

By: Representative Bourdeaux

To: Public Health and
Welfare

HOUSE BILL NO. 423

1 AN ACT TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR A FEDERAL WAIVER
3 TO EXEMPT NURSING FACILITIES MEETING CERTAIN REQUIREMENTS FROM THE
4 NURSING FACILITY ASSESSMENT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 43-13-145, Mississippi Code of 1972, is
7 amended as follows:

8 43-13-145. (1) Upon each nursing facility licensed by the
9 State of Mississippi and each intermediate care facility for the
10 mentally retarded licensed by the State of Mississippi, there is
11 levied an assessment in an amount set by the division not
12 exceeding Two Dollars (\$2.00) per day, or fraction thereof, for
13 each patient in a licensed bed of the facility. The division may
14 apply for a waiver from the U.S. Secretary of Health and Human
15 Services to exempt nonprofit, public, charitable or religious
16 facilities from the assessment levied under this subsection, and
17 if a waiver is granted, such facilities shall be exempt from any
18 assessment levied under this subsection after the date that the
19 division receives notice that the waiver has been granted.

20 From and after July 1, 1999, the division shall apply for a
21 waiver from the U. S. Secretary of Health and Human Services to
22 exempt nursing facilities that meet all of the following
23 requirements from the assessment levied under this subsection:

- 24 (a) Meet the requirements of Section 501(c)(3) of the
25 United States Internal Revenue Code;
- 26 (b) Do not participate in the Medicaid program;
- 27 (c) Are operated by or affiliated with a church or

28 religious organization; and

29 (d) Are exempt from Mississippi sales taxes pursuant to
30 Section 27-65-111(e) and Sales and Use Tax Rule 61.

31 The Legislature finds that exempting the small number of
32 nursing facilities that meet all of the requirements of paragraphs
33 (a) through (d) above from the assessment levied by this
34 subsection would not prevent the net impact of that assessment and
35 associated expenditures from being generally redistributive in
36 nature and would not cause the amount of the assessment to be
37 directly correlated to payments under the Medicaid program.
38 Instead, this exemption would permit a limited number of nursing
39 facilities to continue to offer nursing care to persons who
40 otherwise would rely on the Medicaid program to pay for nursing
41 care. If a waiver is granted for these nursing facilities, the
42 facilities shall be exempt from any assessment levied under this
43 subsection after the date that the division receives notice that
44 the waiver has been granted.

45 (2) The assessment levied under this section shall be
46 collected by the division each quarter beginning on July 1, 1992,
47 and shall be based on data for the quarter ending three (3) months
48 before the date the assessments are to be collected.

49 (3) All assessments collected under this section shall be
50 deposited in the Medical Care Fund created by Section 43-13-143.

51 (4) The assessment levied under this section shall be in
52 addition to any other assessments, taxes or fees levied by law.

53 (5) The assessment levied under this section shall
54 constitute a debt due the State of Mississippi from the time the
55 assessment is due until it is paid. If any facility liable for
56 payment of such assessment does not pay the assessment when it is
57 due, the division shall give written notice to the facility
58 demanding payment of the assessment within ten (10) days from the
59 date of delivery of the notice. Such notice shall be sent by
60 certified or registered mail or delivered to the facility by an

61 agent of the division. If any facility liable for the assessment
62 fails or refuses to pay it after receiving the notice and demand,
63 the division may withhold the Medicaid reimbursement payments that
64 are otherwise scheduled to be made to the facility from the time
65 the assessment is due until it is paid by the facility.

66 SECTION 2. Nothing in this act shall affect or defeat any
67 claim, suit, right or cause of action for assessments due or
68 accrued under Section 43-13-145 before the date on which this act
69 becomes effective, whether such claims, suits or actions have been
70 begun before the date on which this act becomes effective or are
71 begun thereafter; and the provisions of Section 43-13-145 are
72 expressly continued in full force, effect and operation for the
73 purpose of the collection of any assessments due or accrued before
74 the date on which this act becomes effective.

75 SECTION 3. This act shall take effect and be in force from
76 and after July 1, 1999.