

By: Representative Holland

To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 1420

1 AN ACT TO ESTABLISH THE RESCUE CENTERS OF MISSISSIPPI PILOT
2 PROGRAM; TO CREATE FIVE RESIDENTIAL FACILITIES FOR THE TREATMENT
3 AND TRAINING OF COMPULSORY-SCHOOL-AGE CHILDREN WHO HAVE BEEN
4 EXPELLED OR SUSPENDED FROM SCHOOL FOR SERIOUS AND CHRONIC
5 MISCONDUCT PURSUANT TO ORDER OF THE YOUTH COURT OR VOLUNTARY
6 COMMITMENT; TO ESTABLISH AND EMPOWER THE JUVENILE HEALTH RECOVERY
7 BOARD TO PROVIDE FOR THE CONSTRUCTION, EQUIPPING, SUPPORT AND
8 MAINTENANCE OF THE RESCUE CENTER FACILITIES WITH RULE-MAKING
9 AUTHORITY TO PROVIDE FOR THE OPERATION OF THE CENTERS; TO DEFINE
10 THOSE CHILDREN ELIGIBLE FOR SERVICE AT THE CENTERS AND TO DEFINE
11 THOSE SERVICES TO BE PROVIDED AT THE CENTERS; TO CREATE A SPECIAL
12 FUND IN THE STATE TREASURY FOR SUPPORT OF THE PROGRAM TO BE
13 ADMINISTERED BY THE JUVENILE HEALTH RECOVERY BOARD; TO PRESCRIBE A
14 MISDEMEANOR FOR POSSESSING DEADLY WEAPONS OR EXPLOSIVES ON THE
15 GROUNDS OF A RESCUE CENTER; TO AMEND SECTION 43-21-605,
16 MISSISSIPPI CODE OF 1972, TO AUTHORIZE YOUTH COURT PLACEMENT
17 ORDERS TO THE RESCUE CENTER RESIDENTIAL FACILITIES; TO AMEND
18 SECTION 37-13-92, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL
19 SCHOOL BOARDS TO REFER SUCH CHILDREN TO THE YOUTH COURT FOR
20 PLACEMENT IN THESE CENTERS IF THE ALTERNATIVE SCHOOL PROGRAM IS
21 NOT APPROPRIATE AND TO CLARIFY THE DISCRETION OF SCHOOL
22 SUPERINTENDENTS IN ASSIGNING STUDENTS TO ALTERNATIVE SCHOOLS; TO
23 AMEND SECTION 43-13-117, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
24 MEDICAID REIMBURSEMENT FOR SERVICES AT RESCUE CENTER RESIDENTIAL
25 FACILITIES ESTABLISHED UNDER THE PROGRAM; AND FOR RELATED
26 PURPOSES.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

28 SECTION 1. The purpose of this act is to create, equip and
29 maintain a system of comprehensive multidisciplinary residential
30 facilities for compulsory-school-age children who have been
31 suspended or expelled from a local school district for serious and
32 chronic misconduct or who have been voluntarily placed in the
33 facility by the child's parent(s) or guardian(s). These
34 facilities shall be known as "Rescue Centers of Mississippi."

35 SECTION 2. (1) The Rescue Centers of Mississippi shall be
36 established and operated on a phased-in pilot program basis, and
37 shall be under the interim control and administrative authority of
38 a Juvenile Health Recovery Board consisting of the following seven
39 (7) members, or their designees:

- 40 (a) The Attorney General;
- 41 (b) The Executive Director of the Division of Medicaid;
- 42 (c) The Executive Director of the Department of Human
- 43 Services;
- 44 (d) The Executive Director of the Department of Mental
- 45 Health;
- 46 (e) The State Superintendent of Education;
- 47 (f) The Executive Director of the State Department of
- 48 Health; and
- 49 (g) The Commissioner of Public Safety.

50 The Juvenile Health Recovery Board shall meet upon the call

51 of the Attorney General not later than thirty (30) days after

52 passage of this act and shall organize by selecting a chairman and

53 vice-chairman who shall serve as secretary of the board.

54 (2) The Juvenile Health Recovery Board shall have the

55 following powers and responsibilities:

56 (a) The board shall promulgate rules and regulations as

57 necessary to implement and administer the Rescue Centers of

58 Mississippi program;

59 (b) The board shall select the location for each of the

60 five (5) pilot rescue center locations, one (1) to be in each of

61 the five (5) Mississippi congressional districts;

62 (c) The board shall contract with providers of health,

63 education and other residential services to the children residing

64 in such facilities;

65 (d) The board shall coordinate the delivery and funding

66 of services at such facilities;

67 (e) The board shall conduct research on the program to

68 determine a cost/benefit analysis of the program upon full

69 implementation, in comparison to the incarceration of such

70 children in correctional institutions, and other costs including

71 crime, human and social services and legal services; and

72 (f) The board shall establish local advisory councils

73 to each rescue center for the purpose of assisting in the

74 coordination and provision of services to the children, consisting
75 of the local school superintendent, local law enforcement
76 officers, the director of the regional mental health/retardation
77 center, school guidance counselors, and other appropriate members.

78 (3) The Juvenile Health Recovery Board shall develop the
79 rules and regulations for the operation of the pilot rescue
80 centers on or before January 1, 2000, and shall submit a report
81 with recommendations for full implementation of the program or its
82 discontinuance on or before July 1, 2002.

83 SECTION 3. The Rescue Centers of Mississippi shall serve
84 compulsory-school-age children, as defined in Section 39-13-91,
85 who have been expelled or suspended from school and are not
86 appropriate for an alternative school program because of serious
87 and chronically emotional or other behavioral disorders, and have
88 been ordered to such facility by the youth court of the county of
89 the residence of the child. Such youth court placement orders
90 shall be entered upon the recommendation of the local school board
91 or local law enforcement officers. Consensual orders also may be
92 entered for the placement of such children by their parent(s) or
93 guardian(s).

94 SECTION 4. (1) There shall be five (5) Mississippi rescue
95 centers in the three-year pilot program, one (1) to be located in
96 each of the five (5) Mississippi congressional districts. Rescue
97 centers shall be twenty-four-hour residential facilities housing
98 no more than twenty-five (25) children, each for a
99 twenty-four-month treatment cycle. Rescue centers may deliver the
100 following services to children residing in the facilities:

- 101 (a) Mental health services;
- 102 (b) Health care;
- 103 (c) Social services and training;
- 104 (d) Academic, vocational-technical and workforce
105 education;
- 106 (e) Security and law enforcement; and
- 107 (f) Youth court supervision.

108 (2) Support and maintenance costs of the rescue centers
109 shall be defrayed from the special fund created in Section 5.

110 SECTION 5. There is created in the State Treasury a special
111 fund into which shall be deposited all funds contributed by the
112 Department of Human Services, Department of Mental Health, State
113 Department of Education and Division of Medicaid for the operation
114 of the Rescue Centers of Mississippi pilot program, subject to
115 specific appropriation therefor by the Legislature. By the first
116 quarter of the 2000 fiscal year, and the three (3) fiscal years
117 thereafter, each agency named in this section shall pay into the
118 special fund out of its annual appropriation a sum equal to the
119 amount determined by the Juvenile Health Recovery Board to be
120 necessary for the operation of the pilot rescue centers. The
121 Division of Medicaid shall use all unmatched funds not committed
122 for another purpose to match federal Medicaid funds for any
123 Medicaid approved services that will be used in the rescue center
124 pilot program for Medicaid eligible children served at the rescue
125 centers.

126 SECTION 6. Any person who knowingly brings any firearm,
127 deadly weapon or explosive into a Rescue Center of Mississippi or
128 its grounds, or passes any thereof to a resident, employee or
129 officer of the center, is guilty of a misdemeanor and, upon
130 conviction, shall be punished by a fine of not less than Fifty
131 Dollars (\$50.00) nor more than Two Hundred Fifty Dollars
132 (\$250.00), imprisonment for not less than six (6) months nor more
133 than one (1) year, or both.

134 SECTION 7. Section 43-21-605, Mississippi Code of 1972, is
135 amended as follows:

136 43-21-605. (1) In delinquency cases, the disposition order
137 may include any of the following alternatives * * *, giving
138 precedence in the following sequence:

139 (a) Release the child without further action;

140 (b) Place the child in the custody of the parents, a
141 relative or other persons subject to any conditions and

142 limitations, including restitution, as the youth court may
143 prescribe;

144 (c) Place the child on probation subject to any
145 reasonable and appropriate conditions and limitations, including
146 restitution, as the youth court may prescribe;

147 (d) Order terms of treatment calculated to assist the
148 child and the child's parents or guardian which are within the
149 ability of the parent or guardian to perform;

150 (e) Order terms of supervision which may include
151 participation in a constructive program of service or education or
152 civil fines not in excess of Five Hundred Dollars (\$500.00), or
153 restitution not in excess of actual damages caused by the child to
154 be paid out of his own assets or by performance of services
155 acceptable to the victims and approved by the youth court and
156 reasonably capable of performance within one (1) year;

157 (f) Suspend the child's driver's license by taking and
158 keeping it in custody of the court for not more than one (1) year;

159 (g) Give legal custody of the child to any of the
160 following:

161 (i) The Department of Human Services for
162 appropriate placement; or

163 (ii) Any public or private organization,
164 preferably community-based, able to assume the education, care and
165 maintenance of the child, which has been found suitable by the
166 court; or

167 (iii) The Department of Human Services for
168 placement in a wilderness training program or a state-supported
169 training school, except that no child under the age of ten (10)
170 years shall be committed to a state training school. The training
171 school may retain custody of the child until the child's twentieth
172 birthday but for no longer. The superintendent of a state
173 training school may parole a child at any time he may deem it in
174 the best interest and welfare of such child. Twenty (20) days
175 prior to such parole, the training school shall notify the

176 committing court of the pending release. The youth court may then
177 arrange subsequent placement after a reconvened disposition
178 hearing except that the youth court may not recommit the child to
179 the training school or any other secure facility without an
180 adjudication of a new offense or probation or parole violation.
181 Prior to assigning the custody of any child to any private
182 institution or agency, the youth court through its designee shall
183 first inspect the physical facilities to determine that they
184 provide a reasonable standard of health and safety for the child.
185 The youth court shall not place a child in the custody of a state
186 training school for truancy, unless such child has been
187 adjudicated to have committed an act of delinquency in addition to
188 truancy;

189 (h) Recommend to the child and the child's parents or
190 guardian that the child attend and participate in the Youth
191 Challenge Program under the Mississippi National Guard, as created
192 in Section 43-27-203, subject to the selection of the child for
193 the program by the National Guard; however, the child must
194 volunteer to participate in the program. The youth court may not
195 order any child to apply or attend the program;

196 (i) (i) Adjudicate the juvenile to the Statewide
197 Juvenile Work Program if the program is established in the court's
198 jurisdiction. The juvenile and his parents or guardians must sign
199 a waiver of liability in order to participate in the work program.
200 The judge will coordinate with the youth services counselors as to
201 placing participants in the work program;

202 (ii) The severity of the crime, whether or not the
203 juvenile is a repeat offender or is a felony offender will be
204 taken into consideration by the judge when adjudicating a juvenile
205 to the work program. The juveniles adjudicated to the work
206 program will be supervised by police officers or reserve officers.
207 The term of service will be from twenty-four (24) to one hundred
208 twenty (120) hours of community service. A juvenile will work the
209 hours to which he was adjudicated on the weekends during school

210 and week days during the summer. Parents are responsible for a
211 juvenile reporting for work. Noncompliance with an order to
212 perform community service will result in a heavier adjudication.
213 A juvenile may be adjudicated to the community service program
214 only two (2) times;

215 (iii) The judge shall assess an additional fine on
216 the juvenile which will be used to pay the costs of implementation
217 of the program and to pay for supervision by police officers and
218 reserve officers. The amount of the fine will be based on the
219 number of hours to which the juvenile has been adjudicated; * * *

220 (j) Order the child to participate in a youth court
221 work program as provided in Section 43-21-627; or

222 (k) Upon recommendation of the local school
223 superintendent or local law enforcement officers, adjudicate the
224 child to a Mississippi rescue center residential treatment and
225 education program facility if such facility or facilities are
226 established under House Bill No. _____, 1999 Regular Session.

227 (2) In addition to any of the disposition alternatives
228 authorized under subsection (1) of this section, the disposition
229 order in any case in which the child is adjudicated delinquent for
230 an offense under Section 63-11-30 shall include an order denying
231 the driver's license and driving privileges of the child as
232 required under subsection (8) of Section 63-11-30.

233 (3) Fines levied under this chapter shall be paid into the
234 general fund of the county but, in those counties wherein the
235 youth court is a branch of the municipal government, it shall be
236 paid into the municipal treasury.

237 (4) Any institution or agency to which a child has been
238 committed shall give to the youth court any information concerning
239 the child as the youth court may at any time require.

240 (5) The youth court shall not place a child in another
241 school district who has been expelled from a school district for
242 the commission of a violent act. For the purpose of this
243 subsection, "violent act" means any action which results in death

244 or physical harm to another or an attempt to cause death or
245 physical harm to another.

246 SECTION 8. Section 37-13-92, Mississippi Code of 1972, is
247 amended as follows:

248 37-13-92. (1) Beginning with the school year 1993-1994, the
249 school boards of all school districts shall establish, maintain
250 and operate, in connection with the regular programs of the school
251 district, an alternative school program for, but not limited to,
252 the following categories of compulsory-school-age students:

253 (a) Any compulsory-school-age child who has been
254 suspended for more than ten (10) days or expelled from school,
255 except as provided in subsection (2);

256 (b) Any compulsory-school-age child referred to such
257 alternative school based upon a documented need for placement in
258 the alternative school program by the parent, legal guardian or
259 custodian of such child due to disciplinary problems; and

260 (c) Any compulsory-school-age child referred to such
261 alternative school program by the dispositive order of a
262 chancellor or youth court judge, with the consent of the
263 superintendent of the child's school district.

264 (2) Notwithstanding any other provisions to the contrary, no
265 school district shall be required to enroll any
266 compulsory-school-age child in an alternative school program if
267 such student: (a) is suspended or expelled for possession of a
268 weapon or other felonious conduct or any other violation set forth
269 in Section 37-11-18; (b) poses a threat to the safety of himself
270 or to others; or (c) is disruptive to the educational process
271 being provided to other students, subject to review by and the
272 approval of the school board taking under consideration
273 recommendations by the administrator of the alternative school and
274 the appropriate guidance counselor. In such cases the local
275 school superintendent may recommend to the youth court of the
276 residence of the child that the child should be placed in a
277 Mississippi rescue center residential treatment facility program

278 pursuant to House Bill No. _____, 1999 Regular Session.

279 (3) The principal or program administrator of any such
280 alternative school program shall require verification from the
281 appropriate guidance counselor of any such child referred to the
282 alternative school program regarding the suitability of such child
283 for attendance at the alternative school program. Before a
284 student may be removed to an alternative school education program,
285 the superintendent of the student's school district must determine
286 that the written and distributed disciplinary policy of the local
287 district is being followed. The policy shall include standards
288 for:

289 (a) The removal of a student to an alternative
290 education program that will include a process of educational
291 review to develop the student's individual instruction plan and
292 the evaluation at regular intervals of the student's educational
293 progress; the process shall include classroom teachers and/or
294 other appropriate professional personnel, as defined in the
295 district policy, to ensure a continuing educational program for
296 the removed student;

297 (b) The duration of alternative placement; and

298 (c) The notification of parents or guardians, and their
299 appropriate inclusion in the removal and evaluation process, as
300 defined in the district policy. Nothing in this paragraph should
301 be defined in a manner to circumvent the principal's or the
302 superintendent's authority to remove a student to alternative
303 education.

304 (4) The local school board or the superintendent shall
305 provide for the continuing education of a student who has been
306 removed to an alternative school program.

307 (5) A school district, in its discretion, may provide a
308 program of general educational development (GED) preparatory
309 instruction in the alternative school program. However, any GED
310 preparation program offered in an alternative school program must
311 be administered in compliance with the rules and regulations

312 established for such programs under Sections 37-35-1 through
313 37-35-11 and by the State Board for Community and Junior Colleges.
314 The school district may administer the General Educational
315 Development (GED) Testing Program under the policies and
316 guidelines of the GED Testing Service of the American Council on
317 Education in the alternative school program or may authorize the
318 test to be administered through the community/junior college
319 district in which the alternative school is situated.

320 (6) Any such alternative school program operated under the
321 authority of this section shall meet all appropriate accreditation
322 requirements of the State Department of Education.

323 (7) The alternative school program may be held within such
324 school district or may be operated by two (2) or more adjacent
325 school districts, pursuant to a contract approved by the State
326 Board of Education. When two (2) or more school districts
327 contract to operate an alternative school program, the school
328 board of a district designated to be the lead district shall serve
329 as the governing board of the alternative school program.

330 Transportation for students attending the alternative school
331 program shall be the responsibility of the local school district.

332 The expense of establishing, maintaining and operating such
333 alternative school program may be paid from funds contributed or
334 otherwise made available to the school district for such purpose
335 or from local district maintenance funds.

336 (8) The State Board of Education shall promulgate minimum
337 guidelines for alternative school programs. The guidelines shall
338 require, at a minimum, the formulation of an individual
339 instruction plan for each student referred to the alternative
340 school program and, upon a determination that it is in a student's
341 best interest for that student to receive general educational
342 development (GED) preparatory instruction, that the local school
343 board assign the student to a GED preparatory program established
344 under subsection (4) of this section. The minimum guidelines for
345 alternative school programs shall also require the following

346 components:

347 (a) Clear guidelines and procedures for placement of
348 students into alternative education programs which at a minimum
349 shall prescribe due process procedures for disciplinary and
350 general educational development (GED) placement;

351 (b) Clear and consistent goals for students and
352 parents;

353 (c) Curricula addressing cultural and learning style
354 differences;

355 (d) Direct supervision of all activities on a closed
356 campus;

357 (e) Full-day attendance with a rigorous workload and
358 minimal time off;

359 (f) Selection of program from options provided by the
360 local school district, Division of Youth Services or the youth
361 court, including transfer to a community-based alternative school;

362 (g) Continual monitoring and evaluation and formalized
363 passage from one step or program to another;

364 (h) A motivated and culturally diverse staff;

365 (i) Counseling for parents and students;

366 (j) Administrative and community support for the
367 program; and

368 (k) Clear procedures for annual alternative school
369 program review and evaluation.

370 (9) On request of a school district, the State Department of
371 Education shall provide the district informational material on
372 developing an alternative school program that takes into
373 consideration size, wealth and existing facilities in determining
374 a program best suited to a district.

375 (10) Any compulsory-school-age child who becomes involved in
376 any criminal or violent behavior shall be removed from such
377 alternative school program and, if probable cause exists, a case
378 shall be referred to the youth court.

379 (11) The State Board of Education, in its discretion, may

380 exempt not more than four (4) school district alternative school
381 programs in the state from any compulsory standard of
382 accreditation for a period of three (3) years. During this
383 period, the State Department of Education shall conduct a study of
384 all alternative school programs in the state, and on or before
385 January 1, 2000, shall develop and promulgate accreditation
386 standards for all alternative school programs, including any
387 recommendations for necessary legislation relating to such
388 alternative school programs.

389 SECTION 9. Section 43-13-117, Mississippi Code of 1972, is
390 amended as follows:

391 43-13-117. Medical assistance as authorized by this article
392 shall include payment of part or all of the costs, at the
393 discretion of the division or its successor, with approval of the
394 Governor, of the following types of care and services rendered to
395 eligible applicants who shall have been determined to be eligible
396 for such care and services, within the limits of state
397 appropriations and federal matching funds:

398 (1) Inpatient hospital services.

399 (a) The division shall allow thirty (30) days of
400 inpatient hospital care annually for all Medicaid recipients;
401 however, before any recipient will be allowed more than fifteen
402 (15) days of inpatient hospital care in any one (1) year, he must
403 obtain prior approval therefor from the division. The division
404 shall be authorized to allow unlimited days in disproportionate
405 hospitals as defined by the division for eligible infants under
406 the age of six (6) years.

407 (b) From and after July 1, 1994, the Executive Director
408 of the Division of Medicaid shall amend the Mississippi Title XIX
409 Inpatient Hospital Reimbursement Plan to remove the occupancy rate
410 penalty from the calculation of the Medicaid Capital Cost
411 Component utilized to determine total hospital costs allocated to
412 the Medicaid program.

413 (2) Outpatient hospital services. Provided that where the

414 same services are reimbursed as clinic services, the division may
415 revise the rate or methodology of outpatient reimbursement to
416 maintain consistency, efficiency, economy and quality of care.

417 (3) Laboratory and x-ray services.

418 (4) Nursing facility services.

419 (a) The division shall make full payment to nursing
420 facilities for each day, not exceeding thirty-six (36) days per
421 year, that a patient is absent from the facility on home leave.
422 However, before payment may be made for more than eighteen (18)
423 home leave days in a year for a patient, the patient must have
424 written authorization from a physician stating that the patient is
425 physically and mentally able to be away from the facility on home
426 leave. Such authorization must be filed with the division before
427 it will be effective and the authorization shall be effective for
428 three (3) months from the date it is received by the division,
429 unless it is revoked earlier by the physician because of a change
430 in the condition of the patient.

431 (b) From and after July 1, 1993, the division shall
432 implement the integrated case-mix payment and quality monitoring
433 system developed pursuant to Section 43-13-122, which includes the
434 fair rental system for property costs and in which recapture of
435 depreciation is eliminated. The division may revise the
436 reimbursement methodology for the case-mix payment system by
437 reducing payment for hospital leave and therapeutic home leave
438 days to the lowest case-mix category for nursing facilities,
439 modifying the current method of scoring residents so that only
440 services provided at the nursing facility are considered in
441 calculating a facility's per diem, and the division may limit
442 administrative and operating costs, but in no case shall these
443 costs be less than one hundred nine percent (109%) of the median
444 administrative and operating costs for each class of facility, not
445 to exceed the median used to calculate the nursing facility
446 reimbursement for fiscal year 1996, to be applied uniformly to all
447 long-term care facilities. This paragraph (b) shall stand

448 repealed on July 1, 1997.

449 (c) From and after July 1, 1997, all state-owned
450 nursing facilities shall be reimbursed on a full reasonable costs
451 basis. From and after July 1, 1997, payments by the division to
452 nursing facilities for return on equity capital shall be made at
453 the rate paid under Medicare (Title XVIII of the Social Security
454 Act), but shall be no less than seven and one-half percent (7.5%)
455 nor greater than ten percent (10%).

456 (d) A review board for nursing facilities is
457 established to conduct reviews of the Division of Medicaid's
458 decision in the areas set forth below:

459 (i) Review shall be heard in the following areas:

460 (A) Matters relating to cost reports
461 including, but not limited to, allowable costs and cost
462 adjustments resulting from desk reviews and audits.

463 (B) Matters relating to the Minimum Data Set
464 Plus (MDS +) or successor assessment formats including, but not
465 limited to, audits, classifications and submissions.

466 (ii) The review board shall be composed of six (6)
467 members, three (3) having expertise in one (1) of the two (2)
468 areas set forth above and three (3) having expertise in the other
469 area set forth above. Each panel of three (3) shall only review
470 appeals arising in its area of expertise. The members shall be
471 appointed as follows:

472 (A) In each of the areas of expertise defined
473 under subparagraphs (i)(A) and (i)(B), the Executive Director of
474 the Division of Medicaid shall appoint one (1) person chosen from
475 the private sector nursing home industry in the state, which may
476 include independent accountants and consultants serving the
477 industry;

478 (B) In each of the areas of expertise defined
479 under subparagraphs (i)(A) and (i)(B), the Executive Director of
480 the Division of Medicaid shall appoint one (1) person who is
481 employed by the state who does not participate directly in desk

482 reviews or audits of nursing facilities in the two (2) areas of
483 review;

484 (C) The two (2) members appointed by the
485 Executive Director of the Division of Medicaid in each area of
486 expertise shall appoint a third member in the same area of
487 expertise.

488 In the event of a conflict of interest on the part of any
489 review board members, the Executive Director of the Division of
490 Medicaid or the other two (2) panel members, as applicable, shall
491 appoint a substitute member for conducting a specific review.

492 (iii) The review board panels shall have the power
493 to preserve and enforce order during hearings; to issue subpoenas;
494 to administer oaths; to compel attendance and testimony of
495 witnesses; or to compel the production of books, papers, documents
496 and other evidence; or the taking of depositions before any
497 designated individual competent to administer oaths; to examine
498 witnesses; and to do all things conformable to law that may be
499 necessary to enable it effectively to discharge its duties. The
500 review board panels may appoint such person or persons as they
501 shall deem proper to execute and return process in connection
502 therewith.

503 (iv) The review board shall promulgate, publish
504 and disseminate to nursing facility providers rules of procedure
505 for the efficient conduct of proceedings, subject to the approval
506 of the Executive Director of the Division of Medicaid and in
507 accordance with federal and state administrative hearing laws and
508 regulations.

509 (v) Proceedings of the review board shall be of
510 record.

511 (vi) Appeals to the review board shall be in
512 writing and shall set out the issues, a statement of alleged facts
513 and reasons supporting the provider's position. Relevant
514 documents may also be attached. The appeal shall be filed within
515 thirty (30) days from the date the provider is notified of the

516 action being appealed or, if informal review procedures are taken,
517 as provided by administrative regulations of the Division of
518 Medicaid, within thirty (30) days after a decision has been
519 rendered through informal hearing procedures.

520 (vii) The provider shall be notified of the
521 hearing date by certified mail within thirty (30) days from the
522 date the Division of Medicaid receives the request for appeal.
523 Notification of the hearing date shall in no event be less than
524 thirty (30) days before the scheduled hearing date. The appeal
525 may be heard on shorter notice by written agreement between the
526 provider and the Division of Medicaid.

527 (viii) Within thirty (30) days from the date of
528 the hearing, the review board panel shall render a written
529 recommendation to the Executive Director of the Division of
530 Medicaid setting forth the issues, findings of fact and applicable
531 law, regulations or provisions.

532 (ix) The Executive Director of the Division of
533 Medicaid shall, upon review of the recommendation, the proceedings
534 and the record, prepare a written decision which shall be mailed
535 to the nursing facility provider no later than twenty (20) days
536 after the submission of the recommendation by the panel. The
537 decision of the executive director is final, subject only to
538 judicial review.

539 (x) Appeals from a final decision shall be made to
540 the Chancery Court of Hinds County. The appeal shall be filed
541 with the court within thirty (30) days from the date the decision
542 of the Executive Director of the Division of Medicaid becomes
543 final.

544 (xi) The action of the Division of Medicaid under
545 review shall be stayed until all administrative proceedings have
546 been exhausted.

547 (xii) Appeals by nursing facility providers
548 involving any issues other than those two (2) specified in
549 subparagraphs (i)(A) and (ii)(B) shall be taken in accordance with

550 the administrative hearing procedures established by the Division
551 of Medicaid.

552 (e) When a facility of a category that does not require
553 a certificate of need for construction and that could not be
554 eligible for Medicaid reimbursement is constructed to nursing
555 facility specifications for licensure and certification, and the
556 facility is subsequently converted to a nursing facility pursuant
557 to a certificate of need that authorizes conversion only and the
558 applicant for the certificate of need was assessed an application
559 review fee based on capital expenditures incurred in constructing
560 the facility, the division shall allow reimbursement for capital
561 expenditures necessary for construction of the facility that were
562 incurred within the twenty-four (24) consecutive calendar months
563 immediately preceding the date that the certificate of need
564 authorizing such conversion was issued, to the same extent that
565 reimbursement would be allowed for construction of a new nursing
566 facility pursuant to a certificate of need that authorizes such
567 construction. The reimbursement authorized in this subparagraph
568 (e) may be made only to facilities the construction of which was
569 completed after June 30, 1989. Before the division shall be
570 authorized to make the reimbursement authorized in this
571 subparagraph (e), the division first must have received approval
572 from the Health Care Financing Administration of the United States
573 Department of Health and Human Services of the change in the state
574 Medicaid plan providing for such reimbursement.

575 (5) Periodic screening and diagnostic services for
576 individuals under age twenty-one (21) years as are needed to
577 identify physical and mental defects and to provide health care
578 treatment and other measures designed to correct or ameliorate
579 defects and physical and mental illness and conditions discovered
580 by the screening services regardless of whether these services are
581 included in the state plan. The division may include in its
582 periodic screening and diagnostic program those discretionary
583 services authorized under the federal regulations adopted to

584 implement Title XIX of the federal Social Security Act, as
585 amended. The division, in obtaining physical therapy services,
586 occupational therapy services, and services for individuals with
587 speech, hearing and language disorders, may enter into a
588 cooperative agreement with the State Department of Education for
589 the provision of such services to handicapped students by public
590 school districts using state funds which are provided from the
591 appropriation to the Department of Education to obtain federal
592 matching funds through the division. The division, in obtaining
593 medical and psychological evaluations for children in the custody
594 of the State Department of Human Services may enter into a
595 cooperative agreement with the State Department of Human Services
596 for the provision of such services using state funds which are
597 provided from the appropriation to the Department of Human
598 Services to obtain federal matching funds through the division.

599 On July 1, 1993, all fees for periodic screening and
600 diagnostic services under this paragraph (5) shall be increased by
601 twenty-five percent (25%) of the reimbursement rate in effect on
602 June 30, 1993.

603 (6) Physicians' services. On January 1, 1996, all fees for
604 physicians' services shall be reimbursed at seventy percent (70%)
605 of the rate established on January 1, 1994, under Medicare (Title
606 XVIII of the Social Security Act), as amended, and the division
607 may adjust the physicians' reimbursement schedule to reflect the
608 differences in relative value between Medicaid and Medicare.

609 (7) (a) Home health services for eligible persons, not to
610 exceed in cost the prevailing cost of nursing facility services,
611 not to exceed sixty (60) visits per year.

612 (b) The division may revise reimbursement for home
613 health services in order to establish equity between reimbursement
614 for home health services and reimbursement for institutional
615 services within the Medicaid program. This paragraph (b) shall
616 stand repealed on July 1, 1997.

617 (8) Emergency medical transportation services. On January

618 1, 1994, emergency medical transportation services shall be
619 reimbursed at seventy percent (70%) of the rate established under
620 Medicare (Title XVIII of the Social Security Act), as amended.
621 "Emergency medical transportation services" shall mean, but shall
622 not be limited to, the following services by a properly permitted
623 ambulance operated by a properly licensed provider in accordance
624 with the Emergency Medical Services Act of 1974 (Section 41-59-1
625 et seq.): (i) basic life support, (ii) advanced life support,
626 (iii) mileage, (iv) oxygen, (v) intravenous fluids, (vi)
627 disposable supplies, (vii) similar services.

628 (9) Legend and other drugs as may be determined by the
629 division. The division may implement a program of prior approval
630 for drugs to the extent permitted by law. Payment by the division
631 for covered multiple source drugs shall be limited to the lower of
632 the upper limits established and published by the Health Care
633 Financing Administration (HCFA) plus a dispensing fee of Four
634 Dollars and Ninety-one Cents (\$4.91), or the estimated acquisition
635 cost (EAC) as determined by the division plus a dispensing fee of
636 Four Dollars and Ninety-one Cents (\$4.91), or the providers' usual
637 and customary charge to the general public. The division shall
638 allow five (5) prescriptions per month for noninstitutionalized
639 Medicaid recipients.

640 Payment for other covered drugs, other than multiple source
641 drugs with HCFA upper limits, shall not exceed the lower of the
642 estimated acquisition cost as determined by the division plus a
643 dispensing fee of Four Dollars and Ninety-one Cents (\$4.91) or the
644 providers' usual and customary charge to the general public.

645 Payment for nonlegend or over-the-counter drugs covered on
646 the division's formulary shall be reimbursed at the lower of the
647 division's estimated shelf price or the providers' usual and
648 customary charge to the general public. No dispensing fee shall
649 be paid.

650 The division shall develop and implement a program of payment
651 for additional pharmacist services, with payment to be based on

652 demonstrated savings, but in no case shall the total payment
653 exceed twice the amount of the dispensing fee.

654 As used in this paragraph (9), "estimated acquisition cost"
655 means the division's best estimate of what price providers
656 generally are paying for a drug in the package size that providers
657 buy most frequently. Product selection shall be made in
658 compliance with existing state law; however, the division may
659 reimburse as if the prescription had been filled under the generic
660 name. The division may provide otherwise in the case of specified
661 drugs when the consensus of competent medical advice is that
662 trademarked drugs are substantially more effective.

663 (10) Dental care that is an adjunct to treatment of an acute
664 medical or surgical condition; services of oral surgeons and
665 dentists in connection with surgery related to the jaw or any
666 structure contiguous to the jaw or the reduction of any fracture
667 of the jaw or any facial bone; and emergency dental extractions
668 and treatment related thereto. On January 1, 1994, all fees for
669 dental care and surgery under authority of this paragraph (10)
670 shall be increased by twenty percent (20%) of the reimbursement
671 rate as provided in the Dental Services Provider Manual in effect
672 on December 31, 1993.

673 (11) Eyeglasses necessitated by reason of eye surgery, and
674 as prescribed by a physician skilled in diseases of the eye or an
675 optometrist, whichever the patient may select.

676 (12) Intermediate care facility services.

677 (a) The division shall make full payment to all
678 intermediate care facilities for the mentally retarded for each
679 day, not exceeding thirty-six (36) days per year, that a patient
680 is absent from the facility on home leave. However, before
681 payment may be made for more than eighteen (18) home leave days in
682 a year for a patient, the patient must have written authorization
683 from a physician stating that the patient is physically and
684 mentally able to be away from the facility on home leave. Such
685 authorization must be filed with the division before it will be

686 effective, and the authorization shall be effective for three (3)
687 months from the date it is received by the division, unless it is
688 revoked earlier by the physician because of a change in the
689 condition of the patient.

690 (b) All state-owned intermediate care facilities for
691 the mentally retarded shall be reimbursed on a full reasonable
692 cost basis.

693 (13) Family planning services, including drugs, supplies and
694 devices, when such services are under the supervision of a
695 physician.

696 (14) Clinic services. Such diagnostic, preventive,
697 therapeutic, rehabilitative or palliative services furnished to an
698 outpatient by or under the supervision of a physician or dentist
699 in a facility which is not a part of a hospital but which is
700 organized and operated to provide medical care to outpatients.
701 Clinic services shall include any services reimbursed as
702 outpatient hospital services which may be rendered in such a
703 facility, including those that become so after July 1, 1991. On
704 January 1, 1994, all fees for physicians' services reimbursed
705 under authority of this paragraph (14) shall be reimbursed at
706 seventy percent (70%) of the rate established on January 1, 1993,
707 under Medicare (Title XVIII of the Social Security Act), as
708 amended, or the amount that would have been paid under the
709 division's fee schedule that was in effect on December 31, 1993,
710 whichever is greater, and the division may adjust the physicians'
711 reimbursement schedule to reflect the differences in relative
712 value between Medicaid and Medicare. However, on January 1, 1994,
713 the division may increase any fee for physicians' services in the
714 division's fee schedule on December 31, 1993, that was greater
715 than seventy percent (70%) of the rate established under Medicare
716 by no more than ten percent (10%). On January 1, 1994, all fees
717 for dentists' services reimbursed under authority of this
718 paragraph (14) shall be increased by twenty percent (20%) of the
719 reimbursement rate as provided in the Dental Services Provider

720 Manual in effect on December 31, 1993.

721 (15) Home- and community-based services, as provided under
722 Title XIX of the federal Social Security Act, as amended, under
723 waivers, subject to the availability of funds specifically
724 appropriated therefor by the Legislature. Payment for such
725 services shall be limited to individuals who would be eligible for
726 and would otherwise require the level of care provided in a
727 nursing facility. The division shall certify case management
728 agencies to provide case management services and provide for home-
729 and community-based services for eligible individuals under this
730 paragraph. The home- and community-based services under this
731 paragraph and the activities performed by certified case
732 management agencies under this paragraph shall be funded using
733 state funds that are provided from the appropriation to the
734 Division of Medicaid and used to match federal funds under a
735 cooperative agreement between the division and the Department of
736 Human Services.

737 (16) Mental health services. Approved therapeutic and case
738 management services provided by (a) an approved regional mental
739 health/retardation center established under Sections 41-19-31
740 through 41-19-39, or by another community mental health service
741 provider meeting the requirements of the Department of Mental
742 Health to be an approved mental health/retardation center if
743 determined necessary by the Department of Mental Health, using
744 state funds which are provided from the appropriation to the State
745 Department of Mental Health and used to match federal funds under
746 a cooperative agreement between the division and the department,
747 or (b) a facility which is certified by the State Department of
748 Mental Health to provide therapeutic and case management services,
749 to be reimbursed on a fee for service basis. Any such services
750 provided by a facility described in paragraph (b) must have the
751 prior approval of the division to be reimbursable under this
752 section. After June 30, 1997, mental health services provided by
753 regional mental health/retardation centers established under

754 Sections 41-19-31 through 41-19-39, or by hospitals as defined in
755 Section 41-9-3(a) and/or their subsidiaries and divisions, or by
756 psychiatric residential treatment facilities as defined in Section
757 43-11-1, or by another community mental health service provider
758 meeting the requirements of the Department of Mental Health to be
759 an approved mental health/retardation center if determined
760 necessary by the Department of Mental Health, shall not be
761 included in or provided under any capitated managed care pilot
762 program provided for under paragraph (24) of this section.

763 (17) Durable medical equipment services and medical supplies
764 restricted to patients receiving home health services unless
765 waived on an individual basis by the division. The division shall
766 not expend more than Three Hundred Thousand Dollars (\$300,000.00)
767 of state funds annually to pay for medical supplies authorized
768 under this paragraph.

769 (18) Notwithstanding any other provision of this section to
770 the contrary, the division shall make additional reimbursement to
771 hospitals which serve a disproportionate share of low-income
772 patients and which meet the federal requirements for such payments
773 as provided in Section 1923 of the federal Social Security Act and
774 any applicable regulations.

775 (19) (a) Perinatal risk management services. The division
776 shall promulgate regulations to be effective from and after
777 October 1, 1988, to establish a comprehensive perinatal system for
778 risk assessment of all pregnant and infant Medicaid recipients and
779 for management, education and follow-up for those who are
780 determined to be at risk. Services to be performed include case
781 management, nutrition assessment/counseling, psychosocial
782 assessment/counseling and health education. The division shall
783 set reimbursement rates for providers in conjunction with the
784 State Department of Health.

785 (b) Early intervention system services. The division
786 shall cooperate with the State Department of Health, acting as
787 lead agency, in the development and implementation of a statewide

788 system of delivery of early intervention services, pursuant to
789 Part H of the Individuals with Disabilities Education Act (IDEA).

790 The State Department of Health shall certify annually in writing
791 to the director of the division the dollar amount of state early
792 intervention funds available which shall be utilized as a
793 certified match for Medicaid matching funds. Those funds then
794 shall be used to provide expanded targeted case management
795 services for Medicaid eligible children with special needs who are
796 eligible for the state's early intervention system.

797 Qualifications for persons providing service coordination shall be
798 determined by the State Department of Health and the Division of
799 Medicaid.

800 (20) Home- and community-based services for physically
801 disabled approved services as allowed by a waiver from the U.S.
802 Department of Health and Human Services for home- and
803 community-based services for physically disabled people using
804 state funds which are provided from the appropriation to the State
805 Department of Rehabilitation Services and used to match federal
806 funds under a cooperative agreement between the division and the
807 department, provided that funds for these services are
808 specifically appropriated to the Department of Rehabilitation
809 Services.

810 (21) Nurse practitioner services. Services furnished by a
811 registered nurse who is licensed and certified by the Mississippi
812 Board of Nursing as a nurse practitioner including, but not
813 limited to, nurse anesthetists, nurse midwives, family nurse
814 practitioners, family planning nurse practitioners, pediatric
815 nurse practitioners, obstetrics-gynecology nurse practitioners and
816 neonatal nurse practitioners, under regulations adopted by the
817 division. Reimbursement for such services shall not exceed ninety
818 percent (90%) of the reimbursement rate for comparable services
819 rendered by a physician.

820 (22) Ambulatory services delivered in federally qualified
821 health centers and in clinics of the local health departments of

822 the State Department of Health for individuals eligible for
823 medical assistance under this article based on reasonable costs as
824 determined by the division.

825 (23) Inpatient psychiatric services. Inpatient psychiatric
826 services to be determined by the division for recipients under age
827 twenty-one (21) which are provided under the direction of a
828 physician in an inpatient program in a licensed acute care
829 psychiatric facility or in a licensed psychiatric residential
830 treatment facility, before the recipient reaches age twenty-one
831 (21) or, if the recipient was receiving the services immediately
832 before he reached age twenty-one (21), before the earlier of the
833 date he no longer requires the services or the date he reaches age
834 twenty-two (22), as provided by federal regulations. Recipients
835 shall be allowed forty-five (45) days per year of psychiatric
836 services provided in acute care psychiatric facilities, and shall
837 be allowed unlimited days of psychiatric services provided in
838 licensed psychiatric residential treatment facilities.

839 (24) Managed care services in a program to be developed by
840 the division by a public or private provider. Notwithstanding any
841 other provision in this article to the contrary, the division
842 shall establish rates of reimbursement to providers rendering care
843 and services authorized under this section, and may revise such
844 rates of reimbursement without amendment to this section by the
845 Legislature for the purpose of achieving effective and accessible
846 health services, and for responsible containment of costs. This
847 shall include, but not be limited to, one (1) module of capitated
848 managed care in a rural area, and one (1) module of capitated
849 managed care in an urban area.

850 (25) Birthing center services.

851 (26) Hospice care. As used in this paragraph, the term
852 "hospice care" means a coordinated program of active professional
853 medical attention within the home and outpatient and inpatient
854 care which treats the terminally ill patient and family as a unit,
855 employing a medically directed interdisciplinary team. The

856 program provides relief of severe pain or other physical symptoms
857 and supportive care to meet the special needs arising out of
858 physical, psychological, spiritual, social and economic stresses
859 which are experienced during the final stages of illness and
860 during dying and bereavement and meets the Medicare requirements
861 for participation as a hospice as provided in 42 CFR Part 418.

862 (27) Group health plan premiums and cost sharing if it is
863 cost effective as defined by the Secretary of Health and Human
864 Services.

865 (28) Other health insurance premiums which are cost
866 effective as defined by the Secretary of Health and Human
867 Services. Medicare eligible must have Medicare Part B before
868 other insurance premiums can be paid.

869 (29) The Division of Medicaid may apply for a waiver from
870 the Department of Health and Human Services for home- and
871 community-based services for developmentally disabled people using
872 state funds which are provided from the appropriation to the State
873 Department of Mental Health and used to match federal funds under
874 a cooperative agreement between the division and the department,
875 provided that funds for these services are specifically
876 appropriated to the Department of Mental Health.

877 (30) Pediatric skilled nursing services for eligible persons
878 under twenty-one (21) years of age.

879 (31) Targeted case management services for children with
880 special needs, under waivers from the U.S. Department of Health
881 and Human Services, using state funds that are provided from the
882 appropriation to the Mississippi Department of Human Services and
883 used to match federal funds under a cooperative agreement between
884 the division and the department.

885 (32) Care and services provided in Christian Science
886 Sanatoria operated by or listed and certified by The First Church
887 of Christ Scientist, Boston, Massachusetts, rendered in connection
888 with treatment by prayer or spiritual means to the extent that
889 such services are subject to reimbursement under Section 1903 of

890 the Social Security Act.

891 (33) Podiatrist services.

892 (34) Personal care services provided in a pilot program to
893 not more than forty (40) residents at a location or locations to
894 be determined by the division and delivered by individuals
895 qualified to provide such services, as allowed by waivers under
896 Title XIX of the Social Security Act, as amended. The division
897 shall not expend more than Three Hundred Thousand Dollars
898 (\$300,000.00) annually to provide such personal care services.
899 The division shall develop recommendations for the effective
900 regulation of any facilities that would provide personal care
901 services which may become eligible for Medicaid reimbursement
902 under this section, and shall present such recommendations with
903 any proposed legislation to the 1996 Regular Session of the
904 Legislature on or before January 1, 1996.

905 (35) Services and activities authorized in Sections
906 43-27-101 and 43-27-103, using state funds that are provided from
907 the appropriation to the State Department of Human Services and
908 used to match federal funds under a cooperative agreement between
909 the division and the department.

910 (36) Nonemergency transportation services for
911 Medicaid-eligible persons, to be provided by the Department of
912 Human Services. The division may contract with additional
913 entities to administer nonemergency transportation services as it
914 deems necessary. All providers shall have a valid driver's
915 license, vehicle inspection sticker and a standard liability
916 insurance policy covering the vehicle.

917 (37) Targeted case management services for individuals with
918 chronic diseases, with expanded eligibility to cover services to
919 uninsured recipients, on a pilot program basis. This paragraph
920 (37) shall be contingent upon continued receipt of special funds
921 from the Health Care Financing Authority and private foundations
922 who have granted funds for planning these services. No funding
923 for these services shall be provided from State General Funds.

924 (38) Chiropractic services: a chiropractor's manual
925 manipulation of the spine to correct a subluxation, if x-ray
926 demonstrates that a subluxation exists and if the subluxation has
927 resulted in a neuromusculoskeletal condition for which
928 manipulation is appropriate treatment. Reimbursement for
929 chiropractic services shall not exceed Seven Hundred Dollars
930 (\$700.00) per year per recipient.

931 (39) Services for children placed in a Mississippi rescue
932 center treatment and education facility by the youth court, using
933 state funds that are provided from appropriations to the
934 Department of Human Services, the Department of Mental Health, the
935 State Department of Education and the Division of Medicaid and
936 used to match federal funds under a cooperative agreement with the
937 Juvenile Health Recovery Board pursuant to House Bill No. _____,
938 1999 Regular Session.

939 Notwithstanding any provision of this article, except as
940 authorized in the following paragraph and in Section 43-13-139,
941 neither (a) the limitations on quantity or frequency of use of or
942 the fees or charges for any of the care or services available to
943 recipients under this section, nor (b) the payments or rates of
944 reimbursement to providers rendering care or services authorized
945 under this section to recipients, may be increased, decreased or
946 otherwise changed from the levels in effect on July 1, 1986,
947 unless such is authorized by an amendment to this section by the
948 Legislature. However, the restriction in this paragraph shall not
949 prevent the division from changing the payments or rates of
950 reimbursement to providers without an amendment to this section
951 whenever such changes are required by federal law or regulation,
952 or whenever such changes are necessary to correct administrative
953 errors or omissions in calculating such payments or rates of
954 reimbursement.

955 Notwithstanding any provision of this article, no new groups
956 or categories of recipients and new types of care and services may
957 be added without enabling legislation from the Mississippi

958 Legislature, except that the division may authorize such changes
959 without enabling legislation when such addition of recipients or
960 services is ordered by a court of proper authority. The director
961 shall keep the Governor advised on a timely basis of the funds
962 available for expenditure and the projected expenditures. In the
963 event current or projected expenditures can be reasonably
964 anticipated to exceed the amounts appropriated for any fiscal
965 year, the Governor, after consultation with the director, shall
966 discontinue any or all of the payment of the types of care and
967 services as provided herein which are deemed to be optional
968 services under Title XIX of the federal Social Security Act, as
969 amended, for any period necessary to not exceed appropriated
970 funds, and when necessary shall institute any other cost
971 containment measures on any program or programs authorized under
972 the article to the extent allowed under the federal law governing
973 such program or programs, it being the intent of the Legislature
974 that expenditures during any fiscal year shall not exceed the
975 amounts appropriated for such fiscal year.

976 SECTION 10. This act shall take effect and be in force from
977 and after July 1, 1999.