

By: Robinson (84th)

To: Insurance

HOUSE BILL NO. 317

1 AN ACT TO AMEND SECTION 83-9-6, MISSISSIPPI CODE OF 1972, TO
2 PLACE A REPEALER ON THE SECTION OF LAW THAT ALLOWS FREEDOM OF
3 CONSUMER CHOICE FOR PHARMACY UNDER CERTAIN HEALTH INSURANCE; AND
4 FOR RELATED PURPOSES.

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

6 SECTION 1. Section 83-9-6, Mississippi Code of 1972, is
7 amended as follows:

8 83-9-6. (1) This section shall apply to all health benefit
9 plans providing pharmaceutical services benefits, including
10 prescription drugs, to any resident of Mississippi. This section
11 shall also apply to insurance companies and health maintenance
12 organizations that provide or administer coverages and benefits
13 for prescription drugs. This section shall not apply to any
14 entity that has its own facility, employs or contracts with
15 physicians, pharmacists, nurses and other health care personnel,
16 and that dispenses prescription drugs from its own pharmacy to its
17 employees and dependents enrolled in its health benefit plan; but
18 this section shall apply to an entity otherwise excluded that
19 contracts with an outside pharmacy or group of pharmacies to
20 provide prescription drugs and services.

21 (2) As used in this section:

22 (a) "Copayment" means a type of cost sharing whereby

23 insured or covered persons pay a specified predetermined amount
24 per unit of service with their insurer paying the remainder of the
25 charge. The copayment is incurred at the time the service is
26 used. The copayment may be a fixed or variable amount.

27 (b) "Contract provider" means a pharmacy granted the
28 right to provide prescription drugs and pharmacy services
29 according to the terms of the insurer.

30 (c) "Health benefit plan" means any entity or program
31 that provides reimbursement for pharmaceutical services.

32 (d) "Insurer" means any entity that provides or offers
33 a health benefit plan.

34 (e) "Pharmacist" means a pharmacist licensed by the
35 Mississippi State Board of Pharmacy.

36 (f) "Pharmacy" means a place licensed by the
37 Mississippi State Board of Pharmacy.

38 (3) A health insurance plan, policy, employee benefit plan
39 or health maintenance organization may not:

40 (a) Prohibit or limit any person who is a participant
41 or beneficiary of the policy or plan from selecting a pharmacy or
42 pharmacist of his choice who has agreed to participate in the plan
43 according to the terms offered by the insurer;

44 (b) Deny a pharmacy or pharmacist the right to
45 participate as a contract provider under the policy or plan if the
46 pharmacy or pharmacist agrees to provide pharmacy services,
47 including but not limited to prescription drugs, that meet the
48 terms and requirements set forth by the insurer under the policy
49 or plan and agrees to the terms of reimbursement set forth by the
50 insurer;

51 (c) Impose upon a beneficiary of pharmacy services
52 under a health benefit plan any copayment, fee or condition that
53 is not equally imposed upon all beneficiaries in the same benefit

54 category, class or copayment level under the health benefit plan
55 when receiving services from a contract provider;

56 (d) Impose a monetary advantage or penalty under a
57 health benefit plan that would affect a beneficiary's choice among
58 those pharmacies or pharmacists who have agreed to participate in
59 the plan according to the terms offered by the insurer. Monetary
60 advantage or penalty includes higher copayment, a reduction in
61 reimbursement for services, or promotion of one participating
62 pharmacy over another by these methods;

63 (e) Reduce allowable reimbursement for pharmacy
64 services to a beneficiary under a health benefit plan because the
65 beneficiary selects a pharmacy of his or her choice, so long as
66 that pharmacy has enrolled with the health benefit plan under the
67 terms offered to all pharmacies in the plan coverage area;

68 (f) Require a beneficiary, as a condition of payment or
69 reimbursement, to purchase pharmacy services, including
70 prescription drugs, exclusively through a mail-order pharmacy; or

71 (g) Impose upon a beneficiary any copayment, amount of
72 reimbursement, number of days of a drug supply for which
73 reimbursement will be allowed, or any other payment or condition
74 relating to purchasing pharmacy services from any pharmacy,
75 including prescription drugs, that is more costly or more
76 restrictive than that which would be imposed upon the beneficiary
77 if such services were purchased from a mail-order pharmacy or any
78 other pharmacy that is willing to provide the same services or
79 products for the same cost and copayment as any mail order
80 service.

81 (4) A pharmacy, by or through a pharmacist acting on its

82 behalf as its employee, agent or owner, may not waive, discount,
83 rebate or distort a copayment of any insurer, policy or plan or a
84 beneficiary's coinsurance portion of a prescription drug coverage
85 or reimbursement and if a pharmacy, by or through a pharmacist's
86 acting on its behalf as its employee, agent or owner, provides a
87 pharmacy service to an enrollee of a health benefit plan that
88 meets the terms and requirements of the insurer under a health
89 benefit plan, the pharmacy shall provide its pharmacy services to
90 all enrollees of that health benefit plan on the same terms and
91 requirements of the insurer. A violation of this subsection shall
92 be a violation of the Pharmacy Practice Act subjecting the
93 pharmacist as a licensee to disciplinary authority of the State
94 Board of Pharmacy.

95 (5) If a health benefit plan providing reimbursement to
96 Mississippi residents for prescription drugs restricts pharmacy
97 participation, the entity providing the health benefit plan shall
98 notify, in writing, all pharmacies within the geographical
99 coverage area of the health benefit plan, and offer to the
100 pharmacies the opportunity to participate in the health benefit
101 plan at least sixty (60) days before the effective date of the
102 plan or before July 1, 1995, whichever comes first. All
103 pharmacies in the geographical coverage area of the plan shall be
104 eligible to participate under identical reimbursement terms for
105 providing pharmacy services, including prescription drugs. The
106 entity providing the health benefit plan shall, through reasonable
107 means, on a timely basis and on regular intervals, inform the
108 beneficiaries of the plan of the names and locations of pharmacies
109 that are participating in the plan as providers of pharmacy

110 services and prescription drugs. Additionally, participating
111 pharmacies shall be entitled to announce their participation to
112 their customers through a means acceptable to the pharmacy and the
113 entity providing the health benefit plans. The pharmacy
114 notification provisions of this section shall not apply when an
115 individual or group is enrolled, but when the plan enters a
116 particular county of the state.

117 (6) A violation of this section creates a civil cause of
118 action for injunctive relief in favor of any person or pharmacy
119 aggrieved by the violation.

120 (7) The Commissioner of Insurance shall not approve any
121 health benefit plan providing pharmaceutical services which does
122 not conform to this section.

123 (8) Any provision in a health benefit plan which is
124 executed, delivered or renewed, or otherwise contracted for in
125 this state that is contrary to this section shall, to the extent
126 of the conflict, be void.

127 (9) It is a violation of this section for any insurer or any
128 person to provide any health benefit plan providing for
129 pharmaceutical services to residents of this state that does not
130 conform to this section.

131 (10) This section shall stand repealed on July 1, 2001.

132 SECTION 2. This act shall take effect and be in force from
133 and after July 1, 2000.