

By: Senator(s) Ferris

To: Education; Juvenile
Justice

SENATE BILL NO. 2893

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 RULEMAKING
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 multi-disciplinary 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 who
85 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 may also 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 precedence
138 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 Senate Bill No. 2893, 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, Mississippi Code of 1972; (b) poses a threat
270 to the safety of himself or to others; or (c) is disruptive to the
271 educational process being provided to other students, subject to
272 review by and the approval of the school board taking under
273 consideration recommendations by the administrator of the
274 alternative school and the appropriate guidance counselor. In
275 such cases the local school superintendent may recommend to the
276 youth court of the residence of the child that the child should be
277 placed in a Mississippi Rescue Center residential treatment

278 facility program pursuant to Senate Bill No. 2893, 1999 Regular
279 Session.

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

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

298 (b) The duration of alternative placement; and

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

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

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

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

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

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

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

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

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

346 alternative school programs shall also require the following
347 components:

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

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

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

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

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

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

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

365 (h) A motivated and culturally diverse staff;

366 (i) Counseling for parents and students;

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

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

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

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

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

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

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

399 (1) Inpatient hospital services.

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

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

414 (2) Outpatient hospital services. Provided that where the
415 same services are reimbursed as clinic services, the division may
416 revise the rate or methodology of outpatient reimbursement to
417 maintain consistency, efficiency, economy and quality of care.

418 (3) Laboratory and X-ray services.

419 (4) Nursing facility services.

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

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

448 long-term care facilities. This paragraph (b) shall stand
449 repealed on July 1, 1997.

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

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

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

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

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

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

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

479 (B) In each of the areas of expertise defined
480 under subparagraphs (i)(A) and (i)(B), the Executive Director of
481 the Division of Medicaid shall appoint one (1) person who is

482 employed by the state who does not participate directly in desk
483 reviews or audits of nursing facilities in the two (2) areas of
484 review;

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

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

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

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

510 (v) Proceedings of the Review Board shall be of
511 record.

512 (vi) Appeals to the Review Board shall be in
513 writing and shall set out the issues, a statement of alleged facts
514 and reasons supporting the provider's position. Relevant
515 documents may also be attached. The appeal shall be filed within

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

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

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

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

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

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

548 (xii) Appeals by nursing facility providers
549 involving any issues other than those two (2) specified in

550 subparagraphs (i)(A) and (ii)(B) shall be taken in accordance with
551 the administrative hearing procedures established by the Division
552 of Medicaid.

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

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

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

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

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

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

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

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

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

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

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

651 The division shall develop and implement a program of payment

652 for additional pharmacist services, with payment to be based on
653 demonstrated savings, but in no case shall the total payment
654 exceed twice the amount of the dispensing fee.

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

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

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

677 (12) Intermediate care facility services.

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

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

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

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

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

720 reimbursement rate as provided in the Dental Services Provider
721 Manual in effect on December 31, 1993.

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

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

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

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

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

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

786 (b) Early intervention system services. The division
787 shall cooperate with the State Department of Health, acting as

788 lead agency, in the development and implementation of a statewide
789 system of delivery of early intervention services, pursuant to
790 Part H of the Individuals with Disabilities Education Act (IDEA).

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

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

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

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

821 (22) Ambulatory services delivered in federally qualified

822 health centers and in clinics of the local health departments of
823 the State Department of Health for individuals eligible for
824 medical assistance under this article based on reasonable costs as
825 determined by the division.

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

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

851 (25) Birthing center services.

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

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

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

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

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

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

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

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

890 such services are subject to reimbursement under Section 1903 of
891 the Social Security Act.

892 (33) Podiatrist services.

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

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

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

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

924 for these services shall be provided from State General Funds.

925 (38) Chiropractic services: a chiropractor's manual
926 manipulation of the spine to correct a subluxation, if x-ray
927 demonstrates that a subluxation exists and if the subluxation has
928 resulted in a neuromusculoskeletal condition for which
929 manipulation is appropriate treatment. Reimbursement for
930 chiropractic services shall not exceed Seven Hundred Dollars
931 (\$700.00) per year per recipient.

932 (39) Services for children placed in a Mississippi Rescue
933 Center treatment and education facility by the youth court, using
934 state funds that are provided from appropriations to the
935 Department of Human Services, the Department of Mental Health, the
936 State Department of Education and the Division of Medicaid and
937 used to match federal funds under a cooperative agreement with the
938 Juvenile Health Recovery Board pursuant to Senate Bill No. 2893,
939 1999 Regular Session.

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

956 Notwithstanding any provision of this article, no new groups
957 or categories of recipients and new types of care and services may

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

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