MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

By: Representative Reeves To: Judiciary A

HOUSE BILL NO. 341

1 AN ACT TO AMEND SECTION 83-49-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THE INSURED A CHOICE OF ATTORNEYS UNDER A PREPAID LEGAL
3 SERVICES INSURANCE PLAN; TO AMEND SECTION 83-49-5, MISSISSIPPI
4 CODE OF 1972, TO REVISE DEFINITIONS; AND FOR RELATED PURPOSES.
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6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
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8 SECTION 1. Section 83-49-5, Mississippi Code of 1972, is
9 amended as follows:
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83-49-5. In this chapter, the following terms shall have the
9 following meanings:
10 (a) "Sponsor" means any insurer, as defined in this
11 section, or any other corporation organized for the exclusive
12 purpose of establishing and operating prepaid legal services
13 plans.
14 (b) "Prepaid legal services plan" or "plan" means any
15 arrangement whereby responsibility is undertaken to provide or
16 arrange for, or to pay for or reimburse any part of the cost of,
17 any legal services for a consideration consisting in part of
18 prepaid or periodic charges or dues; but the provisions of this
19 chapter shall not apply to the benefits available under automobile
20 club membership contracts and automobile liability insurance
21 policies which supply limited legal services or reimbursement for
22 legal services in automobile-related matters under certificates of
23 authority issued by the Insurance Commissioner, or to any legal
24 aid or other legal services program for the indigent, or to any
25 employer-employee legal services plan which is excluded from the
26 provisions of this chapter by the provisions of the Federal

(c) "Legal services" means any services normally provided by an attorney, as well as the payment of court costs and related expenses incurred in the exercise of any right; but not including the payment of fines, penalties, judgments or assessments. "Legal services" shall not include any service provided by an attorney in regard to a tort action.

(d) "Advertising" means any communication, other than a solicitation, as hereinafter defined, to the public or any segment thereof by means of radio, television, newspaper, magazine, periodical, brochure, pamphlet, circular, or any other means, the apparent purpose or reasonable effect of which would be to convey information purporting to relate to or describe legal rights, legal services, attorneys or prepaid legal services plans.

(e) "Solicitation" means any communication, written or oral, in person, or by means of telephone, radio, television, newspaper, magazine, periodical, brochure, circular, or otherwise, of any offer of coverage in a prepaid legal services plan, or invitation, or request to enroll in a prepaid legal services plan, or attempt to obtain consideration for the coverage of a prepaid legal services plan, or any other device, the apparent purpose or reasonable effect of which would be to induce the recipient thereof to enroll in, or pay any consideration for the coverage provided by, a prepaid legal services plan.

(f) "Commissioner" means the Insurance Commissioner of the State of Mississippi.

(g) "Subscriber" means any person who has been enrolled in a prepaid legal services plan and is entitled to receive the benefits provided in the plan.

(h) "Subscription contract" means any contract signed by an authorized representative of a prepaid legal services plan and an individual or an authorized representative of his group or
employer or labor union or other entity with which he is
affiliated, under which the individual becomes a subscriber to the
plan.

(i) "Insurer," as defined in this chapter means an
insurer licensed to transact life or casualty insurance in this
state.

(j) "Attorney" means an active member of the
Mississippi Bar.

SECTION 2. Section 83-49-13, Mississippi Code of 1972, is
amended as follows:

83-49-13. (1) Any sponsor of any prepaid legal services
plan, or authorized representative thereof, may enter into a
subscription contract with any person, or with any person's
employer, or with any other person or group acting in his or its
behalf; provided, however, that:

(a) No such subscription contract shall be written for
a period longer than three (3) years; and

(b) In the case of subscription contracts issued to
groups, no member of the group shall be bound by the subscription
contract unless he indicates in writing to the group no earlier
than ten (10) days after the date on which he has received
effective notice of the terms and benefits of the plan and the
intention of his group to contract for such plan that he does wish
to become a subscriber and to be bound by the subscription
contract. The notice received by such member shall contain,
without limitation, the provisions itemized in subsection (2)
hereinbelow.

(2) Every subscription contract shall be in writing and
shall contain the following provisions:

(a) A brief statement of the plan's financial
structure, including a statement of the amount of any premiums,
charges or dues to be charged or currently being charged and the
manner in which such amount is to be paid;
(b) A statement of the amount of benefits, reimbursement or indemnity to be furnished to each subscriber, and the period during which it will be furnished; and, if there are exceptions, reductions, exclusions, limitations or restrictions of such benefits reimbursement or indemnity, a detailed statement of such exceptions, reductions, exclusions, limitations or restrictions;

(c) A statement of the terms and conditions upon which the subscription contract may be cancelled or otherwise terminated by the sponsor or by the subscriber or by his employer or by his group. Provided, that any such cancellation or termination by the sponsor shall not become effective unless accomplished in accordance with the provisions of Sections 83-11-5, 83-11-9, 83-11-13, 83-11-15, 83-11-17, 83-11-19 and 83-11-21;

(d) A statement describing the applicability or nonapplicability of the benefits of the plan to the family dependents of the subscriber;

(e) A statement of the period of grace which will be allowed the subscriber or his employer or group for making any payment due under the subscription contract, which period shall not be less than twenty (20) days;

(f) A statement describing a procedure for settling disputes between or among the sponsor, participating or staff attorneys, and the subscribers;

(g) A statement that the subscription contract includes the endorsements thereon and attached papers, if any, and contains the entire contract; and

(h) A statement that no statements by the subscriber or his employee or group in the application for the contract shall void the subscription contract or be used in any legal proceeding thereunder, unless such application or an exact copy thereof is included in or attached to such subscription contract.
(3) A sponsor may provide a benefit plan which would provide only a telephone service for advice or consultation. Such telephone service shall not recommend a particular attorney to the subscriber.

(4) A sponsor may provide a benefit plan which would provide legal service including telephone advice or consultation and may create a list of attorneys to provide the legal services. However, if the sponsor creates such a list, the list must include all those attorneys who are active members of the Mississippi Bar and who agree to the payment terms of the sponsor. The benefit plan shall not:

(a) Prohibit or limit any subscriber from selecting an attorney of his choice who has agreed to participate in the plan according to the terms offered by the sponsor;

(b) Deny an attorney the right to participate as a legal services provider under the plan if the attorney agrees to provide legal services that meets the terms and requirements set forth by the sponsor and agrees to the terms of reimbursement set forth by the sponsor;

(c) Impose a monetary advantage or penalty that would affect a subscriber's choice among those attorneys who have agreed to participate in the plan according to the terms offered by the sponsor; or

(d) Deny or reduce payment of benefits because the subscriber selects an attorney of his or her choice if that attorney has enrolled with the plan under the terms offered to all attorneys in the state.

(5) Every subscriber shall be furnished a copy of his subscription contract, and every employer or other group shall be furnished a copy of the subscription contract signed by it.

(6) The sponsor shall be required to file a "specimen" copy of each subscription contract it uses, and a copy of its underwriting rules with the commissioner and a copy thereof shall
also be sent to the Mississippi Bar by the sponsor. Such filings shall be approved by the commissioner before used, however, such filings with the commissioner shall be deemed approved ninety (90) days after the date such filing is received by the commissioner, unless, prior to the expiration of said ninety-day period, the commissioner notified the sponsor of the prepaid legal services plan in writing of the commissioner's disapproval. The commissioner shall require that all such subscription contracts shall be fair and reasonable, and shall not approve any subscription contracts or underwriting rules that are unfair or inequitable or contrary to the public policy of this state, or would, because such provisions are unclear or deceptively worded or encourage misrepresentation.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.