326
 9 Total. \$11,370,890

Section 11.440. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding Pharmacy Reimbursement Allowance
 4 payments as provided by law
 5 From Pharmacy Reimbursement Allowance Fund (0144). \$108,308,926

Section 11.445. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Pharmacy Reimbursement
 4 Allowance Fund
 5 From General Revenue Fund (0101). \$38,737,111

Section 11.450. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Pharmacy Reimbursement Allowance Fund, to the General
 4 Revenue Fund as a result of recovering the Pharmacy
 5 Reimbursement Allowance Fund
 6 From Pharmacy Reimbursement Allowance Fund (0144). \$38,737,111

Section 11.455. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding physician services and related services
 4 including, but not limited to, clinic and podiatry services,
 5 telemedicine services, physician-sponsored services and fees,

6	laboratory and x-ray services, asthma related services, and family	
7	planning services under the MO HealthNet fee-for-service	
8	program, and for a comprehensive chronic care risk management	
9	program and Major Medical Prior Authorization, and for piloting	
10	the development of health homes for children in foster care,	
11	provided that not more than ten percent (10%) flexibility is	
12	allowed between this subsection and Sections 11.410, 11.435,	
13	11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510, 11.550,	
14	11.555, and 11.595, and further provided that not more than one	
15	quarter of one percent (0.25%) flexibility is allowed between this	
16	section and Sections 11.400 and 11.420	
17	From General Revenue Fund (0101).	\$101,848,400
18	From Title XIX - Federal Fund (0163).	282,586,490
19	From Third Party Liability Collections Fund (0120).	241,046
20	From Pharmacy Reimbursement Allowance Fund (0144).	10,000
21	From Health Initiatives Fund (0275).	1,427,081
22	From Healthy Families Trust Fund (0625).	11,825,877
23	For the purpose of funding a pilot program that focuses on providing	
24	clinical and case management support for pregnant women who	
25	are opioid addicted or display key risk factors which indicate a	
26	likelihood for addiction; the primary objective of such program(s)	
27	shall be avoiding births requiring extraordinary care due to	
28	Neonatal Abstinence Syndrome; the secondary objective is the	
29	treatment of the mother for substance use	
30	From General Revenue Fund (0101).	486,808
31	From Title XIX - Federal Fund (0163).	912,185
32	For a supplemental case management fee to support evidence-based,	
33	limited duration mental health treatments to children who have	
34	experienced severe physical, sexual, or emotional trauma as a	
35	result of abuse or neglect, provided that providers of these	
36	evidence-based services document appropriate training or	
37	certification in these models	
38	Expense and Equipment	
39	From General Revenue Fund (0101).	500,000
40	From Title XIX - Federal Fund (0163).	<u>750,000</u>
41	Total.	\$400,587,887

Section 11.460. To the Department of Social Services

- 2 For the MO HealthNet Division
- 3 For the purpose of funding dental services under the MO HealthNet
- 4 fee-for-service program, including adult dental procedure codes
- 5 (Tier 1-6), provided that not more than ten percent (10%)

6	flexibility is allowed between this section and Sections 11.410,	
7	11.435, 11.455, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,	
8	11.550, 11.555, and 11.595	
9	From General Revenue Fund (0101).	\$627,005
10	From Title XIX - Federal Fund (0163).	3,766,919
11	From Health Initiatives Fund (0275).	71,162
12	From Healthy Families Trust Fund (0625).	848,773
13	Total.	<u>\$5,313,859</u>

Section 11.465. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding payments to third-party insurers, employers, or	
4	policyholders for health insurance, provided that not more than ten	
5	percent (10%) flexibility is allowed between this section and	
6	Sections 11.410, 11.435, 11.455, 11.460, 11.470, 11.480, 11.490,	
7	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
8	that not more than three percent (3%) flexibility is allowed from	
9	this section to Section 11.600	
10	From General Revenue Fund (0101).	\$87,263,154
11	From Title XIX - Federal Fund (0163).	<u>176,777,094</u>
12	Total.	<u>\$264,040,248</u>

Section 11.470. To the Department of Social Services

2	For the MO HealthNet Division	
3	For funding long-term care services	
4	For the purpose of funding care in nursing facilities under the MO	
5	HealthNet fee-for-service program and for contracted services to	
6	develop model policies and practices that improve the quality of	
7	life for long-term care residents, provided that not more than ten	
8	percent (10%) flexibility is allowed between this subsection and	
9	Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.480, 11.490,	
10	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
11	that not more than one quarter of one percent (0.25%) flexibility	
12	is allowed between this subsection and Sections 11.400 and 11.420	
13	From General Revenue Fund (0101).	\$155,639,773
14	From Title XIX - Federal Fund (0163).	423,806,060
15	From Uncompensated Care Fund (0108).	58,516,478
16	From Third Party Liability Collections Fund (0120).	6,992,981
17	From Healthy Families Trust Fund (0625).	17,973
18	For the purpose of funding home health for the elderly under the MO	
19	HealthNet fee-for-service program, provided that not more than	
20	ten percent (10%) flexibility is allowed between this subsection	
21	and Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.480,	

22	11.490, 11.505, 11.510, 11.550, 11.555, and 11.595, and further	
23	provided that not more than one quarter of one percent (0.25%)	
24	flexibility is allowed between this subsection and Sections 11.400	
25	and 11.420	
26	From General Revenue Fund (0101).	1,683,162
27	From Title XIX - Federal Fund (0163).	3,441,394
28	From Health Initiatives Fund (0275).	159,305
29	Total.	<u>\$650,257,126</u>

Section 11.475. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of paying publicly funded long-term care services and	
4	support contracts and funding supplemental payments for care in	
5	nursing facilities under the nursing facility upper payment limit	
6	From Title XIX - Federal Fund (0163).	\$7,140,229
7	From Long Term Support UPL Fund (0724).	<u>3,810,539</u>
8	Total.	<u>\$10,950,768</u>

Section 11.480. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding all other non-institutional services including,	
4	but not limited to, rehabilitation, optometry, audiology, ambulance,	
5	non-emergency medical transportation, durable medical	
6	equipment, and eyeglasses under the MO HealthNet	
7	fee-for-service program, and for rehabilitation services provided	
8	by residential treatment facilities as authorized by the Children's	
9	Division for children in the care and custody of the Children's	
10	Division, payment of ground ambulance mileage during patient	
11	transportation from mile zero to the 5th mile, and annual patient	
12	safety and quality services for ambulance service through the	
13	Missouri Center for Patient Safety, provided that not more than ten	
14	percent (10%) flexibility is allowed between this subsection and	
15	Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.490,	
16	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
17	that not more than one quarter of one percent (0.25%) flexibility	
18	is allowed between this subsection and Sections 11.400 and 11.420	
19	From General Revenue Fund (0101).	\$86,032,609
20	From Title XIX - Federal Fund (0163).	175,239,465
21	From Nursing Facility Reimbursement Allowance Fund (0196).	1,414,043
22	From Health Initiatives Fund (0275).	194,881
23	From Healthy Families Trust Fund (0625).	831,745
24	From Ambulance Service Reimbursement Allowance Fund (0958).	<u>24,180,182</u>

25	For the purpose of adopting a new CPT code for, and making payment	
26	under said code to, paramedics who provide treatment to a MO	
27	HealthNet patient who would otherwise be transported to an	
28	emergency department via ambulance service; services may	
29	include on-site treatment for the patient or some other service	
30	rendered to effect treatment of the patient's issue for which the call	
31	for service was made; the amount of reimbursement shall be set by	
32	the department and shall be less than reimbursement which would	
33	otherwise be provided if the emergency personnel had transported	
34	the patient to an emergency department; the department shall	
35	request any state plan amendment necessary to implement the new	
36	code	
37	From General Revenue Fund (0101).	486,850
38	From Title XIX - Federal (0163).	912,143
39	For the purpose of funding non-emergency medical transportation,	
40	provided that not more than ten percent (10%) flexibility is	
41	allowed between this subsection and Sections 11.410, 11.435,	
42	11.455, 11.460, 11.465, 11.470, 11.490, 11.505, 11.510, 11.550,	
43	11.555, and 11.595, and further provided that not more than one	
44	quarter of one percent (0.25%) flexibility is allowed between this	
45	subsection and Sections 11.400 and 11.420	
46	From General Revenue Fund (0101).	14,141,287
47	From Title XIX - Federal Fund (0163).	26,918,461
48	For the purpose of funding the federal share of MO HealthNet	
49	reimbursable non-emergency medical transportation for public	
50	entities	
51	From Title XIX - Federal Fund (0163).	<u>6,460,100</u>
52	Total.	\$336,811,766

Section 11.485. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding payments to providers of ground emergency	
4	medical transportation	
5	From Title XIX - Federal Fund (0163).	\$54,744,599
6	From Ground Emergency Medical Transportation Fund (0422).	<u>29,215,647</u>
7	Total.	\$83,960,246

Section 11.490. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding complex rehabilitation technology items	
4	classified within the Medicare program as of January 1, 2014 as	

5 durable medical equipment that are individually configured for
 6 individuals to meet their specific and unique medical, physical,
 7 and functional needs and capacities for basic activities of daily
 8 living and instrumental activities of daily living identified as
 9 medically necessary to prevent hospitalization and/or
 10 institutionalization of a complex needs patient; such items shall
 11 include, but not be limited to, complex rehabilitation power
 12 wheelchairs, highly configurable manual wheelchairs, adaptive
 13 seating and positioning systems, and other specialized equipment
 14 such as standing frames and gait trainers; provided that not more
 15 than ten percent (10%) flexibility is allowed between this section
 16 and Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.470,
 17 11.480, 11.505, 11.510, 11.550, 11.555, and 11.595, and further
 18 provided that not more than three percent (3%) flexibility is
 19 allowed from this section to Section 11.600
 20 From General Revenue Fund (0101). \$3,903,482
 21 From Title XIX - Federal Fund (0163). 7,309,986
 22 Total. \$11,213,468

Section 11.495. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Ambulance Service
 4 Reimbursement Allowance Fund
 5 From General Revenue Fund (0101). \$20,837,332

Section 11.500. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Ambulance Service Reimbursement Allowance Fund, to the
 4 General Revenue Fund as a result of recovering the Ambulance
 5 Service Reimbursement Allowance Fund
 6 From Ambulance Service Reimbursement Allowance Fund (0958). \$20,837,332

Section 11.505. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding the payment to comprehensive prepaid health
 4 care plans as provided by federal or state law or for payments to
 5 programs authorized by the Frail Elderly Demonstration Project
 6 Waiver as provided by the Omnibus Budget Reconciliation Act of
 7 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16),
 8 RSMo., provided the department shall implement programs or
 9 measures to achieve cost-savings through emergency room
 10 services reform, and further provided that MO HealthNet Managed
 11 Care eligibles described in Section 501(a)(1)(D) of Title V of the

12	Social Security Act may voluntarily enroll in the Managed Care	
13	Program, and further provided that not more than ten percent	
14	(10%) flexibility is allowed between this subsection and Sections	
15	11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.480, 11.490,	
16	11.510, 11.550, 11.555, and 11.595, and further provided that not	
17	more than one quarter of one percent (0.25%) flexibility is allowed	
18	between this section and Sections 11.400 and 11.420	
19	From General Revenue Fund (0101).	\$371,662,190
20	From Title XIX - Federal Fund (0163).	1,325,551,985
21	From CHIP Increased Enhancement Fund (0492).	81,200,000
22	From Uncompensated Care Fund (0108).	33,848,436
23	From Federal Reimbursement Allowance Fund (0142).	135,309,879
24	From Health Initiatives Fund (0275).	18,590,380
25	From Healthy Families Trust Fund (0625).	22,883,390
26	From Life Sciences Research Trust Fund (0763).	27,793,024
27	From Premium Fund (0885).	9,259,854
28	From Ambulance Service Reimbursement Allowance Fund (0958).	1,702,257
29	For supplemental Medicare parity payments to primary care physicians	
30	relating to maternal-fetal medicine, neonatology, and pediatric	
31	cardiology	
32	From General Revenue Fund (0101).	1,460,422
33	From Title XIX - Federal Fund (0163).	2,736,556
34	For a pilot program to seek a waiver or state plan amendment to provide	
35	postpartum care for up to twelve (12) months under the MO	
36	HealthNet managed care program, as well as the MO HealthNet	
37	Pharmacy fee-for-service program, to women with substance use	
38	disorder, provided the cost of the program funded by state match	
39	shall not exceed \$749,737, and further provided that this program	
40	shall be budget neutral to overall state and federal spending, and	
41	further provided that funds shall only be expended for this purpose	
42	in accordance with a state law, excluding appropriations acts,	
43	passed by the General Assembly in the Second Regular Session of	
44	the Ninety-Ninth General Assembly	
45	From General Revenue Fund (0101).	500,000
46	From Title XIX - Federal Fund (0163).	809,685
47	From Federal Reimbursement Allowance Fund (0142).	95,664
48	For supplemental payments to Tier 1 Safety Net Hospitals, or to any	
49	affiliated physician group that provides physicians for any Tier 1	
50	Safety Net Hospital, for physician and other healthcare	

51	professional services as approved by the Centers for Medicare and	
52	Medicaid Services	
53	From Title XIX - Federal Fund (0163).	15,417,301
54	From Department of Social Services Intergovernmental Transfer Fund	
55	(0139).....	<u>8,973,303</u>
56	Total.....	\$2,057,794,326

Section 11.510. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding hospital care under the MO HealthNet	
4	fee-for-service program, and for a comprehensive chronic care risk	
5	management program, provided that the MO HealthNet Division	
6	shall track payments to out-of- state hospitals by location, and	
7	further provided that not more than ten percent (10%) flexibility	
8	is allowed between this subsection and Sections 11.410, 11.435,	
9	11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.550,	
10	11.555, and 11.595, and further provided that not more than one	
11	quarter of one percent (0.25%) flexibility is allowed between this	
12	section and Sections 11.400 and 11.420	
13	From General Revenue Fund (0101).	\$31,409,136
14	From Title XIX - Federal Fund (0163).	353,837,447
15	From Federal Reimbursement Allowance Fund (0142).....	87,906,216
16	From Pharmacy Reimbursement Allowance Fund (0144).....	15,709
17	For Safety Net Payments	
18	From Healthy Families Trust Fund (0625).	30,365,444
19	For Graduate Medical Education	
20	From Healthy Families Trust Fund (0625).	10,000,000
21	For the purpose of funding a community-based care coordinating program	
22	that includes in-home visits and/or phone contact by a nurse care	
23	manager or electronic monitor; the purpose of such program shall	
24	be to ensure that patients are discharged from hospitals to an	
25	appropriate level of care and services and that targeted MO	
26	HealthNet beneficiaries with chronic illnesses and high-risk	
27	pregnancies receive care in the most cost-effective setting	
28	From General Revenue Fund (0101).	100,000
29	From Title XIX - Federal Fund (0163).	300,000
30	From Federal Reimbursement Allowance Fund (0142).....	200,000
31	For the purpose of continuing funding of the pager project facilitating	
32	medication compliance for chronically ill MO HealthNet	
33	participants identified by the division as having high utilization of	

34	acute care because of poor management of their condition	
35	From General Revenue Fund (0101).	100,000
36	From Title XIX - Federal Fund (0163).	315,000
37	From Federal Reimbursement Allowance Fund (0142).. . . .	<u>215,000</u>
38	Total.	\$514,763,952

Section 11.515. To the Department of Social Services

2	For the MO HealthNet Division	
3	For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs	
4	for federal Medicaid funds, utilizing current state and local	
5	funding sources as match for services that are not currently	
6	matched with federal Medicaid payments	
7	From Title XIX - Federal Fund (0163).	\$15,722,792

Section 11.520. To the Department of Social Services

2	For the MO HealthNet Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding grants to Federally Qualified Health Centers	
5	From General Revenue Fund (0101).	\$5,385,934
6	From Title XIX - Federal Fund (0163).	<u>5,747,428</u>
7	For the purpose of funding a community health worker initiative that	
8	focuses on providing casework services to high utilizers of MO	
9	HealthNet services	
10	From General Revenue Fund (0101).	1,000,000
11	From Title XIX - Federal Fund (0163).	<u>1,000,000</u>
12	Total.	\$13,133,362

Section 11.525. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding medical homes affiliated with public entities	
4	and hospital-owned medical homes	
5	From Title XIX - Federal Fund (0163).	\$7,554,883
6	From Federal Reimbursement Allowance Fund (0142).. . . .	<u>4,082,919</u>
7	Total.	\$11,637,802

Section 11.530. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding payments to hospitals under the Federal	
4	Reimbursement Allowance Program including state costs to pay	
5	for an independent audit of Disproportionate Share Hospital	
6	payments as required by the Centers for Medicare and Medicaid	
7	Services, for the expenses of the Poison Control Center in order to	
8	provide services to all hospitals within the state, and for the	

9 Gateway to Better Health 1115 Demonstration
 10 For the purpose of funding a continuation of the services provided through
 11 Medicaid Emergency Psychiatric Demonstration as required by
 12 Section 208.152(16), RSMo.
 13 From Federal Reimbursement Allowance Fund (0142)..... \$1,280,818,734

Section 11.535. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Department of Social Services Intergovernmental Transfer
 4 Fund, to the General Revenue Fund for the purpose of providing
 5 the state match for Medicaid payments
 6 From Department of Social Services Intergovernmental Transfer Fund
 7 (0139)..... \$96,885,215

Section 11.540. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding payments to the Tier 1 Safety Net Hospitals
 4 and other public hospitals using intergovernmental transfers
 5 From Title XIX - Federal Fund (0163). \$23,765,348
 6 From Department of Social Services Intergovernmental Transfer Fund
 7 (0139)..... 14,375,498
 8 Total..... \$38,140,846

Section 11.545. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding payments to the Department of Mental Health
 4 From Title XIX - Federal Fund (0163). \$500,077,646
 5 From Department of Social Services Intergovernmental Transfer Fund
 6 (0139)..... 180,569,348
 7 Total..... \$680,646,994

Section 11.550. To the Department of Social Services

2 For the MO HealthNet Division
 3 For funding programs to enhance access to care for uninsured children
 4 using fee-for-services, prepaid health plans, or other alternative
 5 service delivery and reimbursement methodology approved by the
 6 director of the Department of Social Services, provided that
 7 families of children receiving services under this section shall pay
 8 the following premiums to be eligible to receive such services:
 9 zero percent on the amount of a family's income which is less than
 10 or equal to 150 percent of the federal poverty level; four percent on
 11 the amount of a family's income which is less than or equal to 185
 12 percent of the federal poverty level but greater than 150 percent of

13 the federal poverty level; eight percent on the amount of a family's
 14 income which is less than or equal to 225 percent of the federal
 15 poverty level but greater than 185 percent of the federal poverty
 16 level; fourteen percent on the amount of a family's income which
 17 is less than or equal to 300 percent of the federal poverty level but
 18 greater than 225 percent of the federal poverty level not to exceed
 19 five percent of total income; families with an annual income of
 20 more than 300 percent of the federal poverty level are ineligible for
 21 this program, and further provided that not more than ten percent
 22 (10%) flexibility is allowed between this section and Sections
 23 11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.480, 11.490,
 24 11.505, 11.510, 11.555, and 11.595
 25 From General Revenue Fund (0101). \$11,930,111
 26 From Title XIX - Federal Fund (0163). 61,357,166
 27 From Federal Reimbursement Allowance Fund (0142).. . . . 7,719,204
 28 Total. \$81,006,481

Section 11.551. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Title XIX - Federal Fund , to the CHIP Increased Enhancement
 4 Fund
 5 From Title XIX - Federal Fund (0163). \$40,500,000

Section 11.555. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the Show-Me Healthy Babies Program authorized by Section 208.662,
 4 RSMo, provided that not more than ten percent (10%) flexibility
 5 is allowed between this section and Sections 11.410, 11.435,
 6 11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,
 7 11.550, and 11.595, and further provided that not more than three
 8 percent (3%) flexibility is allowed from this section to Section
 9 11.600
 10 From General Revenue Fund (0101). \$3,731,999
 11 From Title XIX - Federal Fund (0163). 11,948,028
 12 From Department of Social Services Federal Fund (0610). 20,000
 13 Total. \$15,700,027

Section 11.560. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Federal Reimbursement
 4 Allowance Fund
 5 From General Revenue Fund (0101). \$653,701,378

Section 11.565. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Federal Reimbursement Allowance Fund, to the General
 4 Revenue Fund as a result of recovering the Federal
 5 Reimbursement Allowance Fund
 6 From Federal Reimbursement Allowance Fund (0142)..... \$653,701,378

Section 11.570. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Nursing Facility Reimbursement
 4 Allowance Fund
 5 From General Revenue Fund (0101)..... \$210,950,510

Section 11.575. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Nursing Facility Reimbursement Allowance Fund, to the
 4 General Revenue Fund as a result of recovering the Nursing
 5 Facility Reimbursement Allowance Fund
 6 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$210,950,510

Section 11.580. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Nursing Facility Reimbursement Allowance Fund, to the
 4 Nursing Facility Quality of Care Fund
 5 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$1,500,000

Section 11.585. To the Department of Social Services

- 2 For the MO HealthNet Division
 3 For the purpose of funding Nursing Facility Reimbursement Allowance
 4 payments as provided by law
 5 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$351,448,765

Section 11.590. To the Department of Social Services

- 2 For the MO HealthNet Division
 3 For the purpose of funding MO HealthNet services for the Department of
 4 Elementary and Secondary Education under the MO HealthNet
 5 fee-for-service program
 6 From General Revenue Fund (0101)..... \$242,525
 7 From Title XIX - Federal Fund (0163)..... 34,653,770
 8 Total..... \$34,896,295

Section 11.595. To the Department of Social Services

2 For the MO HealthNet Division

3 For the purpose of funding medical benefits for blind individuals
 4 ineligible for MO HealthNet coverage who receive the Missouri
 5 Blind Pension cash grant, provided that individuals under this
 6 section shall pay the following premiums to be eligible to receive
 7 such services: zero percent on the amount of a family's income
 8 which is less than 150 percent of the federal poverty level; four
 9 percent on the amount of a family's income which is less than 185
 10 percent of the federal poverty level but greater than or equal to 150
 11 percent of the federal poverty level; eight percent of the amount on
 12 a family's income which is less than 225 percent of the federal
 13 poverty level but greater than or equal to 185 percent of the federal
 14 poverty level; fourteen percent on the amount of a family's income
 15 which is less than 300 percent of the federal poverty level but
 16 greater than or equal to 225 percent of the federal poverty level not
 17 to exceed five percent of total income; families with an annual
 18 income equal to or greater than 300 percent of the federal poverty
 19 level are ineligible for this program, and further provided that not
 20 more than ten percent (10%) flexibility is allowed between this
 21 section and Sections 11.410, 11.435, 11.455, 11.460, 11.465,
 22 11.470, 11.480, 11.490, 11.505, 11.510, 11.550, and 11.555, and
 23 further provided that not more than three percent (3%) flexibility
 24 is allowed from this section to Section 11.600
 25 From General Revenue Fund (0101). \$24,655,738

Section 11.600. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, for the
 3 payment of claims, premiums, and expenses as provided by
 4 Section 105.711 through 105.726, RSMo, to the State Legal
 5 Expense Fund
 6 From General Revenue Fund (0101). \$1

PART 2

Section 11.700. To the Department of Social Services

2 In reference to Sections 11.225, 11.235, 11.250, 11.255 and 11.305
 3 of Part 1 of this act:
 4 No funds shall be expended in furtherance of provider rates greater
 5 than the rate in effect on January 1, 2018.

Section 11.705. To the Department of Social Services

2 In reference to Sections 11.455, 11.460, 11.490, and 11.520 of Part
3 1 of this act:
4 No funds shall be expended in furtherance of provider rates greater
5 than 101.5% of the rate in effect on January 1, 2018.

Section 11.706. To the Department of Social Services

2 In reference to Section 11.480 of Part 1 of this act:
3 No funds shall be expended in furtherance of provider rates greater
4 than 101.5% of the rate in effect on January 1, 2018, except for
5 providers of non-emergency medical transportation, for whom no
6 funds shall be expended in furtherance of provider rates greater
7 than 103.2% of the rate in effect on January 1, 2018; and further
8 except for providers of hospice care, for whom no funds shall be
9 expended in furtherance of provider rates greater than 102.28% of
10 the rate in effect on January 1, 2018.

Section 11.710. To the Department of Social Services

2 In reference to Section 11.470 of Part 1 of this act:
3 No funds shall be expended in furtherance of nursing facility
4 provider rates greater than \$8.30 per bed day of the rate in effect
5 on January 1, 2018.

Section 11.715. To the Department of Social Services

2 In reference to all sections in Part 1 of this act:
3 No funds shall be expended on any program that performs
4 abortions or that counsels women to have an abortion other than
5 the exceptions required by federal law.

Section 11.720. To the Department of Social Services

2 In reference to all sections in Part 1 of this act:
3 No funds shall be expended for the purpose of Medicaid expansion
4 as outlined under the Affordable Care Act.

Section 11.730. To the Department of Social Services

2 In reference to Sections 11.435 through 11.600 of Part 1 of this
3 act:
4 The department may suggest changes in the payment methodology
5 for Medicaid hospital services through both the MO HealthNet
6 managed care and fee-for service programs during state fiscal year
7 2019 only after engaging stakeholders through public hearings for
8 such changes. The department shall also notify the chairs of the

9 House Budget Committee and the Senate Appropriations
 10 Committee before such changes can be implemented. The
 11 department shall also determine the impact on the Federal
 12 Reimbursement Allowance provider tax that such payment
 13 methodology changes will have before implementing such
 14 changes.

PART 3

Section 11.800. To the Department of Social Services

2 In reference to all sections in Part 1 and Part 2 of this act:
 3 No funds shall be expended to any abortion facility as defined in
 4 Section 188.015, RSMo, or any affiliate or associate thereof.

Bill Totals

General Revenue Fund.....	\$1,651,031,157
Federal Funds.....	4,940,169,320
Other Funds.	<u>2,709,853,630</u>
Total.	\$9,301,054,107

✓

Exhibit C

Before the
Administrative Hearing Commission
State of Missouri



PLANNED PARENTHOOD OF ST. LOUIS)	
REGION,)	
)	
Petitioner,)	
)	
vs.)	No. 18-0848
)	
DEPARTMENT OF SOCIAL SERVICES,)	
MISSOURI MEDICAID AUDIT AND)	
COMPLIANCE UNIT, and MO HEALTHNET)	
DIVISION)	
)	
Respondents.)	

DECISION

We deny Planned Parenthood of St. Louis Region’s (St. Louis Region) motion for summary decision on the issues we have authority to decide. We grant the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, and MO HealthNet Division’s (together “the State”) request for summary decision on the issues we have authority to decide. We otherwise preserve for appeal the parties’ constitutional claims and defenses, which we do not have authority to decide.

Procedure

On September 19, 2018, St. Louis Region filed a complaint appealing the State’s final decision issued on August 23, 2018, that it will be denying St. Louis Region’s fiscal year 2019 (FY 19) claims due to lack of appropriation authority. On October 22, 2018, the State

filed an answer. On December 14, 2018, St. Louis Region filed a motion for summary decision. On January 8, 2019, the State filed a response to the motion and further requested that this Commission grant it summary decision because the facts are undisputed.¹

We may grant a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A). A party must establish facts through admissible evidence, such as affidavits or the adverse party's pleading or discovery response. 1 CSR 15-3.446(6)(B). A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact, and may meet the requirements of such motion or response to such motion by complying with Missouri Supreme Court Rule of Civil Procedures 74.04. *Id.* Summary decision "is the undisputed right to judgment as a matter of law; not simply the absence of a fact question." *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380 (Mo. banc 1993).²

Findings of Fact

1. St. Louis Region is a Medicaid provider that has historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients.
2. The MO HealthNet Division (MHD) is a division within the Department of Social Services (the Department), created by statute, responsible for administering the MO HealthNet, Missouri Medicaid program.³
3. The Missouri Medicaid Audit and Compliance Unit (MMAC) is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program.

¹ 1 CSR 15-3.446 allows this Commission to grant a motion for summary decision in favor of any party, including the party who did not file the motion.

² Summary decision is modeled on the circuit court summary judgment. *Krispy Kreme Doughnut Corp. v. Director of Revenue*, 358 S.W.3d 48, 51 (Mo. banc 2011).

³ Section 208.001. Statutory references are to RSMo 2016, unless otherwise noted.

4. On August 23, 2018, St. Louis Region received a letter from MMAC that stated:
 - a. “[C]laims submitted for payment to its provider number beginning in 50 will be denied by Mo HealthNet Division (MHD.)”
 - b. Under House Bill 2011 (HB 2011) “the Department of Social Services (DSS) does not have appropriation authority to pay the claim.”
 - c. HB 2011 states, “that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law” and “that no funds shall be expended to any abortion facility . . . or any affiliate or associate thereof.”
 - d. “DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, § 28.”
 - e. These claims will be denied because St. Louis Region is “ineligible for payments on the specified dates of services, pursuant to 13 CSR 10-4.010(3),⁴ MO Const. art. IV, § 28, and §§ 11.715 and 11.800 of HB 2011 (2018).”
 - f. St. Louis Region is licensed by the Missouri Department of Health and Senior Services as an abortion facility.
 - g. It is a “final decision regarding administration of the medical assistance program in Missouri,” appealable to the Administrative Hearing Commission.

Pet’r Ex. C.

5. No payments have been made by the State for any Fiscal Year 2019 (FY19) claims submitted by St. Louis Region.

6. The State placed St. Louis Region’s MO HealthNet provider number on inactive status because it believes it did not have appropriation authority to pay St. Louis Region’s FY 19 claims, not because St. Louis Region engaged in any program violations.

⁴ This regulation citation refers to a non-existent chapter 4 of division 10.

7. St. Louis Region is providing, and intends to continue to provide, services to Medicaid-eligible patients.

8. St. Louis Region does not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law.

Conclusions of Law

We have authority to hear this case pursuant to §§ 621.055 and 208.156.2 and .5, but recognize the limitation of our authority with regard to constitutional issues. This Commission does not have authority to decide constitutional issues. *Sprint Communications Co., L.P. v. Director of Revenue*, 64 S.W.3d 832, 834 (Mo. banc 2002); *Cocktail Fortune, Inc. v. Supervisor of Liquor Control*, 994 S.W.2d 955, 957 (Mo. banc 1999); *Williams Cos. v. Director of Revenue*, 799 S.W.2d 602, 604 (Mo. banc, 1990), overruled on other grounds by *General Motors Corp. v. Director of Revenue*, 981 S.W.2d 561 (Mo. banc 1998); *Fayne v. Dep't. of Soc. Servs.*, 802 S.W.2d 565 (Mo. App., W.D. 1991). However, we recognize that both parties have argued constitutional issues, and thus have preserved them so that they may be raised before a court at a later time, if necessary. *Tadrus v. Missouri Bd. of Pharmacy*, 849 S.W.2d 222 (Mo. App., W.D. 1993).

In its complaint, St. Louis Region pleads that the State's refusal to pay its FY 19 Medicaid claims violates Missouri law and this Commission should order the State to pay such claims through the remainder of FY 19. St. Louis Region specifically pleads in its complaint that the State: a) violated 13 CSR 70-3.030 when it denied St. Louis Region's FY 19 claims and suspended access to the State's automated system, thereby imposing a sanction for reasons other than those authorized in the regulation and without providing ten days' notice; b) violated the law when it refused to pay St. Louis Region's claims because Part 3 of HB

2011 provides only guidance to the State and is not mandatory; and c) violated § 208.152 by failing to notify St. Louis Region five business days before the change was instituted.

In response to St. Louis Region's motion for summary decision, the State argues that it is entitled to summary decision because it properly denied St. Louis Region's FY 19 claims due to lack of appropriation authority under HB 2011, and the State has not sanctioned St. Louis Region's MO HealthNet provider number.

General Overview of Medicaid in Missouri

In Missouri, the medical assistance program on behalf of needy persons, Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., (Medicaid) is known as MO HealthNet and is administered by MHD. Section 208.001.2.

Sections 208.151 and .152 set forth who is eligible to receive Medicaid benefits from the MO HealthNet program, and which services are covered, including family planning services.

Section 208.152.1 states:

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

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

(Emphasis added).

Providers of health care services can become an enrolled provider with the MO HealthNet program through a process set forth in 13 CSR 70-3.020. Once approved, a provider can seek reimbursement for covered services provided to eligible Medicaid beneficiaries. MHD

can revoke or take action on a provider's enrollment status by the imposition of sanctions for one or more violations listed in 13 CSR 70-3.030(3)(A)1 through 44. Lack of appropriation authority is not found among the 44 cited reasons. The types of sanctions MHD can impose are found in 13 CSR 70-3.030(4), such as termination from the program "for a period of not less than sixty (60) days nor more than ten (10) years, or suspension of participation in the program for a "specified period of time." 13 CSR 70-3.030(4)(B) and (C). However, pursuant to 13 CSR 70-3.030(5)(A), MHD must first consider specific factors before imposing a sanction on a provider, such as considering the seriousness of the offense and extent of the violation.

St. Louis Region is an eligible Medicaid provider offering family planning services. The State did not issue its August 23, 2018 letter to St. Louis Region pursuant to MHD's authority to impose sanctions on a provider. Instead, as stated in its August 23, 2018 letter, MHD issued its decision based on: a) the prohibitive language contained in HB 2011; and b) the Missouri Constitution, Article IV, Section 28 that requires no state agency to withdraw funds from the state treasury except in accordance with an appropriation made by law.

HB 2011

HB 2011 states in relevant part:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program described herein for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2018 and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or items in each section of Part 1 of this act, for the amount and purpose and from the fund designated in each section of Part 1 as well as all additional clarifications of purpose in Part 2 of this act that makes reference by section to said items or items in Part 1. Any clarification of purpose in Part 2 shall state the section or sections in Part 1 to which it attaches and shall, together with the language of said

section(s) in Part 1, form the complete statement of purpose of the appropriation. As such the provisions of Part 2 of this act shall not be severed from Part 1, and if any clarification of purpose in Part 2 is for any reason held to be invalid such decision shall invalidate all of the appropriations in this act of which said clarification of purpose is a part. Part 3 of this act shall consist of guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act.

Section 11.455. . .

For the MO HealthNet Division

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services . . . and **family planning services** under the MO HealthNet fee-for-service program . . . [.]

PART 2

Section 11.715. To the Department of Social Services

In reference to all sections in Part 1 of this act:

No funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law.

PART 3

Section 11.800. To the Department of Social Services.

In reference to all sections in Part 1 and Part 2 of this act:

No funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof.

(Emphasis added).

Part I of HB 2011 sets forth the amount, purpose, and funding source for each of the Department's various functions and programs. Part II provides "clarification of purpose," and Part III provides "guidance" to the Department "in implementing the appropriations found in Part I and Part 2."

Part I, § 11.455, provides MHD with appropriation authority to fund physician and related services including "family planning services under the MO Health Net fee-for-service

program.” It provides MHD with appropriation authority to pay St. Louis Region’s FY 19 claims for family planning services as MO HealthNet has done in the past.

Part II of HB 2011 is directed to the Department and states that, “No funds shall be expended on any program that performs abortions or that counsels women . . . [.]” The use of the word “program” refers to all of the Department’s programs.

HB 2011’s preamble language states that the act was “To appropriate money for the expenses, grants and distributions of the Department of Social Services and the several divisions and programs thereof . . . [.]” Throughout HB 2011, the General Assembly lists the various Department programs for which it has approved appropriation authority. Therefore, the use of the word “program” in § 11.715 is not directed at St. Louis Region’s program, but DSS’ programs. It prohibits DSS from spending funds through any of its programs that may reimburse providers who perform abortions or counsel women to have an abortion other than exceptions required by federal law. This language is consistent with § 188.205, which relates to all state agencies and states:

It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.

As for Part III of HB 2011, the General Assembly provided “guidance” to the Department regarding the implementation for all programs found in Part I and II, which are numerous and include the MO HealthNet program. HB 2011, §11.000. The General Assembly’s implementation guidance is that the Department shall not expend funds “to any abortion facility . . . or any affiliate or associate thereof.”

The primary legal question presented by the parties is whether the language in Part III, in conjunction with the other language of the appropriations bill, prohibits MHD from using its

appropriation to reimburse an abortion facility for its non-abortion related family planning services, or whether the language is non-binding, and, therefore, inapplicable.

Parties' Arguments on the Meaning of the Word "Guidance"

The term "guidance" is not defined in HB 2011. Section 1.090 requires words and phrases to be "taken in their plain and ordinary and usual sense" unless they are technical in nature. Courts use the plain meaning of words as defined in a dictionary when the legislature does not provide a definition. *Lincoln Industrial, Inc. v. Director of Revenue*, 51 S.W.3d 462, 465 (Mo. banc 2001).

St. Louis Region makes several arguments as to why the language in Part III of HB 2011 should be interpreted as non-binding. First, it argues that the term "guidance" means "an opinion suggesting a wise or proper course of action" and cites to <https://www.merriam-webster.com/thesaurus/guidance>.

Second, it argues that the State's interpretation of the language in Part III of HB 2011 repeals the language in § 208.152 that requires the reimbursement of family planning services, and statutory interpretation tries to prevent repeal by implication. *In the Matter of Nocita*, 914 S.W.2d 358, 359 (Mo. banc 1996) ("Unless two statutes are irreconcilably inconsistent, both must stand.")

Third, it argues that the courts have held that a statute that requires a state agency to act but provides no consequence for an agency's inaction is only "directory" and not "mandatory." *Frye v. Levy*, 440 S.W.3d 405, 409-10 (Mo. banc 2014). St. Louis Region argues that Part III of HB 2011 provides no consequence if the State does not comply with it and, therefore, is not mandatory.

Fourth, St. Louis Region argues that HB 2011, Part I, § 11.000, states that the provisions in Part 2 shall not be severed from the provisions of Part I, and that if any provision of

Part 2 is held to be invalid, such decision shall invalidate all appropriations of which the provision is a part.⁵ St. Louis Region argues that by contrast, the General Assembly did not direct that Part 3 be non-severable, thereby supporting its argument that Part III is merely suggestive and not mandatory.

Fifth, an appropriations bill cannot amend a general statute without violating Article III, Section 23 of the Missouri Constitution, which provides that no bill shall contain more than one subject. *State ex. rel. Igoe v. Bradford*, 611 S.W.2d 343, 350 (Mo. App. W.D. 1980) (“Appropriations of money for payment of state obligations and the amendment of a general statute are entirely different and separate subject for legislative action.”), *citing State ex rel. Gaines v. Canada*, 113 S.W.2d 783, 790 (Mo. banc 1937) (reversed by U.S. Supreme Court on other grounds) (to include legislation of a general character in an appropriations bill violates the “single subject” provision of the Missouri Constitution).

Sixth, this Commission should avoid interpreting HB 2011 in a manner that would make it unconstitutional, when other plausible interpretations are valid. *State ex re. Neville v. Grate*, 443 S.W.3d 688, 693 (Mo. App. W.D. 2014). St. Louis Region argues that Article IV, Section 23 of the Missouri Constitution provides, “Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose.” It argues that an appropriations bill cannot fix its purpose by referring to § 188.015, as found in HB 2011, Part III. St. Louis Region argues that the General Assembly avoided this

⁵ See § 1.140, which states:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

constitutional requirement by “simply giving guidance to the agency” because it did not have the power to “limit which providers are eligible for Medicaid reimbursement via an appropriations bill.” Pet’r Memo in Support of Motion at 9-10.

In response to St. Louis Region’s arguments as to why the language in Part III should be interpreted as non-binding, the State argues that HB 2011, Part III, plainly uses the word “shall,” thereby imposing an obligation on the State and it is not a mere suggestion. The State also argues that even if a statute imposes no consequences on a state agency for inaction, it still imposes an obligation on the agency as opposed to a suggestion. *Frye v. Levy*, 440 S.W.3d at 409 (“[T]he statutory construction question embodied in the distinction between ‘mandatory statutes’ and ‘directory statutes’ is whether the legislature intended to make all actions that fail to comply with that obligation void or ineffective.”).

Moreover, the State argues that use of the word “guidance” in the preamble of HB 2011 confirms that the language in Part III is obligatory and not a mere suggestion. The State argues that “Noting about the term ‘guidance ... in implementing the appropriations’ suggests that the clear command ‘[n]o funds shall be expended to any abortion facility . . . or any affiliate or associate thereof;’ is anything but obligatory.” Resp. Response at 8. Further, the State states that St. Louis Region’s reliance on Merriam-Webster’s online thesaurus is inappropriate and a dictionary definition should be used. The State cites to WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1009 (unabr. 1986), which defines the word “guide” as to “direct in a way,” and “to regulate and manage: direct or supervise esp. toward some desirable end, course, way or development.” It also cites to Merriam-Webster’s online dictionary at <https://merriam-webster.com/dictionary/guide>, which defines the word “guide” as to “direct in a way or course” and “to direct, supervise, or influence usually to a particular end.” The State argues that in *Allcorn v. Allcorn*, 241 S.W.2d 806, 811 (Mo. App. E.D. 1951), the court held that to “‘guide’

means to ‘direct’, ‘regulate,’ or ‘order,’ according to various definitions in Webster’s New International Dictionary, 2d Ed.”⁶

The State argues that this definition support its contention that the use of the word “guidance” in a statutory context is not voluntary, but mandatory. Likewise, the State argues the language in Part II and III parallel one another and should be interpreted as closely related provisions in the same appropriations bill. *Street v. Dir. of Revenue*, 361 S.W.3d 355, 358 (Mo. banc 2012) (“In ascertaining legislative intent, the statute should be read *in pari materia* with related sections . . . construed in context with each other.”). Further, the State argues that to read Part III as having no binding effect would render it mere surplusage, and courts have held that it “must give meaning to every word or phrases of the legislative enactment.” *State v. Moore*, 303 S.W.3d 515, 520 (Mo. banc 2010).

In addition, the State argues that this Commission does not have authority to address St. Louis Region’s constitutional challenges to HB 2011 and, in any event, the State did not violate any constitutional provision because the language in HB 2011, Part III, relates directly to the purpose of the appropriation and provides direction or clarification on its implementation.

The State also argues that § 208.152 does not confer a right onto St. Louis Region, but, instead, confers a right for MO HealthNet payments to be made on behalf of eligible patients, and an appropriation is required to fund the program and that HB 2011 does not repeal by implication § 208.152, and the statute cannot and does not require the General Assembly to appropriate funds to pay St. Louis Region’s claims. The State cites to Mo. Const. Art III,

⁶ *Allcorn* involved a motion to modify a divorce decree, and the court held that the trial court previously entered a non-modifiable consent judgment based upon a binding contract entered into by the parties that settled property interests, child support, and maintenance issues despite the language that the stipulation “be exhibited to the court ‘for the purpose of guiding such court’ in the awarding of alimony and support.” The court defined the word “guiding” in the “sense that the term . . . [was] used in the stipulation.” *Allcorn*, 241 S.W.2d at 811.

§ 36, Art. IV, §28 (provides that no funds shall be withdrawn without an appropriation), Art. IV, § 23 (provides that appropriations can only be made for one or two fiscal years), and Art. IV, § 26 (gives the governor a line item veto over any appropriation). It argues that the General Assembly has the discretion to appropriate funds as it deems necessary, and it did so when it enacted § 11.800 in Part III of HB 2011.

Finally, the State argues that this Commission cannot compel it to pay St. Louis Region's FY 19 claims without an appropriation, and doing so would otherwise be beyond this Commission's authority and violate the Missouri Constitution.

Application of HB 2011, Part III

The courts instruct us to look to the dictionary to determine a word's plain and ordinary meaning. The definition of the word "guidance" as opposed to "guide" in WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY is:

1 a: an act of guiding; the superintendence or assistance rendered by a guide; DIRECTION, LEADING < the blind boy depended on the ~of his dog.> <a manual for the ~ of home handymen> **b:** advice in choosing courses, preparing for a vocation or further education, or coping with personal problems given to students by a teacher or a professional counselor <a specialist> **2 :** a program or service functioning to promote the adjustment of special groups . . . chiefly through psychological counseling and appraisal **3 :** the process of controlling the course of a projectile . . . by a built in mechanism . . GUIDED MISSILE [.]

This definition does not define "guidance" as being a directive, order or obligation.

Instead, the definition refers to providing advice or the act of guiding someone in the right direction.

However, the State is obligated to only withdraw funds from the state treasury "in accordance with an appropriation made by law," and this aspect of the separation of powers between the legislative and executive branches requires a review of the General

Assembly's words in HB 2011 in their totality. Mo. Const. Art IV, Sec. 28. The phrase "in accordance with" is defined as:

: in a way that agrees with or follows (something, such as a rule or request)
//In accordance with your request, I am sending a copy of my book.

//His funeral will be private, in accordance with his wishes.

//The soldiers said they acted in accordance with his orders.

MERRIAM-WEBSTER ONLINE DICTIONARY at

<https://www.merriamwebster.com/dictionary/in%20accordance%20with>.

We recognize that the language in HB 2011, Part III, leaves room for argument, but the State had to interpret its authority based upon the language it was given. The State was required to follow the language contained in Part III of HB 2011 because: a) of its constitutional requirement that it execute its appropriation authority "in accordance with" the appropriation; b) the General Assembly determines how public funds are to be spent through the appropriations process pursuant to Mo. Const. Art. III, § 37 and the State cannot spend outside the confines of the appropriation; c) the General Assembly used the word "shall" in Part III of HB 2011; d) the language in Part III would be otherwise mere surplusage; and e) Part III must be interpreted within the context of the appropriations process much like the court did with the settlement agreement in *Allcorn*, without mere reliance on the definition of "guidance."

However, this does not address the constitutional arguments raised by St. Louis Region in its motion.⁷ We cannot decide constitutional issues and have no authority to determine if HB 2011 violates Mo. Const. Art. III, Sec. 23 (no bill shall

⁷ The law does not require a party to raise a constitutional challenge to the validity of a statute before an administrative body in order to preserve the issue for appeal. *Duncan v. Missouri Board of Architects, Professional Engineers & Land Surveyors*, 744 S.W.2d 524, 531 (Mo. App. E.D. 1988).

contain more than one subject) and Art. IV, Sec. 23 (requiring “appropriation law to “distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose”). While we cannot decide these issues, we have summarized the parties’ constitutional arguments above and determined the facts that are before us that may be relevant to such arguments so that the parties may preserve these issues for appeal.

Medicaid Sanctions

St. Louis Region also argues that the State unlawfully sanctioned it by suspending its Medicaid provider number. State regulation 13 CSR 70-3.030(3) provides 44 grounds by which a Medicaid provider can be sanctioned, and 13 CSR 70-3.030(5)(A) lists the factors that MHD must consider when determining the type of sanction to impose. Also, 13 CSR 70-3.030(5)(C) requires MHD to give a sanctioned provider 10 days’ notice before the sanction is imposed. However, the State did not cite any of these regulations as the reason for its August 23, 2018 letter.

The State argues that it has not suspended St. Louis Region’s MO HealthNet provider number and, therefore, St. Louis Region was never sanctioned. The State states that 13 CSR 70-3.030 does not apply because St. Louis Region’s number was placed on inactive status, which is not a sanction for program violations, but an administrative tool that prevents providers from receiving payments.

It appears, from the limited record, that § 208.152 and the applicable regulations require the State to pay St. Louis Region’s FY 19 claim, but for the appropriation language in HB 2011. Accordingly, the State did not sanction St. Louis Region pursuant to 13 CSR 70-3.030. Instead, the State administratively suspended the ability of St. Louis Region from processing its payments due to the State’s constitutional prohibition not to expend funds not otherwise appropriated and

to prevent payments from being made that the State believed it did not have the authorization to pay. This is a different reason than a sanction where payments are suspended under MHD's ability to sanction providers.⁸ The State did not unlawfully sanction St. Louis Region pursuant to 13 CSR 70-030 because the State never invoked that process.

Likewise, it is not necessary to determine if the State violated § 208.152 because it lacked appropriation authority to pay for otherwise eligible services provided to Medicaid eligible recipients by St. Louis Region. Section 208.152 generally requires MO HealthNet to make payments to eligible needy persons for services specified in the statute. However, a "statute cannot supersede a constitutional provision." *Doe v. Phillips*, 194 S.W.3d 833, 841, quoting *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 340 (Mo. banc 1993). Furthermore, the State does not seem to contest that it would otherwise be required to pay St. Louis Region's qualifying claims for FY 19, but for HB 2011.

Summary

We deny St. Louis Region's motion for summary decision on the issues we have authority to decide. We grant the State's request for summary decision on the issues that we have authority to decide. We otherwise preserve the parties' constitutional claims and defenses in order to preserve them for appeal.

SO ORDERED on January 16, 2019.

RENEE T. SLUSHER
Commissioner

⁸ We assume that the State can make an inactive access active again and that the provider number issued to St. Louis Region remains valid.

Before the
Administrative Hearing Commission
State of Missouri



REPRODUCTIVE HEALTH SERVICES OF)
PLANNED PARENTHOOD OF ST. LOUIS)
REGION,)

Petitioner,)

vs.)

No. 18-0846

DEPARTMENT OF SOCIAL SERVICES,)
MISSOURI MEDICAID AUDIT AND)
COMPLIANCE UNIT, and MO HEALTHNET)
DIVISION)

Respondents.)

DECISION

We deny Reproductive Health Services of Planned Parenthood of St. Louis Region's (Reproductive Health) motion for summary decision on the issues we have authority to decide.

We grant the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, and MO HealthNet Division's (together "the State") request for summary decision on the issues we have authority to decide. We otherwise preserve for appeal the parties' constitutional claims and defenses, which we do not have authority to decide.

Procedure

On September 19, 2018, Reproductive Health filed a complaint appealing the State's final decision issued on August 23, 2018, that it will be denying Reproductive Health's fiscal year 2019 (FY 19) claims due to lack of appropriation authority. On October 22, 2018, the State

filed an answer. On December 14, 2018, Reproductive Health filed a motion for summary decision. On January 8, 2019, the State filed a response to the motion and further requested that this Commission grant it summary decision because the facts are undisputed.¹

We may grant a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A). A party must establish facts through admissible evidence, such as affidavits or the adverse party's pleading or discovery response. 1 CSR 15-3.446(6)(B). A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact, and may meet the requirements of such motion or response to such motion by complying with Missouri Supreme Court Rule of Civil Procedures 74.04. *Id.* Summary decision "is the undisputed right to judgment as a matter of law; not simply the absence of a fact question." *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380 (Mo. banc 1993).²

Findings of Fact

1. Reproductive Health is a Medicaid provider that has historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients.

2. The MO HealthNet Division (MHD) is a division within the Department of Social Services (the Department), created by statute, responsible for administering the MO HealthNet, Missouri Medicaid program.³

3. The Missouri Medicaid Audit and Compliance Unit (MMAC) is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program.

¹ 1 CSR 15-3.446 allows this Commission to grant a motion for summary decision in favor of any party, including the party who did not file the motion.

² Summary decision is modeled on the circuit court summary judgment. *Krispy Kreme Doughnut Corp. v. Director of Revenue*, 358 S.W.3d 48, 51 (Mo. banc 2011).

³ Section 208.001. Statutory references are to RSMo 2016, unless otherwise noted.

4. On August 23, 2018, Reproductive Health received a letter from MMAC that stated:

- a. “[C]laims submitted for payment to its provider number beginning in 50 will be denied by Mo HealthNet Division (MHD.)”
- b. Under House Bill 2011 (HB 2011) “the Department of Social Services (DSS) does not have appropriation authority to pay the claim.”
- c. HB 2011 states, “that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law” and “that no funds shall be expended to any abortion facility . . . or any affiliate or associate thereof.”
- d. “DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, § 28.”
- e. These claims will be denied because Reproductive Health is “ineligible for payments on the specified dates of services, pursuant to 13 CSR 10-4.010(3),⁴ MO Const. art. IV, § 28, and §§ 11.715 and 11.800 of HB 2011 (2018).”
- f. Reproductive Health is licensed by the Missouri Department of Health and Senior Services as an abortion facility.
- g. It is a “final decision regarding administration of the medical assistance program in Missouri,” appealable to the Administrative Hearing Commission.

Pet’r Ex. C.

5. No payments have been made by the State for any Fiscal Year 2019 (FY19) claims submitted by Reproductive Health.

6. The State placed Reproductive Health’s MO HealthNet provider number on inactive status because it believes it did not have appropriation authority to pay Reproductive Health’s FY 19 claims, not because Reproductive Health engaged in any program violations.

⁴ This regulation citation refers to a non-existent chapter 4 of division 10.

7. Reproductive Health is providing, and intends to continue to provide, services to Medicaid-eligible patients.

8. Reproductive Health does not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law.

Conclusions of Law

We have authority to hear this case pursuant to §§ 621.055 and 208.156.2 and .5, but recognize the limitation of our authority with regard to constitutional issues. This Commission does not have authority to decide constitutional issues. *Sprint Communications Co., L.P. v. Director of Revenue*, 64 S.W.3d 832, 834 (Mo. banc 2002); *Cocktail Fortune, Inc. v. Supervisor of Liquor Control*, 994 S.W.2d 955, 957 (Mo. banc 1999); *Williams Cos. v. Director of Revenue*, 799 S.W.2d 602, 604 (Mo. banc, 1990), overruled on other grounds by *General Motors Corp. v. Director of Revenue*, 981 S.W.2d 561 (Mo. banc 1998); *Fayne v. Dep't. of Soc. Servs.*, 802 S.W.2d 565 (Mo. App., W.D. 1991). However, we recognize that both parties have argued constitutional issues, and thus have preserved them so that they may be raised before a court at a later time, if necessary. *Tadrus v. Missouri Bd. of Pharmacy*, 849 S.W.2d 222 (Mo. App., W.D. 1993).

In its complaint, Reproductive Health pleads that the State's refusal to pay its FY 19 Medicaid claims violates Missouri law and this Commission should order the State to pay such claims through the remainder of FY 19. Reproductive Health specifically pleads in its complaint that the State: a) violated 13 CSR 70-3.030 when it denied Reproductive Health's FY 19 claims and suspended access to the State's automated system, thereby imposing a sanction for reasons other than those authorized in the regulation and without providing ten days' notice; b) violated the law when it refused to pay Reproductive Health's claims because Part 3 of HB

2011 provides only guidance to the State and is not mandatory; and c) violated § 208.152 by failing to notify Reproductive Health five business days before the change was instituted.

In response to Reproductive Health's motion for summary decision, the State argues that it is entitled to summary decision because it properly denied Reproductive Health's FY 19 claims due to lack of appropriation authority under HB 2011, and the State has not sanctioned Reproductive Health's MO HealthNet provider number.

General Overview of Medicaid in Missouri

In Missouri, the medical assistance program on behalf of needy persons, Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., (Medicaid) is known as MO HealthNet and is administered by MHD. Section 208.001.2.

Sections 208.151 and .152 set forth who is eligible to receive Medicaid benefits from the MO HealthNet program, and which services are covered, including family planning services.

Section 208.152.1 states:

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

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

(Emphasis added).

Providers of health care services can become an enrolled provider with the MO HealthNet program through a process set forth in 13 CSR 70-3.020. Once approved, a provider can seek reimbursement for covered services provided to eligible Medicaid beneficiaries. MHD

can revoke or take action on a provider's enrollment status by the imposition of sanctions for one or more violations listed in 13 CSR 70-3.030(3)(A)1 through 44. Lack of appropriation authority is not found among the 44 cited reasons. The types of sanctions MHD can impose are found in 13 CSR 70-3.030(4), such as termination from the program "for a period of not less than sixty (60) days nor more than ten (10) years, or suspension of participation in the program for a "specified period of time." 13 CSR 70-3.030(4)(B) and (C). However, pursuant to 13 CSR 70-3.030(5)(A), MHD must first consider specific factors before imposing a sanction on a provider, such as considering the seriousness of the offense and extent of the violation.

Reproductive Health is an eligible Medicaid provider offering family planning services. The State did not issue its August 23, 2018 letter to Reproductive Health pursuant to MHD's authority to impose sanctions on a provider. Instead, as stated in its August 23, 2018 letter, MHD issued its decision based on: a) the prohibitive language contained in HB 2011; and b) the Missouri Constitution, Article IV, Section 28 that requires no state agency to withdraw funds from the state treasury except in accordance with an appropriation made by law.

HB 2011

HB 2011 states in relevant part:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program described herein for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2018 and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or items in each section of Part 1 of this act, for the amount and purpose and from the fund designated in each section of Part 1 as well as all additional clarifications of purpose in Part 2 of this act that makes reference by section to said items or items in Part 1. Any clarification of purpose in Part 2 shall state the section or sections in Part 1 to which it attaches and shall, together with the language of said

section(s) in Part 1, form the complete statement of purpose of the appropriation. As such the provisions of Part 2 of this act shall not be severed from Part 1, and if any clarification of purpose in Part 2 is for any reason held to be invalid such decision shall invalidate all of the appropriations in this act of which said clarification of purpose is a part. Part 3 of this act shall consist of guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act.

Section 11.455. . .

For the MO HealthNet Division

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services . . . and **family planning services** under the MO HealthNet fee-for-service program . . . [.]

PART 2

Section 11.715. To the Department of Social Services

In reference to all sections in Part 1 of this act:

No funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law.

PART 3

Section 11.800. To the Department of Social Services.

In reference to all sections in Part 1 and Part 2 of this act:

No funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof.

(Emphasis added).

Part I of HB 2011 sets forth the amount, purpose, and funding source for each of the Department's various functions and programs. Part II provides "clarification of purpose," and Part III provides "guidance" to the Department "in implementing the appropriations found in Part I and Part 2."

Part I, § 11.455, provides MHD with appropriation authority to fund physician and related services including "family planning services under the MO Health Net fee-for-service

program.” It provides MHD with appropriation authority to pay Reproductive Health’s FY 19 claims for family planning services as MO HealthNet has done in the past.

Part II of HB 2011 is directed to the Department and states that, “No funds shall be expended on any program that performs abortions or that counsels women . . . [.]” The use of the word “program” refers to all of the Department’s programs.

HB 2011’s preamble language states that the act was “To appropriate money for the expenses, grants and distributions of the Department of Social Services and the several divisions and programs thereof . . . [.]” Throughout HB 2011, the General Assembly lists the various Department programs for which it has approved appropriation authority. Therefore, the use of the word “program” in § 11.715 is not directed at Reproductive Health’s program, but DSS’ programs. It prohibits DSS from spending funds through any of its programs that may reimburse providers who perform abortions or counsel women to have an abortion other than exceptions required by federal law. This language is consistent with § 188.205, which relates to all state agencies and states:

It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.

As for Part III of HB 2011, the General Assembly provided “guidance” to the Department regarding the implementation for all programs found in Part I and II, which are numerous and include the MO HealthNet program. HB 2011, §11.000. The General Assembly’s implementation guidance is that the Department shall not expend funds “to any abortion facility . . . or any affiliate or associate thereof.”

The primary legal question presented by the parties is whether the language in Part III, in conjunction with the other language of the appropriations bill, prohibits MHD from using its

appropriation to reimburse an abortion facility for its non-abortion related family planning services, or whether the language is non-binding, and, therefore, inapplicable.

Parties' Arguments on the Meaning of the Word "Guidance"

The term "guidance" is not defined in HB 2011. Section 1.090 requires words and phrases to be "taken in their plain and ordinary and usual sense" unless they are technical in nature. Courts use the plain meaning of words as defined in a dictionary when the legislature does not provide a definition. *Lincoln Industrial, Inc. v. Director of Revenue*, 51 S.W.3d 462, 465 (Mo. banc 2001).

Reproductive Health makes several arguments as to why the language in Part III of HB 2011 should be interpreted as non-binding. First, it argues that the term "guidance" means "an opinion suggesting a wise or proper course of action" and cites to <https://www.merriam-webster.com/thesaurus/guidance>.

Second, it argues that the State's interpretation of the language in Part III of HB 2011 repeals the language in § 208.152 that requires the reimbursement of family planning services, and statutory interpretation tries to prevent repeal by implication. *In the Matter of Nocita*, 914 S.W.2d 358, 359 (Mo. banc 1996) ("Unless two statutes are irreconcilably inconsistent, both must stand.")

Third, it argues that the courts have held that a statute that requires a state agency to act but provides no consequence for an agency's inaction is only "directory" and not "mandatory." *Frye v. Levy*, 440 S.W.3d 405, 409-10 (Mo. banc 2014). Reproductive Health argues that Part III of HB 2011 provides no consequence if the State does not comply with it and, therefore, is not mandatory.

Fourth, Reproductive Health argues that HB 2011, Part I, § 11.000, states that the provisions in Part 2 shall not be severed from the provisions of Part I, and that if any provision of

Part 2 is held to be invalid, such decision shall invalidate all appropriations of which the provision is a part.⁵ Reproductive Health argues that by contrast, the General Assembly did not direct that Part 3 be non-severable, thereby supporting its argument that Part III is merely suggestive and not mandatory.

Fifth, an appropriations bill cannot amend a general statute without violating Article III, Section 23 of the Missouri Constitution, which provides that no bill shall contain more than one subject. *State ex. rel. Igoe v. Bradford*, 611 S.W.2d 343, 350 (Mo. App. W.D. 1980) (“Appropriations of money for payment of state obligations and the amendment of a general statute are entirely different and separate subject for legislative action.”), *citing State ex rel. Gaines v. Canada*, 113 S.W.2d 783, 790 (Mo. banc 1937) (reversed by U.S. Supreme Court on other grounds) (to include legislation of a general character in an appropriations bill violates the “single subject” provision of the Missouri Constitution).

Sixth, this Commission should avoid interpreting HB 2011 in a manner that would make it unconstitutional, when other plausible interpretations are valid. *State ex re. Neville v. Grate*, 443 S.W.3d 688, 693 (Mo. App. W.D. 2014). Reproductive Health argues that Article IV, Section 23 of the Missouri Constitution provides, “Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose.” It argues that an appropriations bill cannot fix its purpose by referring to § 188.015, as found in HB 2011, Part III. Reproductive Health argues that the General

⁵ See § 1.140, which states:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Assembly avoided this constitutional requirement by “simply giving guidance to the agency” because it did not have the power to “limit which providers are eligible for Medicaid reimbursement via an appropriations bill.” Pet’r Memo in Support of Motion at 9-10.

In response to Reproductive Health’s arguments as to why the language in Part III should be interpreted as non-binding, the State argues that HB 2011, Part III, plainly uses the word “shall,” thereby imposing an obligation on the State and it is not a mere suggestion. The State also argues that even if a statute imposes no consequences on a state agency for inaction, it still imposes an obligation on the agency as opposed to a suggestion. *Frye v. Levy*, 440 S.W.3d at 409 (“[T]he statutory construction question embodied in the distinction between ‘mandatory statutes’ and ‘directory statutes’ is whether the legislature intended to make all actions that fail to comply with that obligation void or ineffective.”).

Moreover, the State argues that use of the word “guidance” in the preamble of HB 2011 confirms that the language in Part III is obligatory and not a mere suggestion. The State argues that “Noting about the term ‘guidance ... in implementing the appropriations’ suggests that the clear command ‘[n]o funds shall be expended to any abortion facility . . . or any affiliate or associate thereof;’ is anything but obligatory.” Resp. Response at 8. Further, the State states that Reproductive Health’s reliance on Merriam-Webster’s online thesaurus is inappropriate and a dictionary definition should be used. The State cites to WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1009 (unabr. 1986), which defines the word “guide” as to “direct in a way,” and “to regulate and manage: direct or supervise esp. toward some desirable end, course, way or development.” It also cites to Merriam-Webster’s online dictionary at <https://merriam-webster.com/dictionary/guide>, which defines the word “guide” as to “direct in a way or course” and “to direct, supervise, or influence usually to a particular end.” The State argues that in *Allcorn v. Allcorn*, 241 S.W.2d 806, 811 (Mo. App. E.D. 1951), the court held that to “‘guide’

means to ‘direct’, ‘regulate,’ or ‘order,’ according to various definitions in Webster’s New International Dictionary, 2d Ed.”⁶

The State argues that this definition support its contention that the use of the word “guidance” in a statutory context is not voluntary, but mandatory. Likewise, the State argues the language in Part II and III parallel one another and should be interpreted as closely related provisions in the same appropriations bill. *Street v. Dir. of Revenue*, 361 S.W.3d 355, 358 (Mo. banc 2012) (“In ascertaining legislative intent, the statute should be read *in pari materia* with related sections . . . construed in context with each other.”). Further, the State argues that to read Part III as having no binding effect would render it mere surplusage, and courts have held that it “must give meaning to every word or phrases of the legislative enactment.” *State v. Moore*, 303 S.W.3d 515, 520 (Mo. banc 2010).

In addition, the State argues that this Commission does not have authority to address Reproductive Health’s constitutional challenges to HB 2011 and, in any event, the State did not violate any constitutional provision because the language in HB 2011, Part III, relates directly to the purpose of the appropriation and provides direction or clarification on its implementation.

The State also argues that § 208.152 does not confer a right onto Reproductive Health, but, instead, confers a right for MO HealthNet payments to be made on behalf of eligible patients, and an appropriation is required to fund the program and that HB 2011 does not repeal by implication § 208.152, and the statute cannot and does not require the General Assembly to appropriate funds to pay Reproductive Health’s claims. The State cites to Mo. Const. Art III,

⁶ *Allcorn* involved a motion to modify a divorce decree, and the court held that the trial court previously entered a non-modifiable consent judgment based upon a binding contract entered into by the parties that settled property interests, child support, and maintenance issues despite the language that the stipulation “be exhibited to the court ‘for the purpose of guiding such court’ in the awarding of alimony and support.” The court defined the word “guiding” in the “sense that the term . . . [was] used in the stipulation.” *Allcorn*, 241 S.W.2d at 811.

§ 36, Art. IV, §28 (provides that no funds shall be withdrawn without an appropriation), Art. IV, § 23 (provides that appropriations can only be made for one or two fiscal years), and Art. IV, § 26 (gives the governor a line item veto over any appropriation). It argues that the General Assembly has the discretion to appropriate funds as it deems necessary, and it did so when it enacted § 11.800 in Part III of HB 2011.

Finally, the State argues that this Commission cannot compel it to pay Reproductive Health's FY 19 claims without an appropriation, and doing so would otherwise be beyond this Commission's authority and violate the Missouri Constitution.

Application of HB 2011, Part III

The courts instruct us to look to the dictionary to determine a word's plain and ordinary meaning. The definition of the word "guidance" as opposed to "guide" in WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY is:

1 a: an act of guiding; the superintendence or assistance rendered by a guide; DIRECTION, LEADING < the blind boy depended on the ~of his dog.> <a manual for the ~ of home handymen> **b:** advice in choosing courses, preparing for a vocation or further education, or coping with personal problems given to students by a teacher or a professional counselor <a specialist> **2 :** a program or service functioning to promote the adjustment of special groups . . . chiefly through psychological counseling and appraisal **3 :** the process of controlling the course of a projectile . . . by a built in mechanism . . GUIDED MISSILE [.]

This definition does not define "guidance" as being a directive, order or obligation.

Instead, the definition refers to providing advice or the act of guiding someone in the right direction.

However, the State is obligated to only withdraw funds from the state treasury "in accordance with an appropriation made by law," and this aspect of the separation of powers between the legislative and executive branches requires a review of the General

Assembly's words in HB 2011 in their totality. Mo. Const. Art IV, Sec. 28. The phrase "in accordance with" is defined as:

: in a way that agrees with or follows (something, such as a rule or request)
//In accordance with your request, I am sending a copy of my book.

//His funeral will be private, in accordance with his wishes.

//The soldiers said they acted in accordance with his orders.

MERRIAM-WEBSTER ONLINE DICTIONARY at

<https://www.merriamwebster.com/dictionary/in%20accordance%20with>.

We recognize that the language in HB 2011, Part III, leaves room for argument, but the State had to interpret its authority based upon the language it was given. The State was required to follow the language contained in Part III of HB 2011 because: a) of its constitutional requirement that it execute its appropriation authority "in accordance with" the appropriation; b) the General Assembly determines how public funds are to be spent through the appropriations process pursuant to Mo. Const. Art. III, § 37 and the State cannot spend outside the confines of the appropriation; c) the General Assembly used the word "shall" in Part III of HB 2011; d) the language in Part III would be otherwise mere surplusage; and e) Part III must be interpreted within the context of the appropriations process much like the court did with the settlement agreement in *Allcorn*, without mere reliance on the definition of "guidance."

However, this does not address the constitutional arguments raised by Reproductive Health in its motion.⁷ We cannot decide constitutional issues and have no authority to determine if HB 2011 violates Mo. Const. Art. III, Sec. 23 (no bill shall

⁷ The law does not require a party to raise a constitutional challenge to the validity of a statute before an administrative body in order to preserve the issue for appeal. *Duncan v. Missouri Board of Architects, Professional Engineers & Land Surveyors*, 744 S.W.2d 524, 531 (Mo. App. E.D. 1988).

contain more than one subject) and Art. IV, Sec. 23 (requiring “appropriation law to “distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose”). While we cannot decide these issues, we have summarized the parties’ constitutional arguments above and determined the facts that are before us that may be relevant to such arguments so that the parties may preserve these issues for appeal.

Medicaid Sanctions

Reproductive Health also argues that the State unlawfully sanctioned it by suspending its Medicaid provider number. State regulation 13 CSR 70-3.030(3) provides 44 grounds by which a Medicaid provider can be sanctioned, and 13 CSR 70-3.030(5)(A) lists the factors that MHD must consider when determining the type of sanction to impose. Also, 13 CSR 70-3.030(5)(C) requires MHD to give a sanctioned provider 10 days’ notice before the sanction is imposed. However, the State did not cite any of these regulations as the reason for its August 23, 2018 letter.

The State argues that it has not suspended Reproductive Health’s MO HealthNet provider number and, therefore, Reproductive Health was never sanctioned. The State states that 13 CSR 70-3.030 does not apply because Reproductive Health’s number was placed on inactive status, which is not a sanction for program violations, but an administrative tool that prevents providers from receiving payments.

It appears, from the limited record, that § 208.152 and the applicable regulations require the State to pay Reproductive Health’s FY 19 claim, but for the appropriation language in HB 2011. Accordingly, the State did not sanction Reproductive Health pursuant to 13 CSR 70-3.030. Instead, the State administratively suspended the ability of Reproductive Health from processing its payments due to the State’s constitutional prohibition not to expend funds not

otherwise appropriated and to prevent payments from being made that the State believed it did not have the authorization to pay. This is a different reason than a sanction where payments are suspended under MHD's ability to sanction providers.⁸ The State did not unlawfully sanction Reproductive Health pursuant to 13 CSR 70-030 because the State never invoked that process.

Likewise, it is not necessary to determine if the State violated § 208.152 because it lacked appropriation authority to pay for otherwise eligible services provided to Medicaid eligible recipients by Reproductive Health. Section 208.152 generally requires MO HealthNet to make payments to eligible needy persons for services specified in the statute. However, a "statute cannot supersede a constitutional provision." *Doe v. Phillips*, 194 S.W.3d 833, 841, quoting *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 340 (Mo. banc 1993). Furthermore, the State does not seem to contest that it would otherwise be required to pay Reproductive Health's qualifying claims for FY 19, but for HB 2011.

Summary

We deny Reproductive Health's motion for summary decision on the issues we have authority to decide. We grant the State's request for summary decision on the issues that we have authority to decide. We otherwise preserve the parties' constitutional claims and defenses in order to preserve them for appeal.

SO ORDERED on January 16, 2019.

RENEE T. SLUSHER
Commissioner

⁸ We assume that the State can make an inactive access active again and that the provider number issued to Reproductive Health remains valid.

**IN THE
CIRCUIT COURT OF ST. LOUIS, MISSOURI
22nd JUDICIAL CIRCUIT**

PLANNED PARENTHOOD OF ST. LOUIS)	
REGION, et al.,)	
)	
Petitioner,)	
)	
v.)	Case No. 1922-CC00353
)	
MISSOURI DEPARTMENT OF SOCIAL)	
SERVICES, et al.,)	
)	
Respondents.)	

FIRST AMENDED PETITION FOR JUDICIAL REVIEW

Planned Parenthood of St. Louis Region and Reproductive Health Services of Planned Parenthood of St. Louis Region (collectively "the Providers") submit their First Amended Petition for Judicial Review of the Administrative Hearing Commission's (the "Commission") Decisions in Case Nos. 18-0848 and 18-0846. §§208.156.10, 536.100 *et seq.*, 621.145, RSMo and Mo. Const. art. V, sect.18. In support, the Providers state as follows:

Introduction

Missouri's Medicaid program, known as MO HealthNet, provides medical assistance to eligible low-income individuals who are otherwise unable to pay for their medical care. In order to participate in the MO HealthNet program as an authorized MO HealthNet provider, the provider signs an agreement with the State to furnish covered services to eligible individuals and in turn receive reimbursement from the State.

The Providers are two entities with valid MO HealthNet provider agreements. On or around August 23, 2018, the Missouri Medicaid Audit and Compliance Unit ("MMAC") sent each Provider a letter, attached herein as **Exhibit A**, indicating that it would deny all claims

submitted for payment under the Providers' MO HealthNet provider numbers for all claims submitted in Fiscal Year 2019 (FY 19). The refusal to reimburse the Providers for covered services rendered was based upon language that purported to eliminate the authority to pay the Providers in an appropriation bill, Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2011, Gen. Assem., 2nd Reg. Sess. (2018)("HB 2011"), attached herein as **Exhibit B**.

After receipt of the letters and denial of payment, each Provider filed a Complaint with the Commission to appeal the State's denial of payment. Subsequently, the Providers and the State filed motions for summary decision. Based on those motions, the Commission issued a final decision on January 16, 2018 in each case, (the "Decisions"), attached herein as **Exhibit C**. In its Decisions, the Commission ruled that the State lacked the appropriation authority to reimburse the Providers and the Providers' MO HealthNet numbers were placed on inactive status, not suspended. This, however, was a limited decision because the Commission indicated that it did not believe it had the authority to rule on the Constitutional claims raised by the Providers or the State.

This Petition for Judicial Review is filed by the Providers seeking this Court's ruling that the State's decisions to refuse payment to the Providers and to suspend the Providers' MO HealthNet numbers are unauthorized by law, and arbitrary, capricious and/or unreasonable, for the reasons set forth below. The Providers also seek the Court's ruling regarding the Providers' Constitutional claims, including the claim that HB 2011 violates the prohibition of legislating through an appropriation bill and HB 2011 is an appropriation bill that references a general statute in violation of the Missouri Constitution.

Parties

1. The Providers are two entities operating health centers around the State. Each Provider filed a Complaint with the Commission. The Complaints were assigned case numbers (18-0848 and 18-0846).
2. The Missouri Department of Social Services (the "Department") is a state agency created by Article IV, section 37 of the Missouri Constitution and section 660.010, RSMo.
3. The MO HealthNet Division ("MHD") is a division within the Department, created by statute, responsible for administering MO HealthNet, Missouri's Medicaid program. *Decision, page 2, ¶2.*
4. The Missouri Medicaid Audit and Compliance Unit ("MMAC") is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program. *Decision, page 2, ¶2.*
5. The Department, MHD, and MMAC were Respondents in AHC Case Nos. 18-0848 and 18-0846.
6. The Department, MHD, and MMAC are herein referred to collectively as "the State."

Jurisdiction and Venue

7. The Providers filed their Complaints with the Commission to appeal the State's decision to refuse to pay the Providers for providing Medicaid covered services in FY 19 and to suspend the Providers' MO HealthNet provider numbers. §§ 208.156 and 621.055, RSMo.
8. The amount in dispute for each Provider is in excess of \$500. §208.156, RSMo.
9. The Providers are aggrieved by the Decisions of the Commission in Case Nos. 18-0848 and 18-0846 dated January 16, 2019. §536.100, RSMo.
10. This Court has jurisdiction to review the Commission's Decisions. §§208.156.10, 536.100

et seq., 621.145, RSMo and Mo. Const. art. V, sect.18.

11. Venue is proper here because the Providers' registered office is located at 4251 Forest Park Avenue, St. Louis, Missouri. §536.110.3, RSMo.

12. This Petition is timely filed. §536.110.1 RSMo.

Factual and Procedural History

13. The Missouri medical assistance program on behalf of needy persons is known as MO HealthNet. *Decision*, page 5.

14. MO HealthNet covers a wide range of services for eligible MO HealthNet beneficiaries. 208.152, RSMo.

15. Family planning and physicians' services, like those provided by the Providers are covered services. §208.152.1(6) and (12), RSMo and *Decision*, page 5.

16. Eligible MO HealthNet beneficiaries are entitled to obtain services "from any provider of services with which an agreement is in effect under this section and which undertakes to provide the services, as authorized by the MO HealthNet division." §208.153.1, RSMo.

17. The Providers have valid MO HealthNet provider agreements. Planned Parenthood of St. Louis Region's MO HealthNet provider agreement is attached herein as **Exhibit D**.

18. The Providers have historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients. *Decision*, page 2, ¶1.

19. During the 2018 legislative session, the General Assembly passed an appropriation bill, HB 2011, which was subsequently approved by the Governor. HB 2011 contained two provisions, which purported to limit the appropriation authority of the State to pay the Providers.

20. On August 23, 2018, the Providers received letters from the State:

a. "[C]laims submitted for payment to its provider number...will be denied by MO

HealthNet Division (MHD)." *See Decision, page 2, ¶4 and Ex. A.*

- b. Under House Bill 2011 (HB 2011) "the Department of Social Services (DSS) does not have appropriation authority to pay the claim." *See Decision, page 2, ¶4 and Ex. A.*
 - c. HB 2011 states, "that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law" and "that no funds shall be expended to any abortion facility... or any affiliate or associate thereof." *See Decision, page 2, ¶4 and Ex. A.*
 - d. "DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, §28." *See Decision, page 2, ¶4 and Ex. A.*
 - e. These claims will be denied because the Providers are "ineligible for payments on the specified dates of services, pursuant to 13 CSR 10-4.010(3), MO Const. art. IV, §28, and §§11.715 and 11.800 of HB 2011 (2018)." *See Decision, page 2, ¶4 and Ex. A.*
 - f. It is a "final decision regarding administration of the medical assistance program in Missouri," appealable to the Commission. *See Decision, page 2, ¶4 and Ex. A.*
21. No payments have been made by the State for any FY 19 claims submitted by the Providers. *Decision, page 3, ¶ 5.*
22. The Providers are providing, and intend to continue to provide, services to Medicaid-eligible patients. *Decision, page 4, ¶7.*
23. The Providers do not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law. *Decision, page 4, ¶8.*

24. The State provides an automated system utilized by providers to look up patient enrollment in managed care plans by entering the provider's MO HealthNet number to access the system.
25. The Providers have been unable to utilize this system with their MO HealthNet provider numbers.
26. On information and belief, the State suspended the Providers' MO HealthNet provider numbers.
27. Because the Providers' MO HealthNet numbers were suspended, they are unable to participate in MO HealthNet managed care.
28. The Providers timely filed a Complaint with the Commission to appeal the State's final decision to deny payment for valid claims for the provision of MO HealthNet covered services and suspend the Providers' MO HealthNet provider numbers.
29. The Providers alleged in their Complaints that the State unlawfully refused to reimburse the Providers and suspended the Providers' MO HealthNet provider numbers for the following reasons:
- a. The State's denial of reimbursement to the Providers was an unlawful sanction in violation of 13 CSR 70-3.030. *See Decision, page 4.*
 - b. The State's suspension of the Providers' MO HealthNet provider numbers was an unlawful sanction in violation of 13 CSR 70-3.030. *See Decision, page 4.*
 - c. The State's refusal to pay the Providers' based on HB 2011 is unlawful because HB 2011 does not direct denial of payment to MO HealthNet providers for valid claims for allowable services. *See Decision, pages 4 and 5.*
 - d. The State's refusal to pay the Providers is unlawful because Missouri law requires payment to Providers for providing covered services. *See Decision, page 5.*

30. The Providers also raised claims regarding the constitutionality of HB 2011, aware the Commission was unlikely to decide those issues, however, the Providers wanted to preserve those claims for the purposes of appeal to this Court. *See Decision, page 4.*

31. This Court has authority to review the Providers' constitutional claims. *See Fayne v. Department of Social Services*, 802 S.W. 565, 567 (Mo. App. 1991)(stating that because the Commission cannot decide constitutional questions, it is "the duty of courts of competent jurisdiction to review justiciable constitutional claims put before them.").

32. The Providers filed motions for summary decision. The State subsequently filed cross-motions for summary decision. *See Decision, page 5*

33. Without waiting for reply briefing, the Commission concluded that the State did not have appropriation authority to reimburse the Providers nor had the State sanctioned the Providers. However, the Commission concluded that it lacked the authority to decide the Constitutional claims, and therefore preserved them for judicial review. *See Decision.*

34. As a result, the Commission denied the Providers' claims for payment and decided the Providers' MO HealthNet provider numbers had not been suspended, rather they were placed on inactive status.

35. The Providers jointly bring this action arising from the State's decision to refuse to pay the Providers for providing MO HealthNet covered services and to suspended the Providers' MO HealthNet provider numbers. Rule 52.05(a) The Providers seek identical relief of payment for FY 19 claims. *Id.*

Causes of Action

Count I- The State's refusal to reimburse the Providers for the provision of MO HealthNet covered services was unauthorized by law, and arbitrary, capricious and/or unreasonable, because the statutes require reimbursement and there was appropriation authority to pay the claims.

36. The Providers incorporate by reference all preceding paragraphs.
37. The State's denial of payments to the Providers was unauthorized by law, and arbitrary, capricious, and/or unreasonable. The State claimed to deny the payments based on Part 2 of HB 2011 which states that "no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions provided by federal law." Ex. B.
38. Part 2 of HB 2011 does not prevent reimbursement to the Providers for covered services that are not abortion services or counseling women to have an abortion.
39. The State's denial of payment to the Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable because the Providers were denied payment for valid claims for allowable family planning services, not performing abortions or counseling women to have an abortion.
40. The State has the appropriation authority to reimburse providers for the provision of family planning and other services to MO HealthNet beneficiaries.
41. The State's refusal to pay the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable. *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004) (stating if there is an appropriation for Medicaid services, the state must pay unless the statute for the particular service states it is "subject to appropriation.")

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious and/or unreasonable;

- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious and/or unreasonable decision refusing to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count II- The State's refusal to reimburse the Providers for the provision of MO HealthNet covered services was unauthorized by law and arbitrary, capricious, and/or unreasonable because the appropriations allow payment of the Providers' claims and there was therefore no basis to deny the claims.

- 42. The Providers incorporate by reference all preceding paragraphs.
- 43. The State's denial of payments to the Providers was unauthorized by law, and arbitrary, capricious, and/or unreasonable.
- 44. The State claims to have denied payment to the Providers because Part 3 of HB 2011 states "no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof." Ex. B.
- 45. HB 2011 defines the language in Part 3 as "guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act." Ex. B.
- 46. The State's denial of payment to the Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable because the language in Part 3 of HB 2011 does not mandate denial of payment to the Providers for valid claims for covered services, rather it is a mere suggestion to the Department for how to implement the language in HB 2011.
- 47. The State has the appropriation authority to reimburse for the provision of family planning

and other services to MO HealthNet beneficiaries

48. The State's refusal to pay the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable. *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004) (stating if there is an appropriation for Medicaid services, the state must pay unless the statutes for the particular service states it is "subject to appropriation.")

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious, and/or unreasonable;
- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious, and/or unreasonable decision to refuse to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count III: The State's denial of payment to the Providers was unauthorized by law, and arbitrary, capricious and/or unreasonable because there is an appropriation for payments to all eligible providers for family planning services.

49. The Providers incorporate by reference all preceding paragraphs.

50. Eligible MO HealthNet providers are entitled to payment for valid claims for covered services. §§208.152 and 208.153, RSMo.

51. The State denied payment to Providers based on its purported lack of appropriation authority due to the language in Part 2 and Part 3 of HB 2011. *See* Section 11.455 of Ex. B.

52. HB 2011 includes an appropriation for the purposes of funding "physician services" and

"family planning services" provided by eligible MO HealthNet providers.

53. The State's denial of payment to Providers was unauthorized by law and arbitrary, capricious, and/or unreasonable.

54. The State must reimburse for valid MO HealthNet claims by providers if there is an appropriation and the statute does not make payment of that particular service "subject to appropriation." *See McNeil-Terry v. Roling*, 142, S.W.3d 828 (2004).

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is unauthorized by law and arbitrary, capricious, and/or unreasonable;
- b. that the Providers have unlawfully been denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized and arbitrary, capricious and/or unreasonable refusal to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count IV: The language of HB 2011, purporting to withhold funds from eligible providers, is unconstitutional because the appropriation bill refers to another statute in violation of the Constitution and therefore the State's decision to refuse payment on the basis of language in HB 2011 was in violation of constitutional provisions.

55. The Providers incorporate by reference all preceding paragraphs.

56. HB 2011 is the appropriation bill for the Department. Ex. B.

57. Part 3 of HB 2011 states "[n]o funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof." Ex. B.

58. Appropriation bills are prohibited from referencing "any other law to fix the amount or purpose" of the appropriation. Mo. Const. art. IV, §23.

59. Part 3 of HB 2011 refers to another section of law, section 188.015, RSMo.

60. The reference to 188.015 RSMo fixes the purpose of the appropriations in Part 1 and Part 2 of HB 2011.

61. Because the State's denial of the Providers claims is based on the language in HB 2011, the State's decision was in violation of constitutional provisions.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that Part 3 of HB 2011 unconstitutionally refers to another section of law to fix the purpose of the appropriation in Part 1 and Part 2 of HB 2011;
- b. that the language in HB 2011 referring to Section 188.015 to fix the purpose of the appropriation is unlawful and must be disregarded;
- c. that the State's decision to deny payments to the Providers have been denied payments to which they are entitled under the law because of unconstitutional provisions in HB 2011;
- d. that the State's denial of the Providers' claims was in violation of constitutional provisions;
- e. making the Providers whole for the State's unlawful refusal to reimburse the Providers;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the

circumstances.

Count V: HB 2011 is unconstitutional because it unlawfully amends §§ 208.152 and 208.153, RSMo, therefore the State's decision to refuse payment on the basis of language in HB 2011 was in violation of constitutional provisions.

62. The Providers incorporate all preceding paragraphs.

63. "MO HealthNet payments shall be made on behalf of those eligible needy persons..." §208.152.1, RSMo.

64. "Any person entitled to MO HealthNet benefits may obtain it from any provider of services with which an agreement is in effect... and which undertakes to provide the services, as authorized by the MO HealthNet division." § 208.153.1, RSMo.

65. Parts 2 and 3 of HB 2011 that limits which providers are eligible for reimbursement for providing covered services to MO HealthNet beneficiaries.

66. Parts 2 and 3 of HB 2011 constitute a statute of a general nature in violation of the Missouri Constitution. Mo. Const. art. IV, §23.

67. The Missouri Constitution provides that no bill shall contain more than one subject. Mo. Const. art. IV, §23.

68. "Legislation of a general character cannot be included in an appropriation bill. To do so would violate section 28 of article 4 of the constitution, which provides that no bill shall contain more than one subject which shall be clearly expressed in its title." *State ex rel. Gaines v. Canada*, 113 S.W. 2d 783, 790 (Mo. banc 1937).

69. HB 2011 contains more than one subject because Parts 2 and 3 are legislation of a "general character" that unconstitutionally amend sections 208.152 and 208.153, RSMo.

70. Because the State's decision to refuse payment to the Providers was based on the unconstitutional language in HB 2011, the State's decision was in violation of constitutional

provisions.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that HB 2011 unconstitutionally amends another section of law;
- b. that the language in HB 2011 amending section 208.152 and 208.153, RSMo is unlawful and must be disregarded;
- c. that the Providers have been denied payments to which they are entitled under the law because of unconstitutional provisions in HB 2011;
- d. that the State's denial of the Providers' claims was in violation of constitutional provisions;
- e. making the Providers whole for the State's unlawful refusal to reimburse the Providers;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VI: The State's refusal to pay the Providers for providing covered services to MO HealthNet beneficiaries is unauthorized by law and violates § 208.153.

71. The Providers incorporate by reference all preceding paragraphs.

72. "Any person entitled to MO HealthNet benefits may obtain it from any provider of services with which an agreement is in effect... and which undertakes to provide the services, as authorized by the MO HealthNet division." § 208.153.1, RSMo.

73. The Providers have a valid provider agreement with the State—the State has not terminated their contract with the Providers.

74. The State's decision to withhold payment from the Providers is unauthorized by law.

75. Therefore, the State's refusal to pay the Providers violates the directive in section 208.153, RSMo by withholding payment from the Providers when they have active provider agreements.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the providers is unauthorized by law and violates section 208.153, RSMo;
- b. that the Providers have been unlawfully denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized refusal to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VII: The State's refusal to pay the Providers for valid claims for providing MO HealthNet covered services is an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

76. The Providers incorporate by reference all preceding paragraphs.

77. There are approximately 44 permitted grounds for sanctioning providers under the MO HealthNet program, which are incorporated herein by reference. 13 CSR 70.3.030.

78. The State cited no specific ground in 13 CSR 70-3.030(3) for the sanction of refusal to pay claims submitted under the Providers' MO HealthNet provider numbers.

79. There are no grounds for sanctioning the Providers.

80. If grounds exist, the sanctions that may be imposed include "[s]uspending or withholding

of payments to a provider." 13 CSR 70-3.030(4)(D).

81. The State is required to consider various factors in determining the sanction to be imposed. 13 CSR 70-3.030(5)(A).

82. The State failed to consider any of the required factors.

83. When the sanction involves the withholding of MO HealthNet payments from a provider, the sanction becomes effective ten days from the date of delivery of mailing of said notice. 13 CSR 3.030(5)(C).

84. When any other sanction is imposed, it shall become effective thirty days from the date of mailing a decision of the Department or its designated division. *Id.* If it is determined that serious abuse or harm may result from the delaying the imposition of the sanction, any sanction may be made effective immediately upon receipt of notice by the provider. *Id.*

85. The State refused to pay valid claims submitted by the Providers in FY 19.

86. The State did not impose the sanction for any authorized ground. 13 CSR 70-3.030(3).

87. The State imposed the sanction upon the Providers without considering the required factors. 13 CSR 70-3.030(5)(A).

88. The State imposed the sanction to be effective prior to the dates authorized. 13 CSR 70-3.030(5)(C).

89. The State's decision to suspend the Provider's MO HealthNet provider numbers was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State imposed a sanction upon the Providers by refusing to pay valid claims submitted in FY 19;
- b. that the State was without grounds to impose a sanction upon the Providers;

- c. that in imposing a sanction upon the Providers, the State failed to comply with 13 CSR 70-3.030;
- d. that the State's decision to impose the sanction was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable;
- e. making the Providers whole for the State's violation of 13 CSR 70-3.030;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count VIII: The suspension of the Providers' MO HealthNet provider numbers is an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

- 90. The Providers incorporate by reference all preceding paragraphs.
- 91. Upon information and belief, the Providers' MO HealthNet provider numbers have been suspended
- 92. The Providers are unable to access the State's automated system utilizing their MO HealthNet provider numbers.
- 93. The State's suspension of the Providers' MO HealthNet provider numbers is a sanction because the Providers would not be allowed to participate in the Medicaid program absent a valid provider number.
- 94. The Providers are unable to participate in MO HealthNet managed care because of the suspension.
- 95. Suspension of participation in the MO HealthNet program for a specified period of time is a sanction. 13 CSR 70-3.030(4)(C).

96. MO HealthNet is required to consider various factors in determining the sanction to be imposed. 13 CSR 70-3.030(5)(A).

97. When the sanction involves the withholding of MO HealthNet payments from the provider, the sanction becomes effective ten days from the date of delivery of mailing of said notice. 13 CSR 70-3.030(5)(C). When any other sanction is imposed, it shall become effective thirty days from the date of mailing a decision of the Department or its designated division. *Id.* If it is determined that serious abuse or harm may result from delaying the imposition of the sanction, any sanction may be effective immediately upon receipt of notice by the provider. *Id.*

98. The State imposed a sanction upon the Providers by suspending the Providers' MO HealthNet provider numbers.

99. The State did not impose the sanction for any authorized ground. 13 CSR 70-3.030.

100. The State impose the sanction upon the Providers without consideration of the required factors. 13 CSR 70-3.030(5)(A).

101. The State imposed the sanction be effective prior to the dates authorized. 13 CSR 70-3.030(5)(C).

102. Therefore, the suspension of the Provider's MO HealthNet provider numbers was an unlawful sanction and in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State imposed a sanction upon the Providers by suspending the Providers' MO HealthNet provider numbers;
- b. that the State was without grounds to impose a sanction upon the Providers;
- c. that in imposing a sanction upon the Providers, the State failed to comply with 13

CSR 70-3.030;

- d. that the State's decision to impose the sanction was in excess of statutory authority, unauthorized by law, and arbitrary, capricious, and/or unreasonable;
- e. making the Providers whole for the State's violation of 13 CSR 70-3.030;
- f. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMO.;
- g. awarding attorney's fees and expenses to the Providers. §536.087, RSMo.; and
- h. such other and further relief that the Court deems just and appropriate under the circumstances.

Count IX: The State breached its contract with the Providers by refusing to pay the Providers for the provision of covered services to eligible MO HealthNet beneficiaries.

103. The Providers incorporate by reference all preceding paragraphs.

104. The Providers have a valid MO HealthNet provider agreement with the State. *See* Ex. D.

105. The MO HealthNet provider agreement guarantees reimbursement to providers for the provision of covered services.

106. "The rate of reimbursement for services will be based on charges established and determined by the Division of Medical Services Medicaid manual, bulletins, and amendments thereto in accordance with the Vendor Payment Program, and that charges will not exceed those to the general public for the same services." Ex. D.

107. MO HealthNet provider agreements are contracts. *See Midwest Division-OPRMC, LLC v. Dept. of Social Services, Div. of Medical Services*, 241 S.W.3d 371 (Mo. App. 2007).

108. The State's refusal to pay the providers for the provision of covered services to MO HealthNet beneficiaries is a breach of contract.

WHEREFORE, for the foregoing reasons, the Providers pray for a judgment:

- a. that the State's refusal to pay the Providers is a breach of contract;
- b. that the Providers have been unlawfully denied payments to which they are entitled;
- c. making the Providers whole for the State's unauthorized refusal to reimburse the Providers;
- d. awarding the Providers interest on money wrongfully withheld by the State. §621.055, RSMo.;
- e. awarding attorney's fees and expenses to the Providers. §536.087; and
- f. such other and further relief that the Court deems just and appropriate under the circumstances.

Respectfully Submitted,

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ATTORNEY FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that on this March 12, 2019, a copy of the above and foregoing document was filed and served electronically via the Court's e-filing system to all counsel of record and upon the Administrative Hearing Commission and counsel of record pursuant to 536.110.2, RSMo. via the AHCeFile system by e-mail upon the following counsel of record:

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Exhibit A



MICHAEL L. PARSON, GOVERNOR • STEVE CORSI, Psy.D., DIRECTOR

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August 23, 2018

Planned Parenthood of St. Louis Region
4251 Forest Park Ave.
St. Louis, MO 63108

CERTIFIED MAIL 7017 1000 0000 1095 7994

NPI: 1205898574

Dear Planned Parenthood of St. Louis Region:

Missouri Medicaid Audit and Compliance, (MMAC) is hereby notifying Planned Parenthood of the St. Louis Region (PPSLR) that claims submitted for payment to its provider number beginning in 52 will be denied by the MO HealthNet Division (MHD).

PPSLR will receive notice of the denial(s) on the respective remittance advice(s) (RA). The RA will contain the claim adjustment reason code (CARC) "B7", which indicates "This provider was not certified/eligible to be paid for this procedure/service on this date of service."

The Department of Social Services (DSS) does not have appropriation authority to pay the claim under HB 2011 (2018). DSS's appropriation authority to expend funds for state fiscal year 2019 is set forth in House Bill 2011 (2018). Section 11.715 of House Bill 2011 provides that no funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law. Additionally, Section 11.800 of House Bill 2011 provides that no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof. DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. MO Const. art IV, §28.

MHD will deny these claims because PPSLR is ineligible for payments on the specified dates of service, pursuant to 13 CSR 10-4.010(3). MO Const. art. IV, §28, and §§ 11.715 and 11.800 of HB 2011 (2018). MMAC has determined that PPSLR is an affiliate of Reproductive Health Services of Planned Parenthood of St. Louis Region (RHSPPSLR), a licensed abortion facility. Factors considered to make the determination of affiliation include but are not limited to the following: PPSLR shares resources with RHSPPSLR including, same practice location, some employees, trade names, and information and education materials. MMAC has further determined that PPSLR is an associate of an abortion facility. Factors considered to make the determination of association include but are not limited to the following: PPSLR shares part of its name with RHSPPSLR, PPSLR has the public appearance of association, and is commonly identified as an advocate for abortion or has held itself out publicly in a way that demonstrates a connection with RHSPPSLR.

RELAY MISSOURI

FOR HEARING AND SPEECH IMPAIRED

1-800-735-2466 VOICE • 1-800-735-2966 TEXT PHONE

An Equal Opportunity Employer, services provided on a nondiscriminatory basis.
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This is a final decision regarding administration of the medical assistance program in Missouri. If PPSLR is adversely affected by this decision, §208.156, RSMo, provides for appeal to the Administrative Hearing Commission.

To appeal, PPSLR must file a petition with the Administrative Hearing Commission within 30 days from the date of mailing or delivery of this decision, whichever is earlier. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. An appeal of this decision can only be made to the Administrative Hearing Commission and not to MMAC or MHD. PPSLR may contact the Administrative Hearing Commission at:

Street Address:

United States Post Office Bldg.
Third Floor
131 West High Street
Jefferson City, MO 65101
Website: <https://ahc.mo.gov>

Mailing Address:

PO Box 1557
Jefferson City, MO 65102-1557
Telephone: (573) 751-2422
Fax: (573) 751-5018
Email: AHC@oa.mo.gov

Please contact MMAC Legal Counsel Mary Moulton at 573-751-3399 with any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dale Carr", with a stylized flourish extending from the end.

Dale Carr, Director
Missouri Medicaid Audit & Compliance



MICHAEL L. PARSON, GOVERNOR • STEVE CORSI, Psy.D., DIRECTOR

MISSOURI MEDICAID AUDIT & COMPLIANCE UNIT
P.O. BOX 6500 • JEFFERSON CITY, MO 65102-6500
WWW.DSS.MO.GOV • 573-751-3399

August 23, 2018

Reproductive Health Services
of Planned Parenthood of the St. Louis Region
4251 Forest Park Ave.
St. Louis, MO 63108

CERTIFIED MAIL 7017 1000 0000 1095 8014

NPI: 1184686511

Dear Reproductive Health Services of Planned Parenthood of the St. Louis Region:

Missouri Medicaid Audit and Compliance, (MMAC) is hereby notifying Reproductive Health Services of Planned Parenthood of the St. Louis Region (RHSPPSLR) that claims submitted for payment to its provider number beginning in 52 will be denied by the MO HealthNet Division (MHD).

RHSPPSLR will receive notice of the denial(s) on the respective remittance advice(s) (RA). The RA will contain the claim adjustment reason code (CARC) "B7", which indicates "This provider was not certified/eligible to be paid for this procedure/service on this date of service."

The Department of Social Services (DSS) does not have appropriation authority to pay the claim under HB 2011 (2018). DSS's appropriation authority to expend funds for state fiscal year 2019 is set forth in House Bill 2011 (2018). Section 11.715 of House Bill 2011 provides that no funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law. Additionally, Section 11.800 of House Bill 2011 provides that no funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof. DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. MO Const. art IV, §28.

MHD will deny these claims because RHSPPSLR is ineligible for payments on the specified dates of service, pursuant to 13 CSR 10-4.010(3). MO Const. art. IV, §28, and §§ 11.715 and 11.800 of HB 2011 (2018). MMAC has determined that RHSPPSLR is licensed by the Missouri Department of Health and Senior Services as an Abortion Facility.

This is a final decision regarding administration of the medical assistance program in Missouri. If RHSPPSLR is adversely affected by this decision, §208.156, RSMo, provides for appeal to the Administrative Hearing Commission.

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Ingram_2019-03-27_Page 124

To appeal, RHSPPSLR must file a petition with the Administrative Hearing Commission within 30 days from the date of mailing or delivery of this decision, whichever is earlier. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. An appeal of this decision can only be made to the Administrative Hearing Commission and not to MMAC or MHD. RHSPPSLR may contact the Administrative Hearing Commission at:

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Fax: (573) 751-5018
Email: AHC@oa.mo.gov

Please contact MMAC Legal Counsel Mary Moulton at 573-751-3399 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Carr", with a stylized flourish at the end.

Dale Carr, Director
Missouri Medicaid Audit & Compliance

Exhibit B

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2011
99TH GENERAL ASSEMBLY

2011H.06T

2018

AN ACT

To appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2018, and ending June 30, 2019.

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

There is appropriated out of the State Treasury, to be expended only as provided in
2 Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each
3 department, division, agency, and program described herein for the item or items stated, and for
4 no other purpose whatsoever chargeable to the fund designated for the period beginning July 1,
5 2018, and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or
2 items in each section of Part 1 of this act, for the amount and
3 purpose and from the fund designated in each section of Part 1, as
4 well as all additional clarifications of purpose in Part 2 of this act
5 that make reference by section to said item or items in Part 1. Any
6 clarification of purpose in Part 2 shall state the section or sections
7 in Part 1 to which it attaches and shall, together with the language
8 of said section(s) in Part 1, form the complete statement of purpose
9 of the appropriation. As such, the provisions of Part 2 of this act

10 shall not be severed from Part 1, and if any clarification of purpose
 11 in Part 2 is for any reason held to be invalid, such decision shall
 12 invalidate all of the appropriations in this act of which said
 13 clarification of purpose is a part. Part 3 of this act shall consist of
 14 guidance to the Department of Social Services in implementing the
 15 appropriations found in Part 1 and Part 2 of this act.

Section 11.005. To the Department of Social Services

2	For the Office of the Director, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	Personal Service.....	\$104,564
5	Annual salary adjustment in accordance with Section 105.005,	
6	RSMo.. ..	503
7	Expense and Equipment.. ..	<u>33,543</u>
8	From General Revenue Fund (0101).....	138,610
9	Personal Service.....	147,765
10	Annual salary adjustment in accordance with Section 105.005,	
11	RSMo.. ..	76
12	Expense and Equipment.. ..	<u>1,197</u>
13	From Department of Social Services Federal Fund (0610).....	149,038
14	Personal Service.....	31,081
15	Annual salary adjustment in accordance with Section 105.005,	
16	RSMo.. ..	<u>63</u>
17	From Child Support Enforcement Fund (0169).....	<u>31,144</u>
18	Total (Not to exceed 3.25 F.T.E.).....	\$318,792

Section 11.010. To the Department of Social Services

2	For the Office of the Director	
3	For the purpose of receiving and expending grants, donations, contracts,	
4	and payments from private, federal, and other governmental	
5	agencies which may become available between sessions of the	
6	General Assembly provided that the General Assembly shall be	
7	notified of the source of any new funds and the purpose for which	
8	they shall be expended, in writing, prior to the use of said funds	
9	From Department of Social Services Federal Fund (0610).....	\$4,443,552
10	From Family Services Donations Fund (0167).....	<u>33,999</u>
11	Total.....	\$4,477,551

Section 11.015. To the Department of Social Services

2 For the Office of the Director

3 For the Human Resources Center, provided that not more than three

4 percent (3%) flexibility is allowed from this section to Section

5 11.600

6 Personal Service..... \$268,421

7 Expense and Equipment..... 11,036

8 From General Revenue Fund (0101)..... 279,457

9 Personal Service..... 203,515

10 Expense and Equipment..... 29,74911 From Department of Social Services Federal Fund (0610)..... 233,26412 Total (Not to exceed 10.52 F.T.E.)..... \$512,721

Section 11.020. To the Department of Social Services

2 For the Office of the Director

3 For the Missouri Medicaid Audit and Compliance Unit, provided that not

4 more than three percent (3%) flexibility is allowed from this

5 section to Section 11.600

6 Personal Service..... \$1,202,202

7 Expense and Equipment..... 185,578

8 From General Revenue Fund (0101)..... 1,387,780

9 Personal Service..... 1,628,718

10 Expense and Equipment..... 860,03911 From Department of Social Services Federal Fund (0610)..... 2,488,757

12 Expense and Equipment

13 From Recovery Audit and Compliance Fund (0974)..... 82,087

14 Personal Service..... 91,115

15 Expense and Equipment..... 141,88616 From Medicaid Provider Enrollment Fund (0990)..... 233,00117 Total (Not to exceed 76.05 F.T.E.)..... \$4,191,625

Section 11.025. To the Department of Social Services

2 For the Office of the Director

3 For the Missouri Medicaid Audit and Compliance Unit

4 For the purpose of funding a case management, provider enrollment, and

5 a fraud abuse and detection system, provided that not more than

6 three percent (3%) flexibility is allowed from this section to

7 Section 11.600

8 Expense and Equipment

9 From General Revenue Fund (0101)..... \$917,552

10 From Department of Social Services Federal Fund (0610)..... 4,082,44811 Total..... \$5,000,000

Section 11.030. To the Department of Social Services

- 2 For the Office of the Director
- 3 For the purpose of funding recovery audit services
- 4 Expense and Equipment
- 5 From Recovery Audit and Compliance Fund (0974). \$1,200,000

Section 11.035. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services, provided that
- 3 not more than three percent (3%) flexibility is allowed from this
- 4 section to Section 11.600
- 5 Personal Service. \$1,769,812
- 6 Expense and Equipment. 375,468
- 7 From General Revenue Fund (0101). 2,145,280
- 8 Personal Service. 1,078,374
- 9 Expense and Equipment. 170,113
- 10 From Department of Social Services Federal Fund (0610). 1,248,487
- 11 Personal Service
- 12 From Child Support Enforcement Fund (0169). 49,281
- 13 Personal Service. 4,184
- 14 Expense and Equipment. 317
- 15 From Department of Social Services Administrative Trust Fund (0545). 4,501
- 16 For the purpose of funding the centralized inventory system, for
- 17 reimbursable goods and services provided by the department, and
- 18 for related equipment replacement and maintenance expenses
- 19 From Department of Social Services Administrative Trust Fund (0545). 1,200,000
- 20 Total (Not to exceed 65.95 F.T.E.). \$4,647,549

Section 11.040. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services
- 3 For the payment of fees to contractors who engage in revenue
- 4 maximization projects on behalf of the Department of Social
- 5 Services
- 6 From Department of Social Services Federal Fund (0610). \$3,250,000

Section 11.045. To the Department of Social Services

- 2 For the Division of Finance and Administrative Services
- 3 For the purpose of funding the receipt and disbursement of refunds and
- 4 incorrectly deposited receipts to allow the over-collection of
- 5 accounts receivables to be paid back to the recipient
- 6 From Title XIX Federal Fund (0163). \$5,821,789

7	From Federal and Other Fund (0189).	1,500,000
8	From Temporary Assistance for Needy Families Federal Fund (0199).	27,000
9	From Department of Social Services Federal Fund (0610).	5,000,000
10	From Pharmacy Rebates Fund (0114).	25,000
11	From Third Party Liability Collections Fund (0120).	369,000
12	From Premium Fund (0885).	<u>2,827,100</u>
13	Total.	\$15,569,889

Section 11.050. To the Department of Social Services

2	For the Division of Finance and Administrative Services	
3	For the purpose of funding payments to counties and the City of St. Louis	
4	toward the care and maintenance of each delinquent or dependent	
5	child as provided in Section 211.156, RSMo, provided that not	
6	more than three percent (3%) flexibility is allowed from this	
7	section to Section 11.600	
8	From General Revenue Fund (0101).	\$1,354,000

Section 11.055. To the Department of Social Services

2	For the Division of Legal Services, provided that any positions added to	
3	this section in fiscal year 2019 include not less than one	
4	investigator position dedicated to child fatality investigations, and	
5	further provided that not more than three percent (3%) flexibility	
6	is allowed from this section to Section 11.600	
7	Personal Service.	\$1,807,412
8	Expense and Equipment.	<u>49,322</u>
9	From General Revenue Fund (0101).	1,856,734
10	Personal Service.	3,157,637
11	Expense and Equipment.	<u>390,834</u>
12	From Department of Social Services Federal Fund (0610).	3,548,471
13	Personal Service.	588,048
14	Expense and Equipment.	<u>90,076</u>
15	From Third Party Liability Collections Fund (0120).	678,124
16	Personal Service	
17	From Child Support Enforcement Fund (0169).	<u>168,409</u>
18	Total (Not to exceed 129.88 F.T.E.).	\$6,251,738

Section 11.060. To the Department of Social Services

2	For the Family Support Division, provided that not more than three	
3	percent (3%) flexibility is allowed from this section to Section	
4	11.600	
5	Personal Service.	\$1,374,154
6	Expense and Equipment.	<u>8,407</u>
7	From General Revenue Fund (0101).	1,382,561

8	Personal Service.....	655,576
9	Expense and Equipment.....	<u>1,906,084</u>
10	From Temporary Assistance for Needy Families Federal Fund (0199).....	2,561,660
11	Personal Service.....	4,745,088
12	Expense and Equipment.....	<u>8,974,775</u>
13	From Department of Social Services Federal Fund (0610).....	13,719,863
14	Personal Service	
15	From Child Support Enforcement Fund (0169).....	<u>569,159</u>
16	Total (Not to exceed 166.10 F.T.E.)	\$18,233,243

Section 11.065. To the Department of Social Services

2	For the Family Support Division	
3	For the income maintenance field staff and operations, provided that not	
4	more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Personal Service.....	\$14,960,986
7	Expense and Equipment.....	<u>3,207,874</u>
8	From General Revenue Fund (0101).....	18,168,860
9	Personal Service.....	20,255,815
10	Expense and Equipment.....	<u>2,654,182</u>
11	From Temporary Assistance for Needy Families Federal Fund (0199).....	22,909,997
12	Personal Service.....	33,076,314
13	Expense and Equipment.....	<u>8,050,631</u>
14	From Department of Social Services Federal Fund (0610).....	41,126,945
15	Personal Service.....	820,916
16	Expense and Equipment.....	<u>27,917</u>
17	From Health Initiatives Fund (0275).....	<u>848,833</u>
18	Total (Not to exceed 2,052.73 F.T.E.).....	\$83,054,635

Section 11.070. To the Department of Social Services

2	For the Family Support Division	
3	For income maintenance and child support staff training, provided that not	
4	more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Expense and Equipment	
7	From General Revenue Fund (0101).....	\$111,397
8	From Department of Social Services Federal Fund (0610).....	<u>131,270</u>
9	Total.....	\$242,667

Section 11.075. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the electronic benefit transfers (EBT) system	
4	Expense and Equipment	
5	From General Revenue Fund (0101).	\$1,696,622
6	From Temporary Assistance for Needy Families Federal Fund (0199).	146,888
7	From Department of Social Services Federal Fund (0610).	<u>1,399,859</u>
8	Total.	\$3,243,369

Section 11.080. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the receipt of funds from the Polk County and	
4	Bolivar Charitable Trust for the exclusive benefit and use of the	
5	Polk County Office	
6	From Family Services Donations Fund (0167).	\$10,000

Section 11.085. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding contractor, hardware, and other costs	
4	associated with planning, development, and implementation of a	
5	Family Assistance Management Information System (FAMIS),	
6	provided that not more than three percent (3%) flexibility is	
7	allowed from this section to Section 11.600	
8	Expense and Equipment	
9	From General Revenue Fund (0101).	\$575,453
10	From Temporary Assistance for Needy Families Federal Fund (0199).	1,084,032
11	From Department of Social Services Federal Fund (0610).	<u>138,339</u>
12	Total.	\$1,797,824

Section 11.090. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of planning, designing, and purchasing an eligibility and	
4	enrollment system, provided the Department of Social Services	
5	shall procure a contractor to provide verification of initial and	
6	ongoing eligibility data for assistance under the supplemental	
7	nutrition assistance program, temporary assistance for needy	
8	families, MO HealthNet, child care services, and any other	
9	assistance programs as directed by the General Assembly; the	
10	contractor shall utilize public records as well as other established,	
11	credible data sources to evaluate income, resources, and assets of	
12	each applicant on no less than a quarterly basis; the contractor	
13	shall also, on a monthly basis, identify participants of covered	
14	programs who have died, moved out of state, or been incarcerated	

15	longer than 90 days, and further provided that not more than three	
16	percent (3%) flexibility is allowed from this section to Section	
17	11.600	
18	Expense and Equipment	
19	From General Revenue Fund (0101).	\$7,566,986
20	From Department of Social Services Federal Fund (0610).	63,459,631
21	From Health Initiatives Fund (0275).	<u>1,000,000</u>
22	Total.	\$72,026,617

Section 11.095. To the Department of Social Services

2	For the Family Support Division	
3	For grants and contracts to Community Partnerships and other community	
4	initiatives and related expenses, provided that not more than ten	
5	percent (10%) flexibility is allowed between this section and	
6	Section 11.110, and further provided that not more than three	
7	percent (3%) flexibility is allowed from this section to Section	
8	11.600	
9	From General Revenue Fund (0101).	\$632,328
10	From Temporary Assistance for Needy Families Federal Fund (0199).	4,201,624
11	From Department of Social Services Federal Fund (0610).	3,402,175
12	For the Missouri Mentoring Partnership	
13	From Temporary Assistance for Needy Families Federal Fund (0199).	508,700
14	From Department of Social Services Federal Fund (0610).	935,000
15	For a program for adolescents with the goal of preventing teen	
16	pregnancies to be distributed to an organization that: provides	
17	structured after school and summer activities for at-risk youth;	
18	provides tested and proven programs other than the Adolescent	
19	Program funded herein; utilizes trained youth development	
20	personnel; and maintains a dedicated youth-centric facility and	
21	provides services at a minimum of 10 locations throughout the	
22	state	
23	From Temporary Assistance for Needy Families Federal Fund (0199).	<u>600,000</u>
24	Total.	\$10,279,827

Section 11.100. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding the Food Nutrition and Employment Training	
4	Programs.	\$14,343,755
5	For the purpose of funding the Missouri SkillUp Program.	<u>5,500,000</u>
6	From Department of Social Services Federal Fund (0610).	\$19,843,755

Section 11.105. To the Department of Social Services

- 2 For the Family Support Division
- 3 For the purpose of funding the Healthcare Industry Training and
- 4 Education (HITE) Program, under the provisions of the Health
- 5 Profession Opportunity Grant (HPOG)
- 6 From Department of Social Services Federal Fund (0610). \$3,000,000

Section 11.110. To the Department of Social Services

- 2 For the Family Support Division, provided that not more than ten percent
- 3 (10%) flexibility is allowed between this section and Section
- 4 11.095, and further provided that not more than three percent (3%)
- 5 flexibility is allowed from this section to Section 11.600
- 6 For the purpose of funding Temporary Assistance for Needy Families
- 7 (TANF) benefits; Temporary Assistance (TA) Diversion
- 8 transitional benefits and payments to qualified agencies for TANF
- 9 or TANF Maintenance of Effort activities, provided that total
- 10 funding herein is sufficient to fund TANF benefits
- 11 From General Revenue Fund (0101). \$3,856,800
- 12 From Temporary Assistance for Needy Families Federal Fund (0199). 39,507,541
- 13 For the purpose of funding work assistance programs
- 14 From General Revenue Fund (0101). 1,855,554
- 15 From Temporary Assistance for Needy Families Federal Fund (0199). 35,394,658
- 16 For support to Food Banks' effort to provide services and food to
- 17 low-income individuals
- 18 From Temporary Assistance for Needy Families Federal Fund (0199). 10,000,000
- 19 For the purpose of funding payments to qualified agencies for TANF or
- 20 TANF maintenance of effort after school and out of school support
- 21 programs
- 22 From Temporary Assistance for Needy Families Federal Fund (0199). 3,000,000
- 23 For the Summer Jobs Program
- 24 From Temporary Assistance for Needy Families Federal Fund (0199). 5,500,000
- 25 For the purpose of funding the attendance of low-income individuals at
- 26 adult high schools as designated by the Department of Elementary
- 27 and Secondary Education
- 28 From Temporary Assistance for Needy Families Federal Fund (0199). 3,000,000
- 29 For the purpose of funding the Foster Care Jobs program
- 30 From Temporary Assistance for Needy Families Federal Fund (0199). 1,000,000

31	For the purpose of funding an evidence-based program through a	
32	school-based early warning and response system that improves	
33	student attendance, behavior and course performance in	
34	reading and math by identifying the root causes for student	
35	absenteeism, classroom disruption and course failure	
36	From Temporary Assistance for Needy Families Federal Fund (0199).....	500,000
37	For the purpose of funding services that provide assistance and	
38	engagement to address critical areas of need for low-income	
39	individuals, families, and children located in a city not within a	
40	county	
41	From Temporary Assistance for Needy Families Federal Fund (0199).....	100,000
42	For Jobs for America's Graduates	
43	From Temporary Assistance for Needy Families Federal Fund (0199).....	<u>1,000,000</u>
44	Total.....	\$104,714,553

Section 11.115. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding alternatives to abortion services, including the	
4	provision of diapers and other infant hygiene products to women	
5	who qualify for alternative to abortion services	
6	From General Revenue Fund (0101).....	\$2,033,561
7	From Temporary Assistance for Needy Families Federal Fund (0199).....	4,300,000
8	From Department of Social Services Federal Fund (0610).....	50,000
9	For the alternatives to abortion public awareness program	
10	From General Revenue Fund (0101).....	75,000
11	For the purpose of funding a healthy marriage and fatherhood initiative	
12	From Temporary Assistance for Needy Families Federal Fund (0199).....	<u>2,500,000</u>
13	Total.....	\$8,958,561

Section 11.120. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding supplemental payments to aged or disabled	
4	persons	
5	From General Revenue Fund (0101).....	\$25,525

Section 11.125. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding nursing care payments to aged, blind, or	
4	disabled persons, and for personal funds to recipients of	
5	Supplemental Nursing Care payments as required by Section	
6	208.030, RSMo	
7	From General Revenue Fund (0101).....	\$25,420,885

Section 11.130. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding Blind Pension and supplemental payments to

4 blind persons, provided that the Department of Social Services,

5 whenever it calculates a new estimated rate or rates for the Blind

6 Pension and/or supplemental payments to blind persons for the

7 upcoming fiscal year, shall transmit the new estimated rate or

8 rates, as well as the accompanying assumptions and calculations

9 used to create the new estimated rate or rates, to the following

10 organizations: Missouri Council for the Blind, National Federation

11 of the Blind of Missouri, and the State Rehabilitation Council

12 From General Revenue Fund (0101). \$3,917,114

13 From Blind Pension Fund (0621). 35,762,368

14 For payments to Eligible Members in accordance with the class action

15 settlement agreement entered into by the Department of Social

16 Services in resolution of case number 06AC-CC00123-03

17 From General Revenue Fund (0101). 15,750,000

18 Total. \$55,429,482

Section 11.135. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding benefits and services as provided by the

4 Refugee Act of 1980 as amended

5 From Department of Social Services Federal Fund (0610). \$35,000

Section 11.140. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding community services programs provided by

4 Community Action Agencies or other not-for-profit organizations

5 under the provisions of the Community Services Block Grant

6 From Department of Social Services Federal Fund (0610). \$23,637,000

Section 11.145. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Emergency Solutions Grant Program

4 From Department of Social Services Federal Fund (0610). \$4,130,000

Section 11.150. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Food Distribution Program and the receipt

4 and disbursement of Donated Food Program payments

5 From Department of Social Services Federal Fund (0610). \$1,500,000

Section 11.155. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding the Low-Income Home Energy Assistance

4 Program, provided that ten percent (10%), up to \$7,750,000, be

5 used for the Low-Income Weatherization Assistance Program

6 (LIWAP) administered by the Division of Energy within the

7 Department of Economic Development

8 From Department of Social Services Federal Fund (0610). \$77,547,867

9 For the Low-Income Weatherization Assistance Program (LIWAP)

10 administered by the Division of Energy within the Department of

11 Economic Development, in addition to any other appropriations

12 made for this purpose elsewhere in this section

13 From Energy Futures Fund (0935). 1,000,000

14 Total. \$78,547,867

Section 11.160. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding grants to not-for-profit organizations for

4 services and programs to assist victims of domestic violence,

5 provided that not more than three percent (3%) flexibility is

6 allowed from this section to Section 11.600

7 From General Revenue Fund (0101). \$5,000,000

8 From Temporary Assistance for Needy Families Federal Fund (0199). 1,600,000

9 From Department of Social Services Federal Fund (0610). 3,956,524

10 For the purpose of funding emergency shelter services to assist victims

11 of domestic violence

12 From Temporary Assistance for Needy Families Federal Fund (0199). 562,137

13 Total. \$11,118,661

Section 11.165. To the Department of Social Services

2 For the Family Support Division

3 For the Victims of Crime Program

4 Personal Service. \$357,750

5 Expense and Equipment. 201,097

6 Program Specific Distribution. 45,125,000

7 From Department of Social Services Federal Fund (0610) (Not to

8 exceed 9.00 F.T.E.). \$45,683,847

Section 11.170. To the Department of Social Services

2 For the Family Support Division

3 For the purpose of funding grants to not-for-profit organizations for

4 services and programs to assist victims of sexual assault, provided

5	that not more than three percent (3%) flexibility is allowed from	
6	this section to Section 11.600	
7	From General Revenue Fund (0101).	\$750,000
8	From Department of Social Services Federal Fund (0610).	<u>160,000</u>
9	Total.	\$910,000

Section 11.175. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding administration of blind services, provided that	
4	not more than three percent (3%) flexibility is allowed from this	
5	section to Section 11.600	
6	Personal Service.	\$801,541
7	Expense and Equipment.	<u>132,737</u>
8	From General Revenue Fund (0101).	934,278
9	Personal Service.	3,097,139
10	Expense and Equipment.	<u>743,274</u>
11	From Department of Social Services Federal Fund (0610).	<u>3,840,413</u>
12	Total (Not to exceed 102.69 F.T.E.).	\$4,774,691

Section 11.180. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding services for the visually impaired, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	From General Revenue Fund (0101).	\$1,483,831
7	From Department of Social Services Federal Fund (0610).	6,372,075
8	From Family Services Donations Fund (0167).	99,995
9	From Blindness Education, Screening and Treatment Program Fund (0892).	<u>349,000</u>
10	Total.	\$8,304,901

Section 11.185. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of supporting business enterprise programs for the	
4	blind	
5	From Department of Social Services Federal Fund (0610).	\$35,000,000

Section 11.190. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding Child Support Enforcement field staff and	
4	operations, provided that no more than ten percent (10%)	
5	flexibility is allowed between personal service and expense and	
6	equipment within this section to allow staff or contractual services	
7	to complete child support interstate collection activities, and	

8	further provided that not more than three percent (3%) flexibility	
9	is allowed from this section to Section 11.600	
10	Personal Service.....	\$2,998,060
11	Expense and Equipment.....	<u>3,867,086</u>
12	From General Revenue Fund (0101).....	6,865,146
13	Personal Service.....	16,236,785
14	Expense and Equipment.....	<u>7,192,819</u>
15	From Department of Social Services Federal Fund (0610).....	23,429,604
16	Personal Service.....	2,210,255
17	Expense and Equipment.....	<u>959,784</u>
18	From Child Support Enforcement Fund (0169).....	3,170,039
19	For Child Support Mediation	
20	Expense and Equipment	
21	From Child Support Enforcement Fund (0169).....	<u>615,000</u>
22	Total (Not to exceed 651.24 F.T.E.).....	\$34,079,789

Section 11.195. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding reimbursements to counties and the City of St.	
4	Louis and contractual agreements with local governments	
5	providing child support services, provided that not more than three	
6	percent (3%) flexibility is allowed from this section to Section	
7	11.600	
8	From General Revenue Fund (0101).....	\$2,240,491
9	From Department of Social Services Federal Fund (0610).....	14,886,582
10	From Child Support Enforcement Fund (0169).....	<u>400,212</u>
11	Total.....	\$17,527,285

Section 11.200. To the Department of Social Services

2	For the Family Support Division	
3	For the purpose of funding reimbursements to the federal government for	
4	federal Temporary Assistance for Needy Families payments,	
5	refunds of bonds, refunds of support payments or overpayments,	
6	and distributions to families	
7	From Department of Social Services Federal Fund (0610).....	\$51,500,000
8	From Debt Offset Escrow Fund (0753).....	<u>9,000,000</u>
9	Total.....	\$60,500,000

Section 11.205. To the Department of Social Services

2	Funds are to be transferred out of the State Treasury, chargeable to	
3	the Debt Offset Escrow Fund, to the Department of Social	
4	Services Federal Fund	
5	From Debt Offset Escrow Fund (0753).....	\$955,000

6	Funds are to be transferred out of the State Treasury, chargeable to	
7	the Debt Offset Escrow Fund, to the Child Support Enforcement	
8	Fund	
9	From Debt Offset Escrow Fund (0753).....	<u>245,000</u>
10	Total.....	\$1,200,000

Section 11.210. To the Department of Social Services

2	For the Children's Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	Personal Service.....	\$719,758
5	Expense and Equipment.....	<u>30,236</u>
6	From General Revenue Fund (0101).....	749,994
7	Personal Service.....	3,293,538
8	Expense and Equipment.....	<u>2,661,367</u>
9	From Department of Social Services Federal Fund (0610).....	5,954,905
10	Personal Service.....	47,124
11	Expense and Equipment.....	<u>11,548</u>
12	From Early Childhood Development, Education and Care Fund (0859).....	58,672
13	Expense and Equipment	
14	From Third Party Liability Collections Fund (0120).....	<u>50,000</u>
15	Total (Not to exceed 87.94 F.T.E.).....	\$6,813,571

Section 11.215. To the Department of Social Services

2	For the Children's Division, provided that not more than ten percent (10%)	
3	flexibility is allowed between this section and Section 11.250, and	
4	further provided that not more than three percent (3%) flexibility	
5	is allowed from this section to Section 11.600	
6	For the Children's Division field staff and operations	
7	Personal Service.....	\$32,285,090
8	Expense and Equipment.....	<u>2,629,691</u>
9	From General Revenue Fund (0101).....	34,914,781
10	Personal Service.....	46,264,039
11	Expense and Equipment.....	<u>4,665,971</u>
12	From Department of Social Services Federal Fund (0610).....	50,930,010
13	Personal Service.....	73,208
14	Expense and Equipment.....	<u>27,846</u>
15	From Health Initiatives Fund (0275).....	101,054

16	For the purpose of funding recruitment and retention services	
17	From General Revenue Fund (0101).	572,787
18	From Department of Social Services Federal Fund (0610).	<u>793,132</u>
19	Total (Not to exceed 1,958.38 F.T.E.).	\$87,311,764

Section 11.220. To the Department of Social Services

2	For the Children's Division	
3	For Children's Division staff training, provided that not more than three	
4	percent (3%) flexibility is allowed from this section to Section	
5	11.600	
6	Expense and Equipment	
7	From General Revenue Fund (0101).	\$949,616
8	From Department of Social Services Federal Fund (0610).	<u>477,142</u>
9	Total.	\$1,426,758

Section 11.225. To the Department of Social Services

2	For the Children's Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding children's treatment services including, but not	
5	limited to, home-based services, day treatment services, preventive	
6	services, child care, family reunification services, or intensive	
7	in-home services	
8	From General Revenue Fund (0101).	\$12,493,368
9	From Temporary Assistance for Needy Families Federal Fund (0199).	2,573,418
10	From Department of Social Services Federal Fund (0610).	7,088,175
11	For the purpose of funding crisis care	
12	From General Revenue Fund (0101).	<u>2,050,000</u>
13	Total.	\$24,204,961

Section 11.230. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding grants to community-based programs to	
4	strengthen the child welfare system locally to prevent child abuse	
5	and neglect and divert children from entering into the custody of	
6	the Children's Division, provided that not more than three percent	
7	(3%) flexibility is allowed from this section to Section 11.600	
8	From General Revenue Fund (0101).	\$3,074,500
9	From Temporary Assistance for Needy Families Federal Fund (0199).	<u>1,290,000</u>
10	Total.	\$4,364,500

Section 11.235. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding placement costs including foster care	
4	payments; related services; expenses related to training of foster	

5	parents; residential treatment placements and therapeutic treatment	
6	services; and for the diversion of children from inpatient	
7	psychiatric treatment and services provided through	
8	comprehensive, expedited permanency systems of care for children	
9	and families, provided that no children enrolled in or receiving	
10	foster care services shall have any additional behavioral health	
11	services administered through a managed care entity, other than	
12	the services required pursuant to the MO HealthNet managed care	
13	contract in effect on May 1, 2018, until the Department of Social	
14	Services and the Department of Mental Health have jointly	
15	submitted a plan regarding the design of the management of	
16	additional behavioral health services for children in foster care to	
17	any interested stakeholders and the House Budget and Senate	
18	Appropriations Committees, and such plan has been approved in	
19	the respective budgets, and further provided that not more than	
20	five percent (5%) flexibility is allowed between this section and	
21	Sections 11.255 and 11.265	
22	From General Revenue Fund (0101).	\$82,072,392
23	From Department of Social Services Federal Fund (0610).	40,731,528
24	From Temporary Assistance for Needy Families Federal Fund (0199).	1,366,385
25	For the purpose of funding placement costs in an outdoor learning	
26	residential licensed or accredited program located in south central	
27	Missouri related to the treatment of foster children	
28	From General Revenue (0101).	183,385
29	From Department of Social Services Federal Fund (0610).	316,615
30	For the purpose of funding awards to licensed community-based foster	
31	care and adoption recruitment programs	
32	From Foster Care and Adoptive Parents Recruitment and Retention Fund	
33	(0979).	<u>15,000</u>
34	Total.	\$124,685,305

Section 11.240. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding contractual payments for expenses related to	
4	training of foster parents	
5	From General Revenue Fund (0101).	\$403,479
6	From Department of Social Services Federal Fund (0610).	<u>172,920</u>
7	Total.	\$576,399

Section 11.245. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding costs associated with attending post-secondary	
4	education including, but not limited to: tuition, books, fees, room,	

5	and board for current or former foster youth, provided that not	
6	more than three percent (3%) flexibility is allowed from this	
7	section to Section 11.600	
8	From General Revenue Fund (0101).	\$188,848
9	From Temporary Assistance for Needy Families Federal Fund (0199).	450,000
10	From Department of Social Services Federal Fund (0610).	<u>1,050,000</u>
11	Total.	\$1,688,848

Section 11.250. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of providing comprehensive case management contracts	
4	through community-based organizations as described in Section	
5	210.112, RSMo; the purpose of these contracts shall be to provide	
6	a system of care for children living in foster care, independent	
7	living, or residential care settings; services eligible under this	
8	provision may include, but are not limited to, case management,	
9	foster care, residential treatment, intensive in-home services,	
10	family reunification services, and specialized recruitment and	
11	training of foster care families, provided that not more than ten	
12	percent (10%) flexibility is allowed between this section and	
13	Section 11.215, and further provided that not more than three	
14	percent (3%) flexibility is allowed from this section to Section	
15	11.600	
16	From General Revenue Fund (0101).	\$21,814,120
17	From Department of Social Services Federal Fund (0610).	<u>17,369,683</u>
18	Total.	\$39,183,803

Section 11.255. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Adoption and Guardianship subsidy payments	
4	and related services, provided that not more than five percent (5%)	
5	flexibility is allowed between this section and Sections 11.235 and	
6	11.265	
7	From General Revenue Fund (0101).	\$66,044,996
8	From Department of Social Services Federal Fund (0610).	<u>23,916,291</u>
9	Total.	\$89,961,287

Section 11.260. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Adoption Resource Centers, provided that not	
4	more than fifty percent (50%) flexibility is allowed between this	
5	subsection and the extreme recruitment program within this	
6	section	
7	From General Revenue Fund (0101).	\$875,000
8	From Department of Social Services Federal Fund (0610).	600,000

9	For the purpose of funding extreme recruitment for older youth with	
10	significant mental health and behavioral issues, provided that not	
11	more than fifty percent (50%) flexibility is allowed between this	
12	subsection and adoption resource centers within this section	
13	From General Revenue Fund (0101).	875,000
14	From Department of Social Services Federal Fund (0610).	900,000
15	For the purpose of funding the Community Connections for Youth	
16	Program for an adoption resource center located in southwest	
17	Missouri and one center located in western Missouri to provide	
18	advocacy support services for youth between the ages of sixteen	
19	and twenty-six to: prevent foster care youth from becoming	
20	missing, locate missing foster care youth, prevent sex trafficking	
21	of foster care youth, and assist youth who have aged out of the	
22	foster care system	
23	From Department of Social Services Federal Fund (0610).	<u>600,000</u>
24	Total.	<u>\$3,850,000</u>

Section 11.265. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding independent living placements and transitional	
4	living services, provided that not more than five percent (5%)	
5	flexibility is allowed between this section and Sections 11.235 and	
6	11.255	
7	From General Revenue Fund (0101).	\$2,097,584
8	From Department of Social Services Federal Fund (0610).	<u>3,821,203</u>
9	Total.	<u>\$5,918,787</u>

Section 11.270. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding Regional Child Assessment Centers, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	From General Revenue Fund (0101).	\$1,649,475
7	From Department of Social Services Federal Fund (0610).	800,000
8	From Health Initiatives Fund (0275).	<u>501,048</u>
9	Total.	<u>\$2,950,523</u>

Section 11.275. To the Department of Social Services

2	For the Children's Division	
3	For the purpose of funding residential placement payments to counties for	
4	children in the custody of juvenile courts	
5	From Department of Social Services Federal Fund (0610).	\$400,000

Section 11.280. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding CASA IV-E allowable training costs
- 4 From Department of Social Services Federal Fund (0610). \$200,000

Section 11.285. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding the Child Abuse and Neglect Prevention Grant
- 4 and Children's Justice Act Grant
- 5 From Department of Social Services Federal Fund (0610). \$188,316

Section 11.290. To the Department of Social Services

- 2 For the Children's Division
- 3 For the purpose of funding transactions involving personal funds of
- 4 children in the custody of the Children's Division
- 5 From Alternative Care Trust Fund (0905). \$13,000,000

Section 11.295. To the Department of Social Services

- 2 For the Children's Division, provided that not more than three percent
- 3 (3%) flexibility is allowed from this section to Section 11.600
- 4 For the purpose of funding child care services, the general administration
- 5 of the programs, including development and implementation of
- 6 automated systems to enhance time, attendance reporting, contract
- 7 compliance and payment accuracy, and to support the Educare
- 8 Program; provided that the income thresholds for childcare
- 9 subsidies shall be a full benefit for individuals with an income
- 10 which is less than or equal to 138 percent of the federal poverty
- 11 level; a benefit of 75 percent for individuals with an income which
- 12 is less than or equal to 165 percent of the federal poverty level but
- 13 greater than 138 percent of the federal poverty level; a benefit of
- 14 50 percent for individuals with an income which is less than or
- 15 equal to 190 percent of the federal poverty level but greater than
- 16 165 percent of federal poverty level; a benefit of 25 percent for
- 17 individuals with an income which is less than or equal to 215
- 18 percent of the federal poverty level but greater than 190 percent of
- 19 federal poverty level, and further provided that all funds available
- 20 for disproportionate share rate increases shall go only to licensed
- 21 or religiously exempt in compliance providers who are accredited
- 22 or making progress toward accreditation, and further provided that
- 23 the Children's Division may provide one-time funding to
- 24 providers, not to exceed \$5,000 per provider, to assist providers
- 25 who otherwise meet the department's qualifications, to meet
- 26 requirements for accreditation

27	From General Revenue Fund (0101).	\$33,782,158
28	From Department of Social Services Federal Fund (0610).	113,059,215
29	From Temporary Assistance for Needy Families Fund (0199).	37,857,515
30	From Early Childhood Development, Education and Care Fund (0859).	7,574,500
31	Personal Service	
32	From General Revenue Fund (0101).	13,662
33	Personal Service	
34	From Department of Social Services Federal Fund (0610).	488,679
35	For the purpose of funding early childhood development, education, and	
36	care programs for low-income families	
37	From General Revenue Fund (0101).	3,500,000
38	For the purpose of funding the Hand Up pilot program	
39	From General Revenue Fund (0101).	40,000
40	From Department of Social Services Federal Fund (0610).	60,000
41	Total (Not to exceed 12.00 F.T.E.).	\$196,375,729

Section 11.300. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding Central Office and regional offices, provided	
4	that not more than three percent (3%) flexibility is allowed from	
5	this section to Section 11.600	
6	Personal Service.	\$1,214,553
7	Expense and Equipment.	80,694
8	From General Revenue Fund (0101).	1,295,247
9	Personal Service.	515,128
10	Expense and Equipment.	100,340
11	From Department of Social Services Federal Fund (0610).	615,468
12	Expense and Equipment	
13	From Youth Services Treatment Fund (0843).	999
14	Total (Not to exceed 39.30 F.T.E.).	\$1,911,714

Section 11.305. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding treatment services, including foster care and	
4	contractual payments, provided that not more than three percent	
5	(3%) flexibility is allowed from this section to Section 11.600	
6	Personal Service.	\$15,982,661
7	Expense and Equipment.	740,399
8	From General Revenue Fund (0101).	16,723,060

9	Personal Service.....	22,714,815
10	Expense and Equipment.....	<u>6,299,111</u>
11	From Department of Social Services Federal Fund (0610).....	29,013,926
12	Personal Service.....	3,267,564
13	Expense and Equipment.....	<u>3,852,302</u>
14	From DOSS Educational Improvement Fund (0620).....	7,119,866
15	Personal Service.....	138,387
16	Expense and Equipment.....	<u>9,106</u>
17	From Health Initiatives Fund (0275).....	147,493
18	Expense and Equipment	
19	From Youth Services Products Fund (0764).....	5,000
20	For the purpose of paying overtime to non-exempt state employees and/or	
21	paying otherwise authorized personal service expenditures in lieu	
22	of such overtime payments; non-exempt state employees identified	
23	by Section 105.935, RSMo, will be paid first with any remaining	
24	funds to be used to pay overtime to any other state employees	
25	From General Revenue Fund (0101).....	895,221
26	For the purpose of funding payment distribution of Social Security	
27	benefits received on behalf of youth in care	
28	From Division of Youth Services Child Benefits Fund (0727).....	<u>200,000</u>
29	Total (Not to exceed 1,164.88 F.T.E.).....	\$54,104,566

Section 11.310. To the Department of Social Services

2	For the Division of Youth Services	
3	For the purpose of funding incentive payments to counties for	
4	community-based treatment programs for youth, provided that not	
5	more than three percent (3%) flexibility is allowed from this	
6	section to Section 11.600	
7	From General Revenue Fund (0101).....	\$3,479,486
8	From Gaming Commission Fund (0286).....	<u>500,000</u>
9	Total.....	\$3,979,486

Section 11.400. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding administrative services, provided that not more	
4	than one quarter of one percent (0.25%) flexibility is allowed	
5	between this section and Sections 11.435, 11.455, 11.470, 11.480,	
6	11.505, and 11.510, and further provided that not more than three	
7	percent (3%) flexibility is allowed from this section to Section	
8	11.600	

9	Personal Service.....	\$2,971,252
10	Expense and Equipment.....	<u>8,963,766</u>
11	From General Revenue Fund (0101).....	11,935,018
12	Personal Service.....	5,895,206
13	Expense and Equipment.....	<u>11,604,743</u>
14	From Department of Social Services Federal Fund (0610).....	17,499,949
15	Personal Service.....	422,795
16	Expense and Equipment.....	<u>55,553</u>
17	From Pharmacy Rebates Fund (0114).....	478,348
18	Personal Service.....	402,781
19	Expense and Equipment.....	<u>488,041</u>
20	From Third Party Liability Collections Fund (0120).....	890,822
21	Personal Service.....	98,453
22	Expense and Equipment.....	<u>7,708</u>
23	From Federal Reimbursement Allowance Fund (0142).....	106,161
24	Personal Service.....	26,777
25	Expense and Equipment.....	<u>356</u>
26	From Pharmacy Reimbursement Allowance Fund (0144).....	27,133
27	Personal Service.....	86,951
28	Expense and Equipment.....	<u>10,281</u>
29	From Nursing Facility Quality of Care Fund (0271).....	97,232
30	Personal Service.....	433,997
31	Expense and Equipment.....	<u>41,385</u>
32	From Health Initiatives Fund (0275).....	475,382
33	Personal Service.....	45,167
34	Expense and Equipment.....	<u>372</u>
35	From Ground Emergency Medical Transportation Fund (0422).....	45,539
36	Personal Service	
37	From Missouri Rx Plan Fund (0779).....	358,726
38	Personal Service.....	18,590
39	Expense and Equipment.....	<u>3,466</u>
40	From Ambulance Service Reimbursement Allowance Fund (0958).....	<u>22,056</u>
41	Total (Not to exceed 234.70 F.T.E.).....	\$31,936,366

Section 11.405. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding clinical services management related to the	
4	administration of the MO HealthNet Pharmacy fee-for-service and	
5	managed care programs and administration of the Missouri Rx	
6	Plan, provided that not more than three percent (3%) flexibility is	
7	allowed from this section to Section 11.600	
8	Expense and Equipment	
9	From General Revenue Fund (0101).	\$461,917
10	From Department of Social Services Federal Fund (0610).	12,214,032
11	From Pharmacy Rebates Fund (0114).	1,497,648
12	From Third Party Liability Collections Fund (0120).	924,911
13	From Missouri Rx Plan Fund (0779).	<u>62,947</u>
14	Total.	\$15,161,455

Section 11.410. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding women and minority health care outreach	
4	programs, provided that not more than ten percent (10%)	
5	flexibility is allowed between this section and Sections 11.435,	
6	11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,	
7	11.550, 11.555, and 11.595, and further provided that not more	
8	than three percent (3%) flexibility is allowed from this section to	
9	Section 11.600	
10	Expense and Equipment	
11	From General Revenue Fund (0101).	\$529,796
12	From Department of Social Services Federal Fund (0610).	<u>568,625</u>
13	Total.	\$1,098,421

Section 11.415. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding fees associated with third-party collections and	
4	other revenue maximization cost avoidance fees	
5	Expense and Equipment	
6	From Department of Social Services Federal Fund (0610).	\$4,250,000
7	From Third Party Liability Collections Fund (0120).	<u>4,250,000</u>
8	Total.	\$8,500,000

Section 11.420. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding the operation of the information systems,	
4	provided that not more than one quarter of one percent (0.25%)	
5	flexibility is allowed between this section and Sections 11.435,	
6	11.455, 11.470, 11.480, 11.505, and 11.510, and further provided	

7	that not more than three percent (3%) flexibility is allowed from	
8	this section to Section 11.600	
9	From General Revenue Fund (0101).	\$21,575,946
10	From Department of Social Services Federal Fund (0610).	61,206,127
11	From Health Initiatives Fund (0275).	1,591,687
12	From Uncompensated Care Fund (0108).	<u>430,000</u>
13	Total.	\$84,803,760

Section 11.425. To the Department of Social Services

2	For the MO HealthNet Division	
3	For Healthcare Technology Incentives and administration	
4	From Federal Stimulus-Social Services Fund (2292).	\$28,000,000

Section 11.430. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the Money Follows the Person Program	
4	From Department of Social Services Federal Fund (0610).	\$532,549

Section 11.435. To the Department of Social Services

2	For the MO HealthNet Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding: pharmaceutical payments under the MO	
5	HealthNet fee-for-service program, professional fees for	
6	pharmacists, professional fees implementing the CMS Covered	
7	Outpatient Therapy rule, a generic incentive adjustment of \$1, a	
8	comprehensive chronic care risk management program, and	
9	clinical medication therapy services (MTS) provided by	
10	pharmacists with MTS Certificates as allowed under 338.010	
11	RSMo. to MO HealthNet (MHD) participants, provided that not	
12	more than ten percent (10%) flexibility is allowed between this	
13	subsection and Sections 11.410, 11.435, 11.455, 11.460, 11.465,	
14	11.470, 11.480, 11.490, 11.505, 11.510, 11.550, 11.555, and	
15	11.595, and further provided that not more than one quarter of one	
16	percent (0.25%) flexibility is allowed between this subsection and	
17	Sections 11.400 and 11.420	
18	From General Revenue Fund (0101).	\$79,111,633
19	From Title XIX - Federal Fund (0163).	761,603,995
20	From Pharmacy Rebates Fund (0114).	236,745,912
21	From Third Party Liability Collections Fund (0120).	4,217,574
22	From Pharmacy Reimbursement Allowance Fund (0144).	64,827,527
23	From Health Initiatives Fund (0275).	3,543,350
24	From Life Sciences Research Trust Fund (0763).	10,556,250
25	From Premium Fund (0885).	3,800,000

26 For the purpose of funding Medicare Part D Clawback payments, provided
 27 that not more than ten percent (10%) flexibility is allowed between
 28 this subsection and Sections 11.410, 11.435, 11.455, 11.460,
 29 11.465, 11.470, 11.480, 11.490, 11.505, 11.510, 11.550, 11.555,
 30 and 11.595, and further provided that not more than one quarter of
 31 one percent (0.25%) flexibility is allowed between this subsection
 32 and Sections 11.400 and 11.420
 33 From General Revenue Fund (0101). 226,750,733
 34 Total. \$1,391,156,974

Section 11.436. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding pharmaceutical payments under the Missouri
 4 Rx Plan authorized by Sections 208.780 through 208.798, RSMo.
 5 for individuals who are eligible for both MO HealthNet and
 6 Medicare
 7 From General Revenue Fund (0101). \$6,715,564
 8 From Missouri Rx Plan Fund (0779). 4,655,326
 9 Total. \$11,370,890

Section 11.440. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding Pharmacy Reimbursement Allowance
 4 payments as provided by law
 5 From Pharmacy Reimbursement Allowance Fund (0144). \$108,308,926

Section 11.445. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Pharmacy Reimbursement
 4 Allowance Fund
 5 From General Revenue Fund (0101). \$38,737,111

Section 11.450. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Pharmacy Reimbursement Allowance Fund, to the General
 4 Revenue Fund as a result of recovering the Pharmacy
 5 Reimbursement Allowance Fund
 6 From Pharmacy Reimbursement Allowance Fund (0144). \$38,737,111

Section 11.455. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding physician services and related services
 4 including, but not limited to, clinic and podiatry services,
 5 telemedicine services, physician-sponsored services and fees,

6	laboratory and x-ray services, asthma related services, and family	
7	planning services under the MO HealthNet fee-for-service	
8	program, and for a comprehensive chronic care risk management	
9	program and Major Medical Prior Authorization, and for piloting	
10	the development of health homes for children in foster care,	
11	provided that not more than ten percent (10%) flexibility is	
12	allowed between this subsection and Sections 11.410, 11.435,	
13	11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510, 11.550,	
14	11.555, and 11.595, and further provided that not more than one	
15	quarter of one percent (0.25%) flexibility is allowed between this	
16	section and Sections 11.400 and 11.420	
17	From General Revenue Fund (0101).	\$101,848,400
18	From Title XIX - Federal Fund (0163).	282,586,490
19	From Third Party Liability Collections Fund (0120).	241,046
20	From Pharmacy Reimbursement Allowance Fund (0144).	10,000
21	From Health Initiatives Fund (0275).	1,427,081
22	From Healthy Families Trust Fund (0625).	11,825,877
23	For the purpose of funding a pilot program that focuses on providing	
24	clinical and case management support for pregnant women who	
25	are opioid addicted or display key risk factors which indicate a	
26	likelihood for addiction; the primary objective of such program(s)	
27	shall be avoiding births requiring extraordinary care due to	
28	Neonatal Abstinence Syndrome; the secondary objective is the	
29	treatment of the mother for substance use	
30	From General Revenue Fund (0101).	486,808
31	From Title XIX - Federal Fund (0163).	912,185
32	For a supplemental case management fee to support evidence-based,	
33	limited duration mental health treatments to children who have	
34	experienced severe physical, sexual, or emotional trauma as a	
35	result of abuse or neglect, provided that providers of these	
36	evidence-based services document appropriate training or	
37	certification in these models	
38	Expense and Equipment	
39	From General Revenue Fund (0101).	500,000
40	From Title XIX - Federal Fund (0163).	<u>750,000</u>
41	Total.	\$400,587,887

Section 11.460. To the Department of Social Services

- 2 For the MO HealthNet Division
- 3 For the purpose of funding dental services under the MO HealthNet
- 4 fee-for-service program, including adult dental procedure codes
- 5 (Tier 1-6), provided that not more than ten percent (10%)

6	flexibility is allowed between this section and Sections 11.410,	
7	11.435, 11.455, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,	
8	11.550, 11.555, and 11.595	
9	From General Revenue Fund (0101).	\$627,005
10	From Title XIX - Federal Fund (0163).	3,766,919
11	From Health Initiatives Fund (0275).	71,162
12	From Healthy Families Trust Fund (0625).	848,773
13	Total.	<u>\$5,313,859</u>

Section 11.465. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding payments to third-party insurers, employers, or	
4	policyholders for health insurance, provided that not more than ten	
5	percent (10%) flexibility is allowed between this section and	
6	Sections 11.410, 11.435, 11.455, 11.460, 11.470, 11.480, 11.490,	
7	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
8	that not more than three percent (3%) flexibility is allowed from	
9	this section to Section 11.600	
10	From General Revenue Fund (0101).	\$87,263,154
11	From Title XIX - Federal Fund (0163).	<u>176,777,094</u>
12	Total.	<u>\$264,040,248</u>

Section 11.470. To the Department of Social Services

2	For the MO HealthNet Division	
3	For funding long-term care services	
4	For the purpose of funding care in nursing facilities under the MO	
5	HealthNet fee-for-service program and for contracted services to	
6	develop model policies and practices that improve the quality of	
7	life for long-term care residents, provided that not more than ten	
8	percent (10%) flexibility is allowed between this subsection and	
9	Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.480, 11.490,	
10	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
11	that not more than one quarter of one percent (0.25%) flexibility	
12	is allowed between this subsection and Sections 11.400 and 11.420	
13	From General Revenue Fund (0101).	\$155,639,773
14	From Title XIX - Federal Fund (0163).	423,806,060
15	From Uncompensated Care Fund (0108).	58,516,478
16	From Third Party Liability Collections Fund (0120).	6,992,981
17	From Healthy Families Trust Fund (0625).	17,973
18	For the purpose of funding home health for the elderly under the MO	
19	HealthNet fee-for-service program, provided that not more than	
20	ten percent (10%) flexibility is allowed between this subsection	
21	and Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.480,	

22	11.490, 11.505, 11.510, 11.550, 11.555, and 11.595, and further	
23	provided that not more than one quarter of one percent (0.25%)	
24	flexibility is allowed between this subsection and Sections 11.400	
25	and 11.420	
26	From General Revenue Fund (0101).	1,683,162
27	From Title XIX - Federal Fund (0163).	3,441,394
28	From Health Initiatives Fund (0275).	159,305
29	Total.	\$650,257,126

Section 11.475. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of paying publicly funded long-term care services and	
4	support contracts and funding supplemental payments for care in	
5	nursing facilities under the nursing facility upper payment limit	
6	From Title XIX - Federal Fund (0163).	\$7,140,229
7	From Long Term Support UPL Fund (0724).	3,810,539
8	Total.	\$10,950,768

Section 11.480. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding all other non-institutional services including,	
4	but not limited to, rehabilitation, optometry, audiology, ambulance,	
5	non-emergency medical transportation, durable medical	
6	equipment, and eyeglasses under the MO HealthNet	
7	fee-for-service program, and for rehabilitation services provided	
8	by residential treatment facilities as authorized by the Children's	
9	Division for children in the care and custody of the Children's	
10	Division, payment of ground ambulance mileage during patient	
11	transportation from mile zero to the 5th mile, and annual patient	
12	safety and quality services for ambulance service through the	
13	Missouri Center for Patient Safety, provided that not more than ten	
14	percent (10%) flexibility is allowed between this subsection and	
15	Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.490,	
16	11.505, 11.510, 11.550, 11.555, and 11.595, and further provided	
17	that not more than one quarter of one percent (0.25%) flexibility	
18	is allowed between this subsection and Sections 11.400 and 11.420	
19	From General Revenue Fund (0101).	\$86,032,609
20	From Title XIX - Federal Fund (0163).	175,239,465
21	From Nursing Facility Reimbursement Allowance Fund (0196).	1,414,043
22	From Health Initiatives Fund (0275).	194,881
23	From Healthy Families Trust Fund (0625).	831,745
24	From Ambulance Service Reimbursement Allowance Fund (0958).	24,180,182

25	For the purpose of adopting a new CPT code for, and making payment	
26	under said code to, paramedics who provide treatment to a MO	
27	HealthNet patient who would otherwise be transported to an	
28	emergency department via ambulance service; services may	
29	include on-site treatment for the patient or some other service	
30	rendered to effect treatment of the patient's issue for which the call	
31	for service was made; the amount of reimbursement shall be set by	
32	the department and shall be less than reimbursement which would	
33	otherwise be provided if the emergency personnel had transported	
34	the patient to an emergency department; the department shall	
35	request any state plan amendment necessary to implement the new	
36	code	
37	From General Revenue Fund (0101).	486,850
38	From Title XIX - Federal (0163).	912,143
39	For the purpose of funding non-emergency medical transportation,	
40	provided that not more than ten percent (10%) flexibility is	
41	allowed between this subsection and Sections 11.410, 11.435,	
42	11.455, 11.460, 11.465, 11.470, 11.490, 11.505, 11.510, 11.550,	
43	11.555, and 11.595, and further provided that not more than one	
44	quarter of one percent (0.25%) flexibility is allowed between this	
45	subsection and Sections 11.400 and 11.420	
46	From General Revenue Fund (0101).	14,141,287
47	From Title XIX - Federal Fund (0163).	26,918,461
48	For the purpose of funding the federal share of MO HealthNet	
49	reimbursable non-emergency medical transportation for public	
50	entities	
51	From Title XIX - Federal Fund (0163).	<u>6,460,100</u>
52	Total.	\$336,811,766
Section 11.485. To the Department of Social Services		
2	For the MO HealthNet Division	
3	For the purpose of funding payments to providers of ground emergency	
4	medical transportation	
5	From Title XIX - Federal Fund (0163).	\$54,744,599
6	From Ground Emergency Medical Transportation Fund (0422).	<u>29,215,647</u>
7	Total.	\$83,960,246
Section 11.490. To the Department of Social Services		
2	For the MO HealthNet Division	
3	For the purpose of funding complex rehabilitation technology items	
4	classified within the Medicare program as of January 1, 2014 as	

5 durable medical equipment that are individually configured for
 6 individuals to meet their specific and unique medical, physical,
 7 and functional needs and capacities for basic activities of daily
 8 living and instrumental activities of daily living identified as
 9 medically necessary to prevent hospitalization and/or
 10 institutionalization of a complex needs patient; such items shall
 11 include, but not be limited to, complex rehabilitation power
 12 wheelchairs, highly configurable manual wheelchairs, adaptive
 13 seating and positioning systems, and other specialized equipment
 14 such as standing frames and gait trainers; provided that not more
 15 than ten percent (10%) flexibility is allowed between this section
 16 and Sections 11.410, 11.435, 11.455, 11.460, 11.465, 11.470,
 17 11.480, 11.505, 11.510, 11.550, 11.555, and 11.595, and further
 18 provided that not more than three percent (3%) flexibility is
 19 allowed from this section to Section 11.600
 20 From General Revenue Fund (0101). \$3,903,482
 21 From Title XIX - Federal Fund (0163). 7,309,986
 22 Total. \$11,213,468

Section 11.495. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Ambulance Service
 4 Reimbursement Allowance Fund
 5 From General Revenue Fund (0101). \$20,837,332

Section 11.500. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Ambulance Service Reimbursement Allowance Fund, to the
 4 General Revenue Fund as a result of recovering the Ambulance
 5 Service Reimbursement Allowance Fund
 6 From Ambulance Service Reimbursement Allowance Fund (0958). \$20,837,332

Section 11.505. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding the payment to comprehensive prepaid health
 4 care plans as provided by federal or state law or for payments to
 5 programs authorized by the Frail Elderly Demonstration Project
 6 Waiver as provided by the Omnibus Budget Reconciliation Act of
 7 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16),
 8 RSMo., provided the department shall implement programs or
 9 measures to achieve cost-savings through emergency room
 10 services reform, and further provided that MO HealthNet Managed
 11 Care eligibles described in Section 501(a)(1)(D) of Title V of the

12	Social Security Act may voluntarily enroll in the Managed Care	
13	Program, and further provided that not more than ten percent	
14	(10%) flexibility is allowed between this subsection and Sections	
15	11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.480, 11.490,	
16	11.510, 11.550, 11.555, and 11.595, and further provided that not	
17	more than one quarter of one percent (0.25%) flexibility is allowed	
18	between this section and Sections 11.400 and 11.420	
19	From General Revenue Fund (0101).	\$371,662,190
20	From Title XIX - Federal Fund (0163).	1,325,551,985
21	From CHIP Increased Enhancement Fund (0492).	81,200,000
22	From Uncompensated Care Fund (0108).	33,848,436
23	From Federal Reimbursement Allowance Fund (0142).	135,309,879
24	From Health Initiatives Fund (0275).	18,590,380
25	From Healthy Families Trust Fund (0625).	22,883,390
26	From Life Sciences Research Trust Fund (0763).	27,793,024
27	From Premium Fund (0885).	9,259,854
28	From Ambulance Service Reimbursement Allowance Fund (0958).	1,702,257
29	For supplemental Medicare parity payments to primary care physicians	
30	relating to maternal-fetal medicine, neonatology, and pediatric	
31	cardiology	
32	From General Revenue Fund (0101).	1,460,422
33	From Title XIX - Federal Fund (0163).	2,736,556
34	For a pilot program to seek a waiver or state plan amendment to provide	
35	postpartum care for up to twelve (12) months under the MO	
36	HealthNet managed care program, as well as the MO HealthNet	
37	Pharmacy fee-for-service program, to women with substance use	
38	disorder, provided the cost of the program funded by state match	
39	shall not exceed \$749,737, and further provided that this program	
40	shall be budget neutral to overall state and federal spending, and	
41	further provided that funds shall only be expended for this purpose	
42	in accordance with a state law, excluding appropriations acts,	
43	passed by the General Assembly in the Second Regular Session of	
44	the Ninety-Ninth General Assembly	
45	From General Revenue Fund (0101).	500,000
46	From Title XIX - Federal Fund (0163).	809,685
47	From Federal Reimbursement Allowance Fund (0142).	95,664
48	For supplemental payments to Tier 1 Safety Net Hospitals, or to any	
49	affiliated physician group that provides physicians for any Tier 1	
50	Safety Net Hospital, for physician and other healthcare	

51	professional services as approved by the Centers for Medicare and	
52	Medicaid Services	
53	From Title XIX - Federal Fund (0163).	15,417,301
54	From Department of Social Services Intergovernmental Transfer Fund	
55	(0139).....	<u>8,973,303</u>
56	Total.....	\$2,057,794,326

Section 11.510. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding hospital care under the MO HealthNet	
4	fee-for-service program, and for a comprehensive chronic care risk	
5	management program, provided that the MO HealthNet Division	
6	shall track payments to out-of- state hospitals by location, and	
7	further provided that not more than ten percent (10%) flexibility	
8	is allowed between this subsection and Sections 11.410, 11.435,	
9	11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.550,	
10	11.555, and 11.595, and further provided that not more than one	
11	quarter of one percent (0.25%) flexibility is allowed between this	
12	section and Sections 11.400 and 11.420	
13	From General Revenue Fund (0101).	\$31,409,136
14	From Title XIX - Federal Fund (0163).	353,837,447
15	From Federal Reimbursement Allowance Fund (0142).....	87,906,216
16	From Pharmacy Reimbursement Allowance Fund (0144).....	15,709
17	For Safety Net Payments	
18	From Healthy Families Trust Fund (0625).	30,365,444
19	For Graduate Medical Education	
20	From Healthy Families Trust Fund (0625).	10,000,000
21	For the purpose of funding a community-based care coordinating program	
22	that includes in-home visits and/or phone contact by a nurse care	
23	manager or electronic monitor; the purpose of such program shall	
24	be to ensure that patients are discharged from hospitals to an	
25	appropriate level of care and services and that targeted MO	
26	HealthNet beneficiaries with chronic illnesses and high-risk	
27	pregnancies receive care in the most cost-effective setting	
28	From General Revenue Fund (0101).	100,000
29	From Title XIX - Federal Fund (0163).	300,000
30	From Federal Reimbursement Allowance Fund (0142).....	200,000
31	For the purpose of continuing funding of the pager project facilitating	
32	medication compliance for chronically ill MO HealthNet	
33	participants identified by the division as having high utilization of	

34	acute care because of poor management of their condition	
35	From General Revenue Fund (0101).	100,000
36	From Title XIX - Federal Fund (0163).	315,000
37	From Federal Reimbursement Allowance Fund (0142).. . . .	<u>215,000</u>
38	Total.	\$514,763,952

Section 11.515. To the Department of Social Services

2	For the MO HealthNet Division	
3	For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs	
4	for federal Medicaid funds, utilizing current state and local	
5	funding sources as match for services that are not currently	
6	matched with federal Medicaid payments	
7	From Title XIX - Federal Fund (0163).	\$15,722,792

Section 11.520. To the Department of Social Services

2	For the MO HealthNet Division, provided that not more than three percent	
3	(3%) flexibility is allowed from this section to Section 11.600	
4	For the purpose of funding grants to Federally Qualified Health Centers	
5	From General Revenue Fund (0101).	\$5,385,934
6	From Title XIX - Federal Fund (0163).	<u>5,747,428</u>
7	For the purpose of funding a community health worker initiative that	
8	focuses on providing casework services to high utilizers of MO	
9	HealthNet services	
10	From General Revenue Fund (0101).	1,000,000
11	From Title XIX - Federal Fund (0163).	<u>1,000,000</u>
12	Total.	\$13,133,362

Section 11.525. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding medical homes affiliated with public entities	
4	and hospital-owned medical homes	
5	From Title XIX - Federal Fund (0163).	\$7,554,883
6	From Federal Reimbursement Allowance Fund (0142).. . . .	<u>4,082,919</u>
7	Total.	\$11,637,802

Section 11.530. To the Department of Social Services

2	For the MO HealthNet Division	
3	For the purpose of funding payments to hospitals under the Federal	
4	Reimbursement Allowance Program including state costs to pay	
5	for an independent audit of Disproportionate Share Hospital	
6	payments as required by the Centers for Medicare and Medicaid	
7	Services, for the expenses of the Poison Control Center in order to	
8	provide services to all hospitals within the state, and for the	

9 Gateway to Better Health 1115 Demonstration
 10 For the purpose of funding a continuation of the services provided through
 11 Medicaid Emergency Psychiatric Demonstration as required by
 12 Section 208.152(16), RSMo.
 13 From Federal Reimbursement Allowance Fund (0142)..... \$1,280,818,734

Section 11.535. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Department of Social Services Intergovernmental Transfer
 4 Fund, to the General Revenue Fund for the purpose of providing
 5 the state match for Medicaid payments
 6 From Department of Social Services Intergovernmental Transfer Fund
 7 (0139)..... \$96,885,215

Section 11.540. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding payments to the Tier 1 Safety Net Hospitals
 4 and other public hospitals using intergovernmental transfers
 5 From Title XIX - Federal Fund (0163). \$23,765,348
 6 From Department of Social Services Intergovernmental Transfer Fund
 7 (0139)..... 14,375,498
 8 Total..... \$38,140,846

Section 11.545. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the purpose of funding payments to the Department of Mental Health
 4 From Title XIX - Federal Fund (0163). \$500,077,646
 5 From Department of Social Services Intergovernmental Transfer Fund
 6 (0139)..... 180,569,348
 7 Total..... \$680,646,994

Section 11.550. To the Department of Social Services

2 For the MO HealthNet Division
 3 For funding programs to enhance access to care for uninsured children
 4 using fee-for-services, prepaid health plans, or other alternative
 5 service delivery and reimbursement methodology approved by the
 6 director of the Department of Social Services, provided that
 7 families of children receiving services under this section shall pay
 8 the following premiums to be eligible to receive such services:
 9 zero percent on the amount of a family's income which is less than
 10 or equal to 150 percent of the federal poverty level; four percent on
 11 the amount of a family's income which is less than or equal to 185
 12 percent of the federal poverty level but greater than 150 percent of

13 the federal poverty level; eight percent on the amount of a family's
 14 income which is less than or equal to 225 percent of the federal
 15 poverty level but greater than 185 percent of the federal poverty
 16 level; fourteen percent on the amount of a family's income which
 17 is less than or equal to 300 percent of the federal poverty level but
 18 greater than 225 percent of the federal poverty level not to exceed
 19 five percent of total income; families with an annual income of
 20 more than 300 percent of the federal poverty level are ineligible for
 21 this program, and further provided that not more than ten percent
 22 (10%) flexibility is allowed between this section and Sections
 23 11.410, 11.435, 11.455, 11.460, 11.465, 11.470, 11.480, 11.490,
 24 11.505, 11.510, 11.555, and 11.595

25	From General Revenue Fund (0101).	\$11,930,111
26	From Title XIX - Federal Fund (0163).	61,357,166
27	From Federal Reimbursement Allowance Fund (0142).. . . .	<u>7,719,204</u>
28	Total.	\$81,006,481

Section 11.551. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Title XIX - Federal Fund , to the CHIP Increased Enhancement
 4 Fund

5	From Title XIX - Federal Fund (0163).	\$40,500,000
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Section 11.555. To the Department of Social Services

2 For the MO HealthNet Division
 3 For the Show-Me Healthy Babies Program authorized by Section 208.662,
 4 RSMo, provided that not more than ten percent (10%) flexibility
 5 is allowed between this section and Sections 11.410, 11.435,
 6 11.455, 11.460, 11.465, 11.470, 11.480, 11.490, 11.505, 11.510,
 7 11.550, and 11.595, and further provided that not more than three
 8 percent (3%) flexibility is allowed from this section to Section
 9 11.600

10	From General Revenue Fund (0101).	\$3,731,999
11	From Title XIX - Federal Fund (0163).	11,948,028
12	From Department of Social Services Federal Fund (0610).	<u>20,000</u>
13	Total.	\$15,700,027

Section 11.560. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Federal Reimbursement
 4 Allowance Fund

5	From General Revenue Fund (0101).	\$653,701,378
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Section 11.565. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Federal Reimbursement Allowance Fund, to the General
 4 Revenue Fund as a result of recovering the Federal
 5 Reimbursement Allowance Fund
 6 From Federal Reimbursement Allowance Fund (0142)..... \$653,701,378

Section 11.570. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the General Revenue Fund, to the Nursing Facility Reimbursement
 4 Allowance Fund
 5 From General Revenue Fund (0101)..... \$210,950,510

Section 11.575. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Nursing Facility Reimbursement Allowance Fund, to the
 4 General Revenue Fund as a result of recovering the Nursing
 5 Facility Reimbursement Allowance Fund
 6 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$210,950,510

Section 11.580. To the Department of Social Services

- 2 Funds are to be transferred out of the State Treasury, chargeable to
 3 the Nursing Facility Reimbursement Allowance Fund, to the
 4 Nursing Facility Quality of Care Fund
 5 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$1,500,000

Section 11.585. To the Department of Social Services

- 2 For the MO HealthNet Division
 3 For the purpose of funding Nursing Facility Reimbursement Allowance
 4 payments as provided by law
 5 From Nursing Facility Reimbursement Allowance Fund (0196)..... \$351,448,765

Section 11.590. To the Department of Social Services

- 2 For the MO HealthNet Division
 3 For the purpose of funding MO HealthNet services for the Department of
 4 Elementary and Secondary Education under the MO HealthNet
 5 fee-for-service program
 6 From General Revenue Fund (0101)..... \$242,525
 7 From Title XIX - Federal Fund (0163)..... 34,653,770
 8 Total..... \$34,896,295

Section 11.595. To the Department of Social Services

2 For the MO HealthNet Division

3 For the purpose of funding medical benefits for blind individuals
 4 ineligible for MO HealthNet coverage who receive the Missouri
 5 Blind Pension cash grant, provided that individuals under this
 6 section shall pay the following premiums to be eligible to receive
 7 such services: zero percent on the amount of a family's income
 8 which is less than 150 percent of the federal poverty level; four
 9 percent on the amount of a family's income which is less than 185
 10 percent of the federal poverty level but greater than or equal to 150
 11 percent of the federal poverty level; eight percent of the amount on
 12 a family's income which is less than 225 percent of the federal
 13 poverty level but greater than or equal to 185 percent of the federal
 14 poverty level; fourteen percent on the amount of a family's income
 15 which is less than 300 percent of the federal poverty level but
 16 greater than or equal to 225 percent of the federal poverty level not
 17 to exceed five percent of total income; families with an annual
 18 income equal to or greater than 300 percent of the federal poverty
 19 level are ineligible for this program, and further provided that not
 20 more than ten percent (10%) flexibility is allowed between this
 21 section and Sections 11.410, 11.435, 11.455, 11.460, 11.465,
 22 11.470, 11.480, 11.490, 11.505, 11.510, 11.550, and 11.555, and
 23 further provided that not more than three percent (3%) flexibility
 24 is allowed from this section to Section 11.600
 25 From General Revenue Fund (0101). \$24,655,738

Section 11.600. To the Department of Social Services

2 Funds are to be transferred out of the State Treasury, for the
 3 payment of claims, premiums, and expenses as provided by
 4 Section 105.711 through 105.726, RSMo, to the State Legal
 5 Expense Fund
 6 From General Revenue Fund (0101). \$1

PART 2

Section 11.700. To the Department of Social Services

2 In reference to Sections 11.225, 11.235, 11.250, 11.255 and 11.305
 3 of Part 1 of this act:
 4 No funds shall be expended in furtherance of provider rates greater
 5 than the rate in effect on January 1, 2018.

Section 11.705. To the Department of Social Services

2 In reference to Sections 11.455, 11.460, 11.490, and 11.520 of Part
3 1 of this act:
4 No funds shall be expended in furtherance of provider rates greater
5 than 101.5% of the rate in effect on January 1, 2018.

Section 11.706. To the Department of Social Services

2 In reference to Section 11.480 of Part 1 of this act:
3 No funds shall be expended in furtherance of provider rates greater
4 than 101.5% of the rate in effect on January 1, 2018, except for
5 providers of non-emergency medical transportation, for whom no
6 funds shall be expended in furtherance of provider rates greater
7 than 103.2% of the rate in effect on January 1, 2018; and further
8 except for providers of hospice care, for whom no funds shall be
9 expended in furtherance of provider rates greater than 102.28% of
10 the rate in effect on January 1, 2018.

Section 11.710. To the Department of Social Services

2 In reference to Section 11.470 of Part 1 of this act:
3 No funds shall be expended in furtherance of nursing facility
4 provider rates greater than \$8.30 per bed day of the rate in effect
5 on January 1, 2018.

Section 11.715. To the Department of Social Services

2 In reference to all sections in Part 1 of this act:
3 No funds shall be expended on any program that performs
4 abortions or that counsels women to have an abortion other than
5 the exceptions required by federal law.

Section 11.720. To the Department of Social Services

2 In reference to all sections in Part 1 of this act:
3 No funds shall be expended for the purpose of Medicaid expansion
4 as outlined under the Affordable Care Act.

Section 11.730. To the Department of Social Services

2 In reference to Sections 11.435 through 11.600 of Part 1 of this
3 act:
4 The department may suggest changes in the payment methodology
5 for Medicaid hospital services through both the MO HealthNet
6 managed care and fee-for service programs during state fiscal year
7 2019 only after engaging stakeholders through public hearings for
8 such changes. The department shall also notify the chairs of the

9 House Budget Committee and the Senate Appropriations
 10 Committee before such changes can be implemented. The
 11 department shall also determine the impact on the Federal
 12 Reimbursement Allowance provider tax that such payment
 13 methodology changes will have before implementing such
 14 changes.

PART 3

Section 11.800. To the Department of Social Services

2 In reference to all sections in Part 1 and Part 2 of this act:
 3 No funds shall be expended to any abortion facility as defined in
 4 Section 188.015, RSMo, or any affiliate or associate thereof.

Bill Totals

General Revenue Fund.....	\$1,651,031,157
Federal Funds.....	4,940,169,320
Other Funds.	<u>2,709,853,630</u>
Total.	\$9,301,054,107

✓

Exhibit C

Before the
Administrative Hearing Commission
State of Missouri



PLANNED PARENTHOOD OF ST. LOUIS)	
REGION,)	
)	
Petitioner,)	
)	
vs.)	No. 18-0848
)	
DEPARTMENT OF SOCIAL SERVICES,)	
MISSOURI MEDICAID AUDIT AND)	
COMPLIANCE UNIT, and MO HEALTHNET)	
DIVISION)	
)	
Respondents.)	

DECISION

We deny Planned Parenthood of St. Louis Region’s (St. Louis Region) motion for summary decision on the issues we have authority to decide. We grant the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, and MO HealthNet Division’s (together “the State”) request for summary decision on the issues we have authority to decide. We otherwise preserve for appeal the parties’ constitutional claims and defenses, which we do not have authority to decide.

Procedure

On September 19, 2018, St. Louis Region filed a complaint appealing the State’s final decision issued on August 23, 2018, that it will be denying St. Louis Region’s fiscal year 2019 (FY 19) claims due to lack of appropriation authority. On October 22, 2018, the State

filed an answer. On December 14, 2018, St. Louis Region filed a motion for summary decision. On January 8, 2019, the State filed a response to the motion and further requested that this Commission grant it summary decision because the facts are undisputed.¹

We may grant a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A). A party must establish facts through admissible evidence, such as affidavits or the adverse party's pleading or discovery response. 1 CSR 15-3.446(6)(B). A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact, and may meet the requirements of such motion or response to such motion by complying with Missouri Supreme Court Rule of Civil Procedures 74.04. *Id.* Summary decision "is the undisputed right to judgment as a matter of law; not simply the absence of a fact question." *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380 (Mo. banc 1993).²

Findings of Fact

1. St. Louis Region is a Medicaid provider that has historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients.
2. The MO HealthNet Division (MHD) is a division within the Department of Social Services (the Department), created by statute, responsible for administering the MO HealthNet, Missouri Medicaid program.³
3. The Missouri Medicaid Audit and Compliance Unit (MMAC) is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program.

¹ 1 CSR 15-3.446 allows this Commission to grant a motion for summary decision in favor of any party, including the party who did not file the motion.

² Summary decision is modeled on the circuit court summary judgment. *Krispy Kreme Doughnut Corp. v. Director of Revenue*, 358 S.W.3d 48, 51 (Mo. banc 2011).

³ Section 208.001. Statutory references are to RSMo 2016, unless otherwise noted.

4. On August 23, 2018, St. Louis Region received a letter from MMAC that stated:
 - a. “[C]laims submitted for payment to its provider number beginning in 50 will be denied by Mo HealthNet Division (MHD.)”
 - b. Under House Bill 2011 (HB 2011) “the Department of Social Services (DSS) does not have appropriation authority to pay the claim.”
 - c. HB 2011 states, “that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law” and “that no funds shall be expended to any abortion facility . . . or any affiliate or associate thereof.”
 - d. “DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, § 28.”
 - e. These claims will be denied because St. Louis Region is “ineligible for payments on the specified dates of services, pursuant to 13 CSR 10-4.010(3),⁴ MO Const. art. IV, § 28, and §§ 11.715 and 11.800 of HB 2011 (2018).”
 - f. St. Louis Region is licensed by the Missouri Department of Health and Senior Services as an abortion facility.
 - g. It is a “final decision regarding administration of the medical assistance program in Missouri,” appealable to the Administrative Hearing Commission.

Pet’r Ex. C.

5. No payments have been made by the State for any Fiscal Year 2019 (FY19) claims submitted by St. Louis Region.

6. The State placed St. Louis Region’s MO HealthNet provider number on inactive status because it believes it did not have appropriation authority to pay St. Louis Region’s FY 19 claims, not because St. Louis Region engaged in any program violations.

⁴ This regulation citation refers to a non-existent chapter 4 of division 10.

7. St. Louis Region is providing, and intends to continue to provide, services to Medicaid-eligible patients.

8. St. Louis Region does not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law.

Conclusions of Law

We have authority to hear this case pursuant to §§ 621.055 and 208.156.2 and .5, but recognize the limitation of our authority with regard to constitutional issues. This Commission does not have authority to decide constitutional issues. *Sprint Communications Co., L.P. v. Director of Revenue*, 64 S.W.3d 832, 834 (Mo. banc 2002); *Cocktail Fortune, Inc. v. Supervisor of Liquor Control*, 994 S.W.2d 955, 957 (Mo. banc 1999); *Williams Cos. v. Director of Revenue*, 799 S.W.2d 602, 604 (Mo. banc, 1990), overruled on other grounds by *General Motors Corp. v. Director of Revenue*, 981 S.W.2d 561 (Mo. banc 1998); *Fayne v. Dep't. of Soc. Servs.*, 802 S.W.2d 565 (Mo. App., W.D. 1991). However, we recognize that both parties have argued constitutional issues, and thus have preserved them so that they may be raised before a court at a later time, if necessary. *Tadrus v. Missouri Bd. of Pharmacy*, 849 S.W.2d 222 (Mo. App., W.D. 1993).

In its complaint, St. Louis Region pleads that the State's refusal to pay its FY 19 Medicaid claims violates Missouri law and this Commission should order the State to pay such claims through the remainder of FY 19. St. Louis Region specifically pleads in its complaint that the State: a) violated 13 CSR 70-3.030 when it denied St. Louis Region's FY 19 claims and suspended access to the State's automated system, thereby imposing a sanction for reasons other than those authorized in the regulation and without providing ten days' notice; b) violated the law when it refused to pay St. Louis Region's claims because Part 3 of HB

2011 provides only guidance to the State and is not mandatory; and c) violated § 208.152 by failing to notify St. Louis Region five business days before the change was instituted.

In response to St. Louis Region's motion for summary decision, the State argues that it is entitled to summary decision because it properly denied St. Louis Region's FY 19 claims due to lack of appropriation authority under HB 2011, and the State has not sanctioned St. Louis Region's MO HealthNet provider number.

General Overview of Medicaid in Missouri

In Missouri, the medical assistance program on behalf of needy persons, Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., (Medicaid) is known as MO HealthNet and is administered by MHD. Section 208.001.2.

Sections 208.151 and .152 set forth who is eligible to receive Medicaid benefits from the MO HealthNet program, and which services are covered, including family planning services.

Section 208.152.1 states:

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

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

(Emphasis added).

Providers of health care services can become an enrolled provider with the MO HealthNet program through a process set forth in 13 CSR 70-3.020. Once approved, a provider can seek reimbursement for covered services provided to eligible Medicaid beneficiaries. MHD

can revoke or take action on a provider's enrollment status by the imposition of sanctions for one or more violations listed in 13 CSR 70-3.030(3)(A)1 through 44. Lack of appropriation authority is not found among the 44 cited reasons. The types of sanctions MHD can impose are found in 13 CSR 70-3.030(4), such as termination from the program "for a period of not less than sixty (60) days nor more than ten (10) years, or suspension of participation in the program for a "specified period of time." 13 CSR 70-3.030(4)(B) and (C). However, pursuant to 13 CSR 70-3.030(5)(A), MHD must first consider specific factors before imposing a sanction on a provider, such as considering the seriousness of the offense and extent of the violation.

St. Louis Region is an eligible Medicaid provider offering family planning services. The State did not issue its August 23, 2018 letter to St. Louis Region pursuant to MHD's authority to impose sanctions on a provider. Instead, as stated in its August 23, 2018 letter, MHD issued its decision based on: a) the prohibitive language contained in HB 2011; and b) the Missouri Constitution, Article IV, Section 28 that requires no state agency to withdraw funds from the state treasury except in accordance with an appropriation made by law.

HB 2011

HB 2011 states in relevant part:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program described herein for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2018 and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or items in each section of Part 1 of this act, for the amount and purpose and from the fund designated in each section of Part 1 as well as all additional clarifications of purpose in Part 2 of this act that makes reference by section to said items or items in Part 1. Any clarification of purpose in Part 2 shall state the section or sections in Part 1 to which it attaches and shall, together with the language of said

section(s) in Part 1, form the complete statement of purpose of the appropriation. As such the provisions of Part 2 of this act shall not be severed from Part 1, and if any clarification of purpose in Part 2 is for any reason held to be invalid such decision shall invalidate all of the appropriations in this act of which said clarification of purpose is a part. Part 3 of this act shall consist of guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act.

Section 11.455. . .

For the MO HealthNet Division

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services . . . and **family planning services** under the MO HealthNet fee-for-service program . . . [.]

PART 2

Section 11.715. To the Department of Social Services

In reference to all sections in Part 1 of this act:

No funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law.

PART 3

Section 11.800. To the Department of Social Services.

In reference to all sections in Part 1 and Part 2 of this act:

No funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof.

(Emphasis added).

Part I of HB 2011 sets forth the amount, purpose, and funding source for each of the Department's various functions and programs. Part II provides "clarification of purpose," and Part III provides "guidance" to the Department "in implementing the appropriations found in Part I and Part 2."

Part I, § 11.455, provides MHD with appropriation authority to fund physician and related services including "family planning services under the MO Health Net fee-for-service

program.” It provides MHD with appropriation authority to pay St. Louis Region’s FY 19 claims for family planning services as MO HealthNet has done in the past.

Part II of HB 2011 is directed to the Department and states that, “No funds shall be expended on any program that performs abortions or that counsels women . . . [.]” The use of the word “program” refers to all of the Department’s programs.

HB 2011’s preamble language states that the act was “To appropriate money for the expenses, grants and distributions of the Department of Social Services and the several divisions and programs thereof . . . [.]” Throughout HB 2011, the General Assembly lists the various Department programs for which it has approved appropriation authority. Therefore, the use of the word “program” in § 11.715 is not directed at St. Louis Region’s program, but DSS’ programs. It prohibits DSS from spending funds through any of its programs that may reimburse providers who perform abortions or counsel women to have an abortion other than exceptions required by federal law. This language is consistent with § 188.205, which relates to all state agencies and states:

It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.

As for Part III of HB 2011, the General Assembly provided “guidance” to the Department regarding the implementation for all programs found in Part I and II, which are numerous and include the MO HealthNet program. HB 2011, §11.000. The General Assembly’s implementation guidance is that the Department shall not expend funds “to any abortion facility . . . or any affiliate or associate thereof.”

The primary legal question presented by the parties is whether the language in Part III, in conjunction with the other language of the appropriations bill, prohibits MHD from using its

appropriation to reimburse an abortion facility for its non-abortion related family planning services, or whether the language is non-binding, and, therefore, inapplicable.

Parties' Arguments on the Meaning of the Word "Guidance"

The term "guidance" is not defined in HB 2011. Section 1.090 requires words and phrases to be "taken in their plain and ordinary and usual sense" unless they are technical in nature. Courts use the plain meaning of words as defined in a dictionary when the legislature does not provide a definition. *Lincoln Industrial, Inc. v. Director of Revenue*, 51 S.W.3d 462, 465 (Mo. banc 2001).

St. Louis Region makes several arguments as to why the language in Part III of HB 2011 should be interpreted as non-binding. First, it argues that the term "guidance" means "an opinion suggesting a wise or proper course of action" and cites to <https://www.merriam-webster.com/thesaurus/guidance>.

Second, it argues that the State's interpretation of the language in Part III of HB 2011 repeals the language in § 208.152 that requires the reimbursement of family planning services, and statutory interpretation tries to prevent repeal by implication. *In the Matter of Nocita*, 914 S.W.2d 358, 359 (Mo. banc 1996) ("Unless two statutes are irreconcilably inconsistent, both must stand.")

Third, it argues that the courts have held that a statute that requires a state agency to act but provides no consequence for an agency's inaction is only "directory" and not "mandatory." *Frye v. Levy*, 440 S.W.3d 405, 409-10 (Mo. banc 2014). St. Louis Region argues that Part III of HB 2011 provides no consequence if the State does not comply with it and, therefore, is not mandatory.

Fourth, St. Louis Region argues that HB 2011, Part I, § 11.000, states that the provisions in Part 2 shall not be severed from the provisions of Part I, and that if any provision of

Part 2 is held to be invalid, such decision shall invalidate all appropriations of which the provision is a part.⁵ St. Louis Region argues that by contrast, the General Assembly did not direct that Part 3 be non-severable, thereby supporting its argument that Part III is merely suggestive and not mandatory.

Fifth, an appropriations bill cannot amend a general statute without violating Article III, Section 23 of the Missouri Constitution, which provides that no bill shall contain more than one subject. *State ex. rel. Igoe v. Bradford*, 611 S.W.2d 343, 350 (Mo. App. W.D. 1980) (“Appropriations of money for payment of state obligations and the amendment of a general statute are entirely different and separate subject for legislative action.”), *citing State ex rel. Gaines v. Canada*, 113 S.W.2d 783, 790 (Mo. banc 1937) (reversed by U.S. Supreme Court on other grounds) (to include legislation of a general character in an appropriations bill violates the “single subject” provision of the Missouri Constitution).

Sixth, this Commission should avoid interpreting HB 2011 in a manner that would make it unconstitutional, when other plausible interpretations are valid. *State ex re. Neville v. Grate*, 443 S.W.3d 688, 693 (Mo. App. W.D. 2014). St. Louis Region argues that Article IV, Section 23 of the Missouri Constitution provides, “Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose.” It argues that an appropriations bill cannot fix its purpose by referring to § 188.015, as found in HB 2011, Part III. St. Louis Region argues that the General Assembly avoided this

⁵ See § 1.140, which states:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

constitutional requirement by “simply giving guidance to the agency” because it did not have the power to “limit which providers are eligible for Medicaid reimbursement via an appropriations bill.” Pet’r Memo in Support of Motion at 9-10.

In response to St. Louis Region’s arguments as to why the language in Part III should be interpreted as non-binding, the State argues that HB 2011, Part III, plainly uses the word “shall,” thereby imposing an obligation on the State and it is not a mere suggestion. The State also argues that even if a statute imposes no consequences on a state agency for inaction, it still imposes an obligation on the agency as opposed to a suggestion. *Frye v. Levy*, 440 S.W.3d at 409 (“[T]he statutory construction question embodied in the distinction between ‘mandatory statutes’ and ‘directory statutes’ is whether the legislature intended to make all actions that fail to comply with that obligation void or ineffective.”).

Moreover, the State argues that use of the word “guidance” in the preamble of HB 2011 confirms that the language in Part III is obligatory and not a mere suggestion. The State argues that “Noting about the term ‘guidance ... in implementing the appropriations’ suggests that the clear command ‘[n]o funds shall be expended to any abortion facility . . . or any affiliate or associate thereof;’ is anything but obligatory.” Resp. Response at 8. Further, the State states that St. Louis Region’s reliance on Merriam-Webster’s online thesaurus is inappropriate and a dictionary definition should be used. The State cites to WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1009 (unabr. 1986), which defines the word “guide” as to “direct in a way,” and “to regulate and manage: direct or supervise esp. toward some desirable end, course, way or development.” It also cites to Merriam-Webster’s online dictionary at <https://merriam-webster.com/dictionary/guide>, which defines the word “guide” as to “direct in a way or course” and “to direct, supervise, or influence usually to a particular end.” The State argues that in *Allcorn v. Allcorn*, 241 S.W.2d 806, 811 (Mo. App. E.D. 1951), the court held that to “‘guide’

means to ‘direct’, ‘regulate,’ or ‘order,’ according to various definitions in Webster’s New International Dictionary, 2d Ed.”⁶

The State argues that this definition support its contention that the use of the word “guidance” in a statutory context is not voluntary, but mandatory. Likewise, the State argues the language in Part II and III parallel one another and should be interpreted as closely related provisions in the same appropriations bill. *Street v. Dir. of Revenue*, 361 S.W.3d 355, 358 (Mo. banc 2012) (“In ascertaining legislative intent, the statute should be read *in pari materia* with related sections . . . construed in context with each other.”). Further, the State argues that to read Part III as having no binding effect would render it mere surplusage, and courts have held that it “must give meaning to every word or phrases of the legislative enactment.” *State v. Moore*, 303 S.W.3d 515, 520 (Mo. banc 2010).

In addition, the State argues that this Commission does not have authority to address St. Louis Region’s constitutional challenges to HB 2011 and, in any event, the State did not violate any constitutional provision because the language in HB 2011, Part III, relates directly to the purpose of the appropriation and provides direction or clarification on its implementation.

The State also argues that § 208.152 does not confer a right onto St. Louis Region, but, instead, confers a right for MO HealthNet payments to be made on behalf of eligible patients, and an appropriation is required to fund the program and that HB 2011 does not repeal by implication § 208.152, and the statute cannot and does not require the General Assembly to appropriate funds to pay St. Louis Region’s claims. The State cites to Mo. Const. Art III,

⁶ *Allcorn* involved a motion to modify a divorce decree, and the court held that the trial court previously entered a non-modifiable consent judgment based upon a binding contract entered into by the parties that settled property interests, child support, and maintenance issues despite the language that the stipulation “be exhibited to the court ‘for the purpose of guiding such court’ in the awarding of alimony and support.” The court defined the word “guiding” in the “sense that the term . . . [was] used in the stipulation.” *Allcorn*, 241 S.W.2d at 811.

§ 36, Art. IV, §28 (provides that no funds shall be withdrawn without an appropriation), Art. IV, § 23 (provides that appropriations can only be made for one or two fiscal years), and Art. IV, § 26 (gives the governor a line item veto over any appropriation). It argues that the General Assembly has the discretion to appropriate funds as it deems necessary, and it did so when it enacted § 11.800 in Part III of HB 2011.

Finally, the State argues that this Commission cannot compel it to pay St. Louis Region's FY 19 claims without an appropriation, and doing so would otherwise be beyond this Commission's authority and violate the Missouri Constitution.

Application of HB 2011, Part III

The courts instruct us to look to the dictionary to determine a word's plain and ordinary meaning. The definition of the word "guidance" as opposed to "guide" in WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY is:

1 a: an act of guiding; the superintendence or assistance rendered by a guide; DIRECTION, LEADING < the blind boy depended on the ~of his dog.> <a manual for the ~ of home handymen> **b:** advice in choosing courses, preparing for a vocation or further education, or coping with personal problems given to students by a teacher or a professional counselor <a specialist> **2 :** a program or service functioning to promote the adjustment of special groups . . . chiefly through psychological counseling and appraisal **3 :** the process of controlling the course of a projectile . . . by a built in mechanism . . GUIDED MISSILE [.]

This definition does not define "guidance" as being a directive, order or obligation.

Instead, the definition refers to providing advice or the act of guiding someone in the right direction.

However, the State is obligated to only withdraw funds from the state treasury "in accordance with an appropriation made by law," and this aspect of the separation of powers between the legislative and executive branches requires a review of the General

Assembly's words in HB 2011 in their totality. Mo. Const. Art IV, Sec. 28. The phrase "in accordance with" is defined as:

: in a way that agrees with or follows (something, such as a rule or request)
//In accordance with your request, I am sending a copy of my book.

//His funeral will be private, in accordance with his wishes.

//The soldiers said they acted in accordance with his orders.

MERRIAM-WEBSTER ONLINE DICTIONARY at

<https://www.merriamwebster.com/dictionary/in%20accordance%20with>.

We recognize that the language in HB 2011, Part III, leaves room for argument, but the State had to interpret its authority based upon the language it was given. The State was required to follow the language contained in Part III of HB 2011 because: a) of its constitutional requirement that it execute its appropriation authority "in accordance with" the appropriation; b) the General Assembly determines how public funds are to be spent through the appropriations process pursuant to Mo. Const. Art. III, § 37 and the State cannot spend outside the confines of the appropriation; c) the General Assembly used the word "shall" in Part III of HB 2011; d) the language in Part III would be otherwise mere surplusage; and e) Part III must be interpreted within the context of the appropriations process much like the court did with the settlement agreement in *Allcorn*, without mere reliance on the definition of "guidance."

However, this does not address the constitutional arguments raised by St. Louis Region in its motion.⁷ We cannot decide constitutional issues and have no authority to determine if HB 2011 violates Mo. Const. Art. III, Sec. 23 (no bill shall

⁷ The law does not require a party to raise a constitutional challenge to the validity of a statute before an administrative body in order to preserve the issue for appeal. *Duncan v. Missouri Board of Architects, Professional Engineers & Land Surveyors*, 744 S.W.2d 524, 531 (Mo. App. E.D. 1988).

contain more than one subject) and Art. IV, Sec. 23 (requiring “appropriation law to “distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose”). While we cannot decide these issues, we have summarized the parties’ constitutional arguments above and determined the facts that are before us that may be relevant to such arguments so that the parties may preserve these issues for appeal.

Medicaid Sanctions

St. Louis Region also argues that the State unlawfully sanctioned it by suspending its Medicaid provider number. State regulation 13 CSR 70-3.030(3) provides 44 grounds by which a Medicaid provider can be sanctioned, and 13 CSR 70-3.030(5)(A) lists the factors that MHD must consider when determining the type of sanction to impose. Also, 13 CSR 70-3.030(5)(C) requires MHD to give a sanctioned provider 10 days’ notice before the sanction is imposed. However, the State did not cite any of these regulations as the reason for its August 23, 2018 letter.

The State argues that it has not suspended St. Louis Region’s MO HealthNet provider number and, therefore, St. Louis Region was never sanctioned. The State states that 13 CSR 70-3.030 does not apply because St. Louis Region’s number was placed on inactive status, which is not a sanction for program violations, but an administrative tool that prevents providers from receiving payments.

It appears, from the limited record, that § 208.152 and the applicable regulations require the State to pay St. Louis Region’s FY 19 claim, but for the appropriation language in HB 2011. Accordingly, the State did not sanction St. Louis Region pursuant to 13 CSR 70-3.030. Instead, the State administratively suspended the ability of St. Louis Region from processing its payments due to the State’s constitutional prohibition not to expend funds not otherwise appropriated and

to prevent payments from being made that the State believed it did not have the authorization to pay. This is a different reason than a sanction where payments are suspended under MHD's ability to sanction providers.⁸ The State did not unlawfully sanction St. Louis Region pursuant to 13 CSR 70-030 because the State never invoked that process.

Likewise, it is not necessary to determine if the State violated § 208.152 because it lacked appropriation authority to pay for otherwise eligible services provided to Medicaid eligible recipients by St. Louis Region. Section 208.152 generally requires MO HealthNet to make payments to eligible needy persons for services specified in the statute. However, a "statute cannot supersede a constitutional provision." *Doe v. Phillips*, 194 S.W.3d 833, 841, quoting *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 340 (Mo. banc 1993). Furthermore, the State does not seem to contest that it would otherwise be required to pay St. Louis Region's qualifying claims for FY 19, but for HB 2011.

Summary

We deny St. Louis Region's motion for summary decision on the issues we have authority to decide. We grant the State's request for summary decision on the issues that we have authority to decide. We otherwise preserve the parties' constitutional claims and defenses in order to preserve them for appeal.

SO ORDERED on January 16, 2019.

RENEE T. SLUSHER
Commissioner

⁸ We assume that the State can make an inactive access active again and that the provider number issued to St. Louis Region remains valid.

Before the
Administrative Hearing Commission
State of Missouri



REPRODUCTIVE HEALTH SERVICES OF)
PLANNED PARENTHOOD OF ST. LOUIS)
REGION,)

Petitioner,)

vs.)

No. 18-0846

DEPARTMENT OF SOCIAL SERVICES,)
MISSOURI MEDICAID AUDIT AND)
COMPLIANCE UNIT, and MO HEALTHNET)
DIVISION)

Respondents.)

DECISION

We deny Reproductive Health Services of Planned Parenthood of St. Louis Region's (Reproductive Health) motion for summary decision on the issues we have authority to decide. We grant the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, and MO HealthNet Division's (together "the State") request for summary decision on the issues we have authority to decide. We otherwise preserve for appeal the parties' constitutional claims and defenses, which we do not have authority to decide.

Procedure

On September 19, 2018, Reproductive Health filed a complaint appealing the State's final decision issued on August 23, 2018, that it will be denying Reproductive Health's fiscal year 2019 (FY 19) claims due to lack of appropriation authority. On October 22, 2018, the State

filed an answer. On December 14, 2018, Reproductive Health filed a motion for summary decision. On January 8, 2019, the State filed a response to the motion and further requested that this Commission grant it summary decision because the facts are undisputed.¹

We may grant a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A). A party must establish facts through admissible evidence, such as affidavits or the adverse party's pleading or discovery response. 1 CSR 15-3.446(6)(B). A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact, and may meet the requirements of such motion or response to such motion by complying with Missouri Supreme Court Rule of Civil Procedures 74.04. *Id.* Summary decision "is the undisputed right to judgment as a matter of law; not simply the absence of a fact question." *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380 (Mo. banc 1993).²

Findings of Fact

1. Reproductive Health is a Medicaid provider that has historically billed and been paid by the State for providing physician services and family planning to Medicaid-eligible recipients.

2. The MO HealthNet Division (MHD) is a division within the Department of Social Services (the Department), created by statute, responsible for administering the MO HealthNet, Missouri Medicaid program.³

3. The Missouri Medicaid Audit and Compliance Unit (MMAC) is a unit within the Department that manages provider enrollment and audit services for the MO HealthNet program.

¹ 1 CSR 15-3.446 allows this Commission to grant a motion for summary decision in favor of any party, including the party who did not file the motion.

² Summary decision is modeled on the circuit court summary judgment. *Krispy Kreme Doughnut Corp. v. Director of Revenue*, 358 S.W.3d 48, 51 (Mo. banc 2011).

³ Section 208.001. Statutory references are to RSMo 2016, unless otherwise noted.

4. On August 23, 2018, Reproductive Health received a letter from MMAC that stated:

- a. “[C]laims submitted for payment to its provider number beginning in 50 will be denied by Mo HealthNet Division (MHD.)”
- b. Under House Bill 2011 (HB 2011) “the Department of Social Services (DSS) does not have appropriation authority to pay the claim.”
- c. HB 2011 states, “that no funds shall be expended on any program that performs abortions or counsels women to have an abortion other than exceptions required by federal law” and “that no funds shall be expended to any abortion facility . . . or any affiliate or associate thereof.”
- d. “DSS is prohibited by law from spending any funds in excess of the assigned amount and/or outside the assigned purpose of the appropriation. Mo. Const. art IV, § 28.”
- e. These claims will be denied because Reproductive Health is “ineligible for payments on the specified dates of services, pursuant to 13 CSR 10-4.010(3),⁴ MO Const. art. IV, § 28, and §§ 11.715 and 11.800 of HB 2011 (2018).”
- f. Reproductive Health is licensed by the Missouri Department of Health and Senior Services as an abortion facility.
- g. It is a “final decision regarding administration of the medical assistance program in Missouri,” appealable to the Administrative Hearing Commission.

Pet’r Ex. C.

5. No payments have been made by the State for any Fiscal Year 2019 (FY19) claims submitted by Reproductive Health.

6. The State placed Reproductive Health’s MO HealthNet provider number on inactive status because it believes it did not have appropriation authority to pay Reproductive Health’s FY 19 claims, not because Reproductive Health engaged in any program violations.

⁴ This regulation citation refers to a non-existent chapter 4 of division 10.

7. Reproductive Health is providing, and intends to continue to provide, services to Medicaid-eligible patients.

8. Reproductive Health does not expect reimbursement for abortion services or abortion counseling other than for exceptions required by federal law.

Conclusions of Law

We have authority to hear this case pursuant to §§ 621.055 and 208.156.2 and .5, but recognize the limitation of our authority with regard to constitutional issues. This Commission does not have authority to decide constitutional issues. *Sprint Communications Co., L.P. v. Director of Revenue*, 64 S.W.3d 832, 834 (Mo. banc 2002); *Cocktail Fortune, Inc. v. Supervisor of Liquor Control*, 994 S.W.2d 955, 957 (Mo. banc 1999); *Williams Cos. v. Director of Revenue*, 799 S.W.2d 602, 604 (Mo. banc, 1990), overruled on other grounds by *General Motors Corp. v. Director of Revenue*, 981 S.W.2d 561 (Mo. banc 1998); *Fayne v. Dep't. of Soc. Servs.*, 802 S.W.2d 565 (Mo. App., W.D. 1991). However, we recognize that both parties have argued constitutional issues, and thus have preserved them so that they may be raised before a court at a later time, if necessary. *Tadrus v. Missouri Bd. of Pharmacy*, 849 S.W.2d 222 (Mo. App., W.D. 1993).

In its complaint, Reproductive Health pleads that the State's refusal to pay its FY 19 Medicaid claims violates Missouri law and this Commission should order the State to pay such claims through the remainder of FY 19. Reproductive Health specifically pleads in its complaint that the State: a) violated 13 CSR 70-3.030 when it denied Reproductive Health's FY 19 claims and suspended access to the State's automated system, thereby imposing a sanction for reasons other than those authorized in the regulation and without providing ten days' notice; b) violated the law when it refused to pay Reproductive Health's claims because Part 3 of HB

2011 provides only guidance to the State and is not mandatory; and c) violated § 208.152 by failing to notify Reproductive Health five business days before the change was instituted.

In response to Reproductive Health's motion for summary decision, the State argues that it is entitled to summary decision because it properly denied Reproductive Health's FY 19 claims due to lack of appropriation authority under HB 2011, and the State has not sanctioned Reproductive Health's MO HealthNet provider number.

General Overview of Medicaid in Missouri

In Missouri, the medical assistance program on behalf of needy persons, Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., (Medicaid) is known as MO HealthNet and is administered by MHD. Section 208.001.2.

Sections 208.151 and .152 set forth who is eligible to receive Medicaid benefits from the MO HealthNet program, and which services are covered, including family planning services.

Section 208.152.1 states:

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

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

(Emphasis added).

Providers of health care services can become an enrolled provider with the MO HealthNet program through a process set forth in 13 CSR 70-3.020. Once approved, a provider can seek reimbursement for covered services provided to eligible Medicaid beneficiaries. MHD

can revoke or take action on a provider's enrollment status by the imposition of sanctions for one or more violations listed in 13 CSR 70-3.030(3)(A)1 through 44. Lack of appropriation authority is not found among the 44 cited reasons. The types of sanctions MHD can impose are found in 13 CSR 70-3.030(4), such as termination from the program "for a period of not less than sixty (60) days nor more than ten (10) years, or suspension of participation in the program for a "specified period of time." 13 CSR 70-3.030(4)(B) and (C). However, pursuant to 13 CSR 70-3.030(5)(A), MHD must first consider specific factors before imposing a sanction on a provider, such as considering the seriousness of the offense and extent of the violation.

Reproductive Health is an eligible Medicaid provider offering family planning services. The State did not issue its August 23, 2018 letter to Reproductive Health pursuant to MHD's authority to impose sanctions on a provider. Instead, as stated in its August 23, 2018 letter, MHD issued its decision based on: a) the prohibitive language contained in HB 2011; and b) the Missouri Constitution, Article IV, Section 28 that requires no state agency to withdraw funds from the state treasury except in accordance with an appropriation made by law.

HB 2011

HB 2011 states in relevant part:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program described herein for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2018 and ending June 30, 2019, as follows:

PART 1

Section 11.000. Each appropriation in this act shall consist of the item or items in each section of Part 1 of this act, for the amount and purpose and from the fund designated in each section of Part 1 as well as all additional clarifications of purpose in Part 2 of this act that makes reference by section to said items or items in Part 1. Any clarification of purpose in Part 2 shall state the section or sections in Part 1 to which it attaches and shall, together with the language of said

section(s) in Part 1, form the complete statement of purpose of the appropriation. As such the provisions of Part 2 of this act shall not be severed from Part 1, and if any clarification of purpose in Part 2 is for any reason held to be invalid such decision shall invalidate all of the appropriations in this act of which said clarification of purpose is a part. Part 3 of this act shall consist of guidance to the Department of Social Services in implementing the appropriations found in Part 1 and Part 2 of this act.

Section 11.455. . .

For the MO HealthNet Division

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services . . . and **family planning services** under the MO HealthNet fee-for-service program . . . [.]

PART 2

Section 11.715. To the Department of Social Services

In reference to all sections in Part 1 of this act:

No funds shall be expended on any program that performs abortions or that counsels women to have an abortion other than the exceptions required by federal law.

PART 3

Section 11.800. To the Department of Social Services.

In reference to all sections in Part 1 and Part 2 of this act:

No funds shall be expended to any abortion facility as defined in Section 188.015, RSMo, or any affiliate or associate thereof.

(Emphasis added).

Part I of HB 2011 sets forth the amount, purpose, and funding source for each of the Department's various functions and programs. Part II provides "clarification of purpose," and Part III provides "guidance" to the Department "in implementing the appropriations found in Part I and Part 2."

Part I, § 11.455, provides MHD with appropriation authority to fund physician and related services including "family planning services under the MO Health Net fee-for-service

program.” It provides MHD with appropriation authority to pay Reproductive Health’s FY 19 claims for family planning services as MO HealthNet has done in the past.

Part II of HB 2011 is directed to the Department and states that, “No funds shall be expended on any program that performs abortions or that counsels women . . . [.]” The use of the word “program” refers to all of the Department’s programs.

HB 2011’s preamble language states that the act was “To appropriate money for the expenses, grants and distributions of the Department of Social Services and the several divisions and programs thereof . . . [.]” Throughout HB 2011, the General Assembly lists the various Department programs for which it has approved appropriation authority. Therefore, the use of the word “program” in § 11.715 is not directed at Reproductive Health’s program, but DSS’ programs. It prohibits DSS from spending funds through any of its programs that may reimburse providers who perform abortions or counsel women to have an abortion other than exceptions required by federal law. This language is consistent with § 188.205, which relates to all state agencies and states:

It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.

As for Part III of HB 2011, the General Assembly provided “guidance” to the Department regarding the implementation for all programs found in Part I and II, which are numerous and include the MO HealthNet program. HB 2011, §11.000. The General Assembly’s implementation guidance is that the Department shall not expend funds “to any abortion facility . . . or any affiliate or associate thereof.”

The primary legal question presented by the parties is whether the language in Part III, in conjunction with the other language of the appropriations bill, prohibits MHD from using its

appropriation to reimburse an abortion facility for its non-abortion related family planning services, or whether the language is non-binding, and, therefore, inapplicable.

Parties' Arguments on the Meaning of the Word "Guidance"

The term "guidance" is not defined in HB 2011. Section 1.090 requires words and phrases to be "taken in their plain and ordinary and usual sense" unless they are technical in nature. Courts use the plain meaning of words as defined in a dictionary when the legislature does not provide a definition. *Lincoln Industrial, Inc. v. Director of Revenue*, 51 S.W.3d 462, 465 (Mo. banc 2001).

Reproductive Health makes several arguments as to why the language in Part III of HB 2011 should be interpreted as non-binding. First, it argues that the term "guidance" means "an opinion suggesting a wise or proper course of action" and cites to <https://www.merriam-webster.com/thesaurus/guidance>.

Second, it argues that the State's interpretation of the language in Part III of HB 2011 repeals the language in § 208.152 that requires the reimbursement of family planning services, and statutory interpretation tries to prevent repeal by implication. *In the Matter of Nocita*, 914 S.W.2d 358, 359 (Mo. banc 1996) ("Unless two statutes are irreconcilably inconsistent, both must stand.")

Third, it argues that the courts have held that a statute that requires a state agency to act but provides no consequence for an agency's inaction is only "directory" and not "mandatory." *Frye v. Levy*, 440 S.W.3d 405, 409-10 (Mo. banc 2014). Reproductive Health argues that Part III of HB 2011 provides no consequence if the State does not comply with it and, therefore, is not mandatory.

Fourth, Reproductive Health argues that HB 2011, Part I, § 11.000, states that the provisions in Part 2 shall not be severed from the provisions of Part I, and that if any provision of

Part 2 is held to be invalid, such decision shall invalidate all appropriations of which the provision is a part.⁵ Reproductive Health argues that by contrast, the General Assembly did not direct that Part 3 be non-severable, thereby supporting its argument that Part III is merely suggestive and not mandatory.

Fifth, an appropriations bill cannot amend a general statute without violating Article III, Section 23 of the Missouri Constitution, which provides that no bill shall contain more than one subject. *State ex. rel. Igoe v. Bradford*, 611 S.W.2d 343, 350 (Mo. App. W.D. 1980) (“Appropriations of money for payment of state obligations and the amendment of a general statute are entirely different and separate subject for legislative action.”), *citing State ex rel. Gaines v. Canada*, 113 S.W.2d 783, 790 (Mo. banc 1937) (reversed by U.S. Supreme Court on other grounds) (to include legislation of a general character in an appropriations bill violates the “single subject” provision of the Missouri Constitution).

Sixth, this Commission should avoid interpreting HB 2011 in a manner that would make it unconstitutional, when other plausible interpretations are valid. *State ex re. Neville v. Grate*, 443 S.W.3d 688, 693 (Mo. App. W.D. 2014). Reproductive Health argues that Article IV, Section 23 of the Missouri Constitution provides, “Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose.” It argues that an appropriations bill cannot fix its purpose by referring to § 188.015, as found in HB 2011, Part III. Reproductive Health argues that the General

⁵ See § 1.140, which states:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Assembly avoided this constitutional requirement by “simply giving guidance to the agency” because it did not have the power to “limit which providers are eligible for Medicaid reimbursement via an appropriations bill.” Pet’r Memo in Support of Motion at 9-10.

In response to Reproductive Health’s arguments as to why the language in Part III should be interpreted as non-binding, the State argues that HB 2011, Part III, plainly uses the word “shall,” thereby imposing an obligation on the State and it is not a mere suggestion. The State also argues that even if a statute imposes no consequences on a state agency for inaction, it still imposes an obligation on the agency as opposed to a suggestion. *Frye v. Levy*, 440 S.W.3d at 409 (“[T]he statutory construction question embodied in the distinction between ‘mandatory statutes’ and ‘directory statutes’ is whether the legislature intended to make all actions that fail to comply with that obligation void or ineffective.”).

Moreover, the State argues that use of the word “guidance” in the preamble of HB 2011 confirms that the language in Part III is obligatory and not a mere suggestion. The State argues that “Noting about the term ‘guidance ... in implementing the appropriations’ suggests that the clear command ‘[n]o funds shall be expended to any abortion facility . . . or any affiliate or associate thereof;’ is anything but obligatory.” Resp. Response at 8. Further, the State states that Reproductive Health’s reliance on Merriam-Webster’s online thesaurus is inappropriate and a dictionary definition should be used. The State cites to WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1009 (unabr. 1986), which defines the word “guide” as to “direct in a way,” and “to regulate and manage: direct or supervise esp. toward some desirable end, course, way or development.” It also cites to Merriam-Webster’s online dictionary at <https://merriam-webster.com/dictionary/guide>, which defines the word “guide” as to “direct in a way or course” and “to direct, supervise, or influence usually to a particular end.” The State argues that in *Allcorn v. Allcorn*, 241 S.W.2d 806, 811 (Mo. App. E.D. 1951), the court held that to “‘guide’

means to ‘direct’, ‘regulate,’ or ‘order,’ according to various definitions in Webster’s New International Dictionary, 2d Ed.”⁶

The State argues that this definition support its contention that the use of the word “guidance” in a statutory context is not voluntary, but mandatory. Likewise, the State argues the language in Part II and III parallel one another and should be interpreted as closely related provisions in the same appropriations bill. *Street v. Dir. of Revenue*, 361 S.W.3d 355, 358 (Mo. banc 2012) (“In ascertaining legislative intent, the statute should be read *in pari materia* with related sections . . . construed in context with each other.”). Further, the State argues that to read Part III as having no binding effect would render it mere surplusage, and courts have held that it “must give meaning to every word or phrases of the legislative enactment.” *State v. Moore*, 303 S.W.3d 515, 520 (Mo. banc 2010).

In addition, the State argues that this Commission does not have authority to address Reproductive Health’s constitutional challenges to HB 2011 and, in any event, the State did not violate any constitutional provision because the language in HB 2011, Part III, relates directly to the purpose of the appropriation and provides direction or clarification on its implementation.

The State also argues that § 208.152 does not confer a right onto Reproductive Health, but, instead, confers a right for MO HealthNet payments to be made on behalf of eligible patients, and an appropriation is required to fund the program and that HB 2011 does not repeal by implication § 208.152, and the statute cannot and does not require the General Assembly to appropriate funds to pay Reproductive Health’s claims. The State cites to Mo. Const. Art III,

⁶ *Allcorn* involved a motion to modify a divorce decree, and the court held that the trial court previously entered a non-modifiable consent judgment based upon a binding contract entered into by the parties that settled property interests, child support, and maintenance issues despite the language that the stipulation “be exhibited to the court ‘for the purpose of guiding such court’ in the awarding of alimony and support.” The court defined the word “guiding” in the “sense that the term . . . [was] used in the stipulation.” *Allcorn*, 241 S.W.2d at 811.

§ 36, Art. IV, §28 (provides that no funds shall be withdrawn without an appropriation), Art. IV, § 23 (provides that appropriations can only be made for one or two fiscal years), and Art. IV, § 26 (gives the governor a line item veto over any appropriation). It argues that the General Assembly has the discretion to appropriate funds as it deems necessary, and it did so when it enacted § 11.800 in Part III of HB 2011.

Finally, the State argues that this Commission cannot compel it to pay Reproductive Health's FY 19 claims without an appropriation, and doing so would otherwise be beyond this Commission's authority and violate the Missouri Constitution.

Application of HB 2011, Part III

The courts instruct us to look to the dictionary to determine a word's plain and ordinary meaning. The definition of the word "guidance" as opposed to "guide" in WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY is:

1 a: an act of guiding; the superintendence or assistance rendered by a guide; DIRECTION, LEADING < the blind boy depended on the ~of his dog.> <a manual for the ~ of home handymen> **b:** advice in choosing courses, preparing for a vocation or further education, or coping with personal problems given to students by a teacher or a professional counselor <a specialist> **2 :** a program or service functioning to promote the adjustment of special groups . . . chiefly through psychological counseling and appraisal **3 :** the process of controlling the course of a projectile . . . by a built in mechanism . . GUIDED MISSILE [.]

This definition does not define "guidance" as being a directive, order or obligation.

Instead, the definition refers to providing advice or the act of guiding someone in the right direction.

However, the State is obligated to only withdraw funds from the state treasury "in accordance with an appropriation made by law," and this aspect of the separation of powers between the legislative and executive branches requires a review of the General

Assembly's words in HB 2011 in their totality. Mo. Const. Art IV, Sec. 28. The phrase "in accordance with" is defined as:

: in a way that agrees with or follows (something, such as a rule or request)
//In accordance with your request, I am sending a copy of my book.

//His funeral will be private, in accordance with his wishes.

//The soldiers said they acted in accordance with his orders.

MERRIAM-WEBSTER ONLINE DICTIONARY at

<https://www.merriamwebster.com/dictionary/in%20accordance%20with>.

We recognize that the language in HB 2011, Part III, leaves room for argument, but the State had to interpret its authority based upon the language it was given. The State was required to follow the language contained in Part III of HB 2011 because: a) of its constitutional requirement that it execute its appropriation authority "in accordance with" the appropriation; b) the General Assembly determines how public funds are to be spent through the appropriations process pursuant to Mo. Const. Art. III, § 37 and the State cannot spend outside the confines of the appropriation; c) the General Assembly used the word "shall" in Part III of HB 2011; d) the language in Part III would be otherwise mere surplusage; and e) Part III must be interpreted within the context of the appropriations process much like the court did with the settlement agreement in *Allcorn*, without mere reliance on the definition of "guidance."

However, this does not address the constitutional arguments raised by Reproductive Health in its motion.⁷ We cannot decide constitutional issues and have no authority to determine if HB 2011 violates Mo. Const. Art. III, Sec. 23 (no bill shall

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contain more than one subject) and Art. IV, Sec. 23 (requiring “appropriation law to “distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose”). While we cannot decide these issues, we have summarized the parties’ constitutional arguments above and determined the facts that are before us that may be relevant to such arguments so that the parties may preserve these issues for appeal.

Medicaid Sanctions

Reproductive Health also argues that the State unlawfully sanctioned it by suspending its Medicaid provider number. State regulation 13 CSR 70-3.030(3) provides 44 grounds by which a Medicaid provider can be sanctioned, and 13 CSR 70-3.030(5)(A) lists the factors that MHD must consider when determining the type of sanction to impose. Also, 13 CSR 70-3.030(5)(C) requires MHD to give a sanctioned provider 10 days’ notice before the sanction is imposed. However, the State did not cite any of these regulations as the reason for its August 23, 2018 letter.

The State argues that it has not suspended Reproductive Health’s MO HealthNet provider number and, therefore, Reproductive Health was never sanctioned. The State states that 13 CSR 70-3.030 does not apply because Reproductive Health’s number was placed on inactive status, which is not a sanction for program violations, but an administrative tool that prevents providers from receiving payments.

It appears, from the limited record, that § 208.152 and the applicable regulations require the State to pay Reproductive Health’s FY 19 claim, but for the appropriation language in HB 2011. Accordingly, the State did not sanction Reproductive Health pursuant to 13 CSR 70-3.030. Instead, the State administratively suspended the ability of Reproductive Health from processing its payments due to the State’s constitutional prohibition not to expend funds not

otherwise appropriated and to prevent payments from being made that the State believed it did not have the authorization to pay. This is a different reason than a sanction where payments are suspended under MHD's ability to sanction providers.⁸ The State did not unlawfully sanction Reproductive Health pursuant to 13 CSR 70-030 because the State never invoked that process.

Likewise, it is not necessary to determine if the State violated § 208.152 because it lacked appropriation authority to pay for otherwise eligible services provided to Medicaid eligible recipients by Reproductive Health. Section 208.152 generally requires MO HealthNet to make payments to eligible needy persons for services specified in the statute. However, a "statute cannot supersede a constitutional provision." *Doe v. Phillips*, 194 S.W.3d 833, 841, quoting *Doe v. Roman Catholic Diocese of Jefferson City*, 862 S.W.2d 338, 340 (Mo. banc 1993). Furthermore, the State does not seem to contest that it would otherwise be required to pay Reproductive Health's qualifying claims for FY 19, but for HB 2011.

Summary

We deny Reproductive Health's motion for summary decision on the issues we have authority to decide. We grant the State's request for summary decision on the issues that we have authority to decide. We otherwise preserve the parties' constitutional claims and defenses in order to preserve them for appeal.

SO ORDERED on January 16, 2019.

RENEE T. SLUSHER
Commissioner

⁸ We assume that the State can make an inactive access active again and that the provider number issued to Reproductive Health remains valid.

Exhibit D

MISSOURI DEPARTMENT OF SOCIAL SERVICES , DIVISION OF MEDICAL SERVICES**TITLE XIX PARTICIPATION AGREEMENT FOR MEDICAL SERVICES**

BY MY SIGNATURE BELOW, I, THE APPLYING PROVIDER, READ AND AGREE THAT, upon the acceptance of my enrollment, I will participate in the Vendor Payment plan for 52-PLANNED PARENTHOOD CLINIC Services. **I am responsible for all services provided and all billing done under my provider number regardless to whom the reimbursement is paid. It is my legal responsibility to ensure that the proper billing code is used and indicate the length of time I actually spend providing a service regardless to whom the reimbursement is paid.** I agree to be financially responsible for all services which are not documented. I agree the Missouri Title XIX Medicaid manual, bulletins, rules, regulations and amendments thereto shall govern and control my delivery of service, and further agree to the following terms:

1. I (the provider) agree that it is my responsibility to access manual materials that are available from DMS over the Internet. I will comply with the Medicaid manual, bulletins, rules, and regulations as required by the Division of Medical Services and the United States Department of Health and Human Services in the delivery of services and merchandise and in submitting claims for payment. I understand that in my field of participation I am not entitled to Medicaid reimbursement if I fail to so comply, and that I can be terminated from the program for failure to comply;
2. The rate of reimbursement for services will be based on charges established and determined by the Division of Medical Services Medicaid manual, bulletins, and amendments thereto in accordance with the Vendor Payment Program, and that charges will not exceed those to the general public for the same services;
3. The provider agrees that the selection of an electronic or Internet claim processing method in no way modifies any requirements of the Missouri Medicaid program policies or procedures except those dealing with claim submission. All data elements required by DSS for paper claims are required for claims submitted electronically. Those claims not meeting required specifications will not be processed. In the event that the provider is placed on prepayment review by DSS, as authorized by State Regulation 13 CSR 70-3.030, or on a closed-end agreement, the provider agrees to submit all claims on paper until notified by DSS that electronic or Internet billing can resume;
4. No collection for Title XIX covered services will be made from the recipient-patient, his or her spouse, parent, guardian, relative or anyone else receiving public assistance, and if any payment is received or assured from any other source on the recipient-patient's account, that amount will be deducted from the claim filed with Title XIX Medicaid. Any payment so received after provider payment is made by Title XIX shall be reported to the Division of Medical Services for appropriate adjustment action;
5. The provider, contractor, its employees or subcontractors pursuant to this Agreement, shall comply with all applicable provisions of State and Federal laws and regulations pertaining to nondiscrimination, sexual harassment and equal employment opportunity including, but not limited to, the following laws and regulations and all subsequent amendments thereto:
 - A. The United States Civil Rights Act of 1964 (as amended), (42 U.S.C. 2000a-2000h)
 - B. The United States Civil Rights Act of 1964 (as amended), (Title VI; 42 U.S.C. 2000d et seq.) (See also guidelines to Federal Financial Assistance Recipients regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons)
 - C. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794)
 - D. The Age Discrimination Act of 1975, (42 U.S.C. 6101, et seq.)
 - E. The Omnibus Budget Reconciliation Act of 1981
 - F. The Americans with Disabilities Act of 1990, (42 U.S.C. 12101 et seq.)
 - G. Executive Orders 11246 and 11375, (Equal Employment Opportunity) and Executive Order 13166 (2000), (Improving Access to Services for Persons with Limited English Proficiency)
 - H. The Missouri Human Rights Act (Mo. Rev. Stat. Chapter 213)

The Provider, contractor, or subcontractor may not, on the grounds of race, color, national origin, creed, sex, religion, age or disability exclude persons from employment in, deny participation in, deny benefits to, or otherwise subject persons to discrimination under the Medicaid program or any activity connected with the provision of Medicaid services.
6. All providers are required to make and maintain records, as required by applicable laws, regulations, rules and policies, included but not limited to fiscal records, medical records, and records related to civil rights issues, which fully demonstrate the extent, nature and medical necessity of services and items provided to recipients, which support the fee charged or payment sought for the services and items, and which demonstrate compliance with all applicable requirements. These records shall be retained for five (5) years, and shall be made available on request by an authorized representative of the Department of Social Services or the U.S. Department of Health and Human Services. Documents retained must include all records and documents required by applicable regulations and Medicaid manual and bulletin provisions including the original enrollment documents confirming the provider's original signature. All services billed through the Medicaid Program are subject to post-payment review. This may include unannounced on-site review of records. Failure to submit or failure to retain documentation for all

services billed to the Medicaid Program may result in recovery of payments for Medicaid services and may result in sanctions to the provider's Medicaid participation;

7. Medicaid participation under this agreement may be terminated by either party upon written notice mailed to either the provider's most recent address recorded in the Medicaid enrollment files or the Division of Medical Services. The written notice shall state the reason(s) for the termination. Such reason(s) could include the provider being in violation of (a) this agreement, (b) Medicaid claim certification statement, (c) rules, regulations, policies or procedures of the Division of Medical Services, or (d) State or Local Regulations or Laws which also apply, i.e. fire codes and health codes. All corporations must be registered with the Secretary of State, Corporate Division, and be certified in good standing. The provider must be in compliance with all other applicable state or federal laws or regulations. Violation of any law or regulation may result in this agreement being terminated immediately upon mailing of the written notice from the Division of Medical Services; and
8. If at any time state or federally appropriated funds available to the Division of Medical Services for payment to the provider for covered services under this agreement are insufficient to pay the full amount due, the provider agrees to accept payments reduced in proportion to the funding deficiency.
9. I agree that if I provide services as part of a Rural Health Clinic (RHC) I will deliver and bill Medicaid ONLY for NON-RHC services under my individual or clinic Medicaid provider number. I will maintain a list of on-site services and a contract with the RHC which specifies off-site services that will be provided under my private or clinic practice. A list of costs associated with these services will be maintained and will be provided to the State Medicaid agency upon request. These services and the associated costs will not be included in the RHC cost report. A copy of the list of on-site services and contracts shall be included with the RHC cost report according to State Regulation 13 CSR 70-94.010 if an Independent RHC, or 13 CSR 70-94.020 if a Provider-Based RHC.

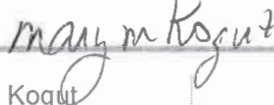
I understand that knowingly falsifying or willfully withholding information may be cause for termination of participation in the Missouri Medicaid Program.

I hereby certify that all of the information provided on this application is true and correct, and that the enrolling provider is in compliance with all applicable federal and state laws and regulations. I further certify that neither I, nor any of the enrolling provider's employees, partners, officers, or shareholders owning at least five percent (5%) of said provider are currently barred, suspended, terminated, voluntarily withdrawn as part of a settlement agreement, or otherwise excluded from participation in the Medicaid or Medicare programs, nor are any of the above currently under sanction for, or serving a sentence for conviction of any Medicaid or Medicare program violations. I further certify that none of the above are currently sanctioned by any federal agency for any reason. I authorize the Department of Social Services, Division of Medical Services to verify the information provided on this application with other state and federal agencies.

I hereby certify that I am the individual authorized to request direct deposit or change in direct deposit, change in provider address or payment change, on behalf of this clinic and all individuals on the attached list. I acknowledge that each individual has been informed of this request and that the payment due to this clinic will be either direct deposited to the specified account or mailed to the current payment address recorded in the Medicaid provider enrollment files.

I hereby certify that I am an authorized signer of this document, that I am an individual or representative of the Provider and a duly authorized agent to execute this agreement on behalf of the Provider under authority granted by said Provider. I hereby certify that the signature below is my original signature (not a stamp or facsimile).

ORIGINAL SIGNATURE OF
AUTHORIZED SIGNER:



Date

Signed:

2/7/06

NAME OF AUTHORIZED SIGNER:

Mary M Kogut

Name of Provider: PLANNED PARENTHOOD OF THE ST. LOUIS REGI

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