

By: Stevens

To: Insurance

HOUSE BILL NO. 1195

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 25-15-107, MISSISSIPPI CODE OF 1972, TO PROVIDE SUBROGATION RIGHTS
3 UNDER SELF-INSURED AND POOLED RISKS HEALTH INSURANCE PLANS FOR
4 POLITICAL SUBDIVISIONS OF THE STATE; AND FOR RELATED PURPOSES.

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

6 SECTION 1. The following shall be codified as Section
7 25-15-107, Mississippi Code of 1972:

8 25-15-107. With regard to any self-insured and pooled risks
9 health insurance plans authorized under Section 25-15-101:

10 (a) If medical assistance is provided to an employee or
11 dependent under this article for injuries, disease or sickness
12 caused under circumstances creating a cause of action in favor of
13 the employee or eligible dependent against any person, firm or
14 corporation, then the political subdivision or its designees shall
15 be entitled to recover all proceeds that may result from the
16 exercise of any rights of recovery which the employee or dependent
17 may have against any such person, firm or corporation to the
18 extent of the actual amount of the medical payments made by the
19 plan on behalf of the employee or dependent. The employee
20 dependent shall execute and deliver instruments and papers to do
21 whatever is necessary to secure such rights and shall do nothing
22 after the medical assistance is provided to prejudice the
23 subrogation rights of the political subdivision. The political
24 subdivision or its designee may comprise or settle any such claim
25 and execute a release of any claim it has by virtue of this
26 section.

27 (b) The acceptance of medical assistance under this

28 article or making of a claim thereunder shall not affect the right
29 of the employee, dependent or his legal representative to recover
30 the medical assistance payments made by the plan as an element of
31 special or general damages in any action at law or as part of any
32 settlement in favor of the employee or eligible dependent against
33 any person, firm or corporation. However, if an action at law is
34 pursued, a copy of the pleadings shall be mailed certified to the
35 political subdivision or its designee at the time of the
36 institution of suit, and proof of such notice shall be filed of
37 record in such action. The political subdivision, at any time
38 before the trial on the facts, may join in such action or may
39 intervene therein.

40 Any amount recovered by an employee, dependent or legal
41 representative through settlement or an action at law shall be
42 applied in the following order:

43 (i) The reasonable cost of the collection incurred
44 by the plan or its designee, including attorney's fees.

45 (ii) The actual amount of the medical assistance
46 payments made by the plan on behalf of the employee or dependent
47 or such pro rata amount as may be arrived at by the political
48 subdivision or its designee and the employee, dependent or his
49 legal representative, or as set by the court having jurisdiction,
50 based upon admissible evidence, using the order of precedence of
51 liens set forth herein.

52 (iii) Any excess shall be awarded to the employee
53 or dependent.

54 (c) No compromise of any claim by the employee,
55 dependent or his legal representative shall be binding upon or
56 affect the rights of the political subdivision against the third
57 party unless the political subdivision or its designee has entered
58 into the compromise. Any compromise effected by the employee,
59 dependent or legal representative with the third party in the
60 absence of advance notification to and approval by the political

61 subdivision or its designee shall constitute conclusive evidence
62 of the liability of the third party, and the political subdivision
63 or its designee in litigating its claim against the third party
64 shall be required only to prove the amount and correctness of its
65 claim relating to such injury, disease or sickness. If is further
66 provided that should the employee, dependent or his legal
67 representative fail to notify the political subdivision or its
68 designee of the institution of legal proceedings against a third
69 party for which the political subdivision has a cause of action,
70 the facts relating to negligence and the liability of the third
71 party, if judgment is rendered for the employee or dependent,
72 shall constitute conclusive evidence of liability in a subsequent
73 action maintained by the political subdivision or its designee and
74 only the amount and correctness of the political subdivision's
75 claim relating to the injuries, disease or sickness shall be tried
76 before the court. The political subdivision shall be authorized
77 in bringing such action against the third party and his insurer
78 jointly or against the insurer alone.

79 (d) Nothing herein shall be construed to diminish or
80 otherwise restrict the subrogation right of the political
81 subdivision against a third party for medical assistance paid by
82 the plan in behalf of the employee or dependent as a result of
83 injuries, disease or sickness caused under circumstances creating
84 a cause of action in favor of the employee or dependent against
85 such a third party.

86 SECTION 2. This act shall take effect and be in force
87 retroactively from and after March 18, 1999.