

By: Representatives Howell, Barnett (92nd)

To: Insurance

HOUSE BILL NO. 792

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION
2 83-41-419, MISSISSIPPI CODE OF 1972, TO PROHIBIT ANY MANAGED CARE
3 ENTITY FROM RESTRICTING OR RETALIATING AGAINST ANY PARTICIPATING
4 MEDICAL PROVIDER FOR DISCLOSING TO ANY MEMBER IN THE MANAGED CARE
5 PLAN APPROPRIATE MEDICAL INFORMATION REGARDING TREATMENT OR
6 SERVICES UNDER THE PLAN; TO AMEND SECTION 83-41-415, MISSISSIPPI
7 CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR
8 RELATED PURPOSES.

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

10 SECTION 1. The following shall be codified as Section
11 83-41-419, Mississippi Code of 1972:

12 83-41-419. (1) No managed care plan, health maintenance
13 organization, independent practice association, other entity
14 contracting for the provision of health care services, or any
15 other entity, shall prohibit or restrict any participating
16 provider from disclosing to any subscriber, enrollee or member any
17 medically appropriate health care information that the
18 participating provider deems appropriate regarding (a) the nature
19 of treatment, risks or alternatives thereto; (b) the availability
20 of alternate therapies, consultations or tests; (c) the decision
21 of any plan to authorize or deny services; or (d) the process the
22 plan or any person contracting with the plan uses, or proposes to
23 use, to authorize or deny health care services or benefits. Any
24 such prohibition or restriction contained in a contract with a
25 participating provider shall be void and unenforceable.

26 (2) (a) Upon the application and rendering by any managed
27 care entity of a decision to terminate an employment or other
28 contractual relationship with or otherwise penalize a
29 participating physician, surgeon or medical provider, that entity

30 shall be prohibited from denying such an application or
31 terminating that relationship principally for advocating medically
32 appropriate health care that is consistent with that degree of
33 learning and skill ordinarily possessed by reputable physicians,
34 surgeons and medical providers practicing according to the
35 applicable legal standard of care.

36 (b) For the purpose of this subsection, "to advocate
37 medically appropriate health care" means to appeal a payor's
38 decision to deny payment for a service pursuant to the reasonable
39 grievance or appeal procedure established by a medical group,
40 independent practice association, preferred provider organization,
41 foundation, hospital medical staff and governing body, or payor,
42 as required by Section 41-83-1 et seq., or to protest a decision
43 policy, or practice that the physician, consistent with that
44 degree of learning and skill ordinarily possessed by reputable
45 physicians practicing according to the applicable legal standard
46 of care, reasonably believes impairs the physician's ability to
47 provide medically appropriate health care to his or her patients.

48 (3) This section shall not be construed to prohibit a
49 managed care plan from making a determination not to pay for a
50 particular medical treatment or service, or to prohibit a medical
51 group, independent practice association, preferred provider
52 organization, foundation, hospital medical staff, hospital
53 governing body, or payor from enforcing reasonable peer review or
54 utilization review protocols or determining whether a physician,
55 surgeon or medical provider has complied with those protocols.

56 SECTION 2. Section 83-41-415, Mississippi Code of 1972, is
57 amended as follows:

58 83-41-415. Articles 7 and 9 do not apply to the Division of
59 Medicaid in the Office of the Governor, with the exception of
60 Section 83-41-419, relating to the prohibition against certain
61 participating provider contract restrictions.

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