

By: Representatives Grist, Scott (80th)

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1238

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT PERSONS WHO LIVE AT HOME BUT WOULD BE ELIGIBLE FOR
 3 SERVICES IN A NURSING HOME, WHO REGULARLY SPEND MORE THAN 50% OF
 4 THEIR MONTHLY INCOME ON PRESCRIPTION DRUGS AND OVER-THE-COUNTER
 5 DRUGS, SHALL BE ELIGIBLE FOR MEDICAID; TO PROVIDE THAT THOSE
 6 PERSONS SHALL BE ELIGIBLE ONLY FOR PRESCRIPTION DRUGS AND
 7 OVER-THE-COUNTER DRUGS COVERED UNDER MEDICAID; TO DIRECT THE
 8 DIVISION OF MEDICAID TO APPLY FOR A FEDERAL WAIVER TO ALLOW FOR
 9 THE IMPLEMENTATION OF THE PRECEDING PROVISIONS; AND FOR RELATED
 10 PURPOSES.

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

12 SECTION 1. Section 43-13-115, Mississippi Code of 1972, is
 13 amended as follows:

14 43-13-115. Recipients of medical assistance shall be the
 15 following persons only:

16 (1) Who are qualified for public assistance grants
 17 under provisions of Title IV-A and E of the federal Social
 18 Security Act, as amended, as determined by the State Department of
 19 Human Services, including those statutorily deemed to be IV-A as
 20 determined by the State Department of Human Services and certified
 21 to the Division of Medicaid, but not optional groups except as
 22 specifically covered in this section. For the purposes of this
 23 paragraph (1) and paragraphs (8), (17) and (18) of this section,
 24 any reference to Title IV-A or to Part A of Title IV of the
 25 federal Social Security Act, as amended, or the state plan under
 26 Title IV-A or Part A of Title IV, shall be considered as a
 27 reference to Title IV-A of the federal Social Security Act, as
 28 amended, and the state plan under Title IV-A, including the income
 29 and resource standards and methodologies under Title IV-A and the
 30 state plan, as they existed on July 16, 1996.

31 (2) Those qualified for Supplemental Security Income
32 (SSI) benefits under Title XVI of the federal Social Security Act,
33 as amended. The eligibility of individuals covered in this
34 paragraph shall be determined by the Social Security
35 Administration and certified to the Division of Medicaid.

36 (3) [Deleted]

37 (4) [Deleted]

38 (5) A child born on or after October 1, 1984, to a
39 woman eligible for and receiving medical assistance under the
40 state plan on the date of the child's birth shall be deemed to
41 have applied for medical assistance and to have been found
42 eligible for such assistance under such plan on the date of such
43 birth and will remain eligible for such assistance for a period of
44 one (1) year so long as the child is a member of the woman's
45 household and the woman remains eligible for such assistance or
46 would be eligible for assistance if pregnant. The eligibility of
47 individuals covered in this paragraph shall be determined by the
48 State Department of Human Services and certified to the Division
49 of Medicaid.

50 (6) Children certified by the State Department of Human
51 Services to the Division of Medicaid of whom the state and county
52 human services agency has custody and financial responsibility,
53 and children who are in adoptions subsidized in full or part by
54 the Department of Human Services, who are approvable under Title
55 XIX of the Medicaid program.

56 (7) (a) Persons certified by the Division of Medicaid
57 who are patients in a medical facility (nursing home, hospital,
58 tuberculosis sanatorium or institution for treatment of mental
59 diseases), and who, except for the fact that they are patients in
60 such medical facility, would qualify for grants under Title IV,
61 supplementary security income benefits under Title XVI or state
62 supplements, and those aged, blind and disabled persons who would
63 not be eligible for supplemental security income benefits under

64 Title XVI or state supplements if they were not institutionalized
65 in a medical facility but whose income is below the maximum
66 standard set by the Division of Medicaid, which standard shall not
67 exceed that prescribed by federal regulation;

68 (b) Individuals who have elected to receive
69 hospice care benefits and who are eligible using the same criteria
70 and special income limits as those in institutions as described in
71 subparagraph (a) of this paragraph (7).

72 (8) Children under eighteen (18) years of age and
73 pregnant women (including those in intact families) who meet the
74 AFDC financial standards of the state plan approved under Title
75 IV-A of the federal Social Security Act, as amended. The
76 eligibility of children covered under this paragraph shall be
77 determined by the State Department of Human Services and certified
78 to the Division of Medicaid.

79 (9) Individuals who are:

80 (a) Children born after September 30, 1983, who
81 have not attained the age of nineteen (19), with family income
82 that does not exceed one hundred percent (100%) of the nonfarm
83 official poverty line;

84 (b) Pregnant women, infants and children who have
85 not attained the age of six (6), with family income that does not
86 exceed one hundred thirty-three percent (133%) of the federal
87 poverty level; and

88 (c) Pregnant women and infants who have not
89 attained the age of one (1), with family income that does not
90 exceed one hundred eighty-five percent (185%) of the federal
91 poverty level.

92 The eligibility of individuals covered in (a), (b) and (c) of
93 this paragraph shall be determined by the Department of Human
94 Services.

95 (10) Certain disabled children age eighteen (18) or
96 under who are living at home, who would be eligible, if in a

97 medical institution, for SSI or a state supplemental payment under
98 Title XVI of the federal Social Security Act, as amended, and
99 therefore for Medicaid under the plan, and for whom the state has
100 made a determination as required under Section 1902(e)(3)(b) of
101 the federal Social Security Act, as amended. The eligibility of
102 individuals under this paragraph shall be determined by the
103 Division of Medicaid.

104 (11) Individuals who are sixty-five (65) years of age
105 or older or are disabled as determined under Section 1614(a)(3) of
106 the federal Social Security Act, as amended, and who meet the
107 following criteria:

108 (a) Until December 31, 1999, whose income does not
109 exceed one hundred percent (100%) of the nonfarm official poverty
110 line as defined by the Office of Management and Budget and revised
111 annually, and from and after January 1, 2000, whose income does
112 not exceed one hundred thirty-five percent (135%) of the nonfarm
113 official poverty line as defined by the Office of Management and
114 Budget and revised annually.

115 (b) Whose resources do not exceed two hundred
116 percent (200%) of the amount allowed under the Supplemental
117 Security Income (SSI) program.

118 The eligibility of individuals covered under this paragraph
119 shall be determined by the Division of Medicaid, and such
120 individuals determined eligible shall receive the same Medicaid
121 services as other categorical eligible individuals.

122 (12) Individuals who are qualified Medicare
123 beneficiaries (QMB) entitled to Part A Medicare as defined under
124 Section 301, Public Law 100-360, known as the Medicare
125 Catastrophic Coverage Act of 1988, and whose income does not
126 exceed one hundred percent (100%) of the nonfarm official poverty
127 line as defined by the Office of Management and Budget and revised
128 annually.

129 The eligibility of individuals covered under this paragraph
130 shall be determined by the Division of Medicaid, and such
131 individuals determined eligible shall receive Medicare
132 cost-sharing expenses only as more fully defined by the Medicare
133 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
134 1997.

135 (13) (a) Individuals who are entitled to Medicare Part
136 A as defined in Section 4501 of the Omnibus Budget Reconciliation
137 Act of 1990, and whose income does not exceed one hundred twenty
138 percent (120%) of the nonfarm official poverty line as defined by
139 the Office of Management and Budget and revised annually.

140 (b) Individuals entitled to Part A of Medicare,
141 with income above one hundred twenty percent (120%), but less than
142 one hundred thirty-five percent (135%) of the federal poverty
143 level, and not otherwise eligible for Medicaid. Eligibility for
144 Medicaid benefits is limited to full payment of Medicare Part B
145 premiums. The number of eligible individuals is limited by the
146 availability of the federal capped allocation at one hundred
147 percent (100%) of federal matching funds, as more fully defined in
148 the Balanced Budget Act of 1997.

149 (c) Individuals entitled to Part A of Medicare,
150 with income of at least one hundred thirty-five percent (135%),
151 but not exceeding one hundred seventy-five percent (175%) of the
152 federal poverty level, and not otherwise eligible for Medicaid.
153 Eligibility for Medicaid benefits is limited to partial payment of
154 Medicare Part B premiums. The number of eligible individuals is
155 limited by the availability of the federal capped allocation of
156 one hundred percent (100%) federal matching funds, as more fully
157 defined in the Balanced Budget Act of 1997.

158 The eligibility of individuals covered under this paragraph
159 shall be determined by the Division of Medicaid.

160 (14) [Deleted]

161 (15) Disabled workers who are eligible to enroll in
162 Part A Medicare as required by Public Law 101-239, known as the
163 Omnibus Budget Reconciliation Act of 1989, and whose income does
164 not exceed two hundred percent (200%) of the federal poverty level
165 as determined in accordance with the Supplemental Security Income
166 (SSI) program. The eligibility of individuals covered under this
167 paragraph shall be determined by the Division of Medicaid and such
168 individuals shall be entitled to buy-in coverage of Medicare Part
169 A premiums only under the provisions of this paragraph (15).

170 (16) In accordance with the terms and conditions of
171 approved Title XIX waiver from the United States Department of
172 Health and Human Services, persons provided home- and
173 community-based services who are physically disabled and certified
174 by the Division of Medicaid as eligible due to applying the income
175 and deeming requirements as if they were institutionalized.

176 (17) In accordance with the terms of the federal
177 Personal Responsibility and Work Opportunity Reconciliation Act of
178 1996 (Public Law 104-193), persons who become ineligible for
179 assistance under Title IV-A of the federal Social Security Act, as
180 amended, because of increased income from or hours of employment
181 of the caretaker relative or because of the expiration of the
182 applicable earned income disregards, who were eligible for
183 Medicaid for at least three (3) of the six (6) months preceding
184 the month in which such ineligibility begins, shall be eligible
185 for Medicaid assistance for up to twenty-four (24) months;
186 however, Medicaid assistance for more than twelve (12) months may
187 be provided only if a federal waiver is obtained to provide such
188 assistance for more than twelve (12) months and federal and state
189 funds are available to provide such assistance.

190 (18) Persons who become ineligible for assistance under
191 Title IV-A of the federal Social Security Act, as amended, as a
192 result, in whole or in part, of the collection or increased
193 collection of child or spousal support under Title IV-D of the

194 federal Social Security Act, as amended, who were eligible for
195 Medicaid for at least three (3) of the six (6) months immediately
196 preceding the month in which such ineligibility begins, shall be
197 eligible for Medicaid for an additional four (4) months beginning
198 with the month in which such ineligibility begins.

199 (19) Disabled workers, whose incomes are above the
200 Medicaid eligibility limits, but below two hundred fifty percent
201 (250%) of the federal poverty level, shall be allowed to purchase
202 Medicaid coverage on a sliding fee scale developed by the Division
203 of Medicaid.

204 (20) Medicaid eligible children under age eighteen (18)
205 shall remain eligible for Medicaid benefits until the end of a
206 period of twelve (12) months following an eligibility
207 determination, or until such time that the individual exceeds age
208 eighteen (18).

209 (21) Women of childbearing age whose family income does
210 not exceed one hundred eighty-five percent (185%) of the federal
211 poverty level. The eligibility of individuals covered under this
212 paragraph (21) shall be determined by the Division of Medicaid,
213 and those individuals determined eligible shall only receive
214 family planning services covered under Section 43-13-117(13) and
215 not any other services covered under Medicaid. However, any
216 individual eligible under this paragraph (21) who is also eligible
217 under any other provision of this section shall receive the
218 benefits to which he or she is entitled under that other
219 provision, in addition to family planning services covered under
220 Section 43-13-117(13).

221 The Division of Medicaid shall apply to the United States
222 Secretary of Health and Human Services for a federal waiver of the
223 applicable provisions of Title XIX of the federal Social Security
224 Act, as amended, and any other applicable provisions of federal
225 law as necessary to allow for the implementation of this paragraph
226 (21). The provisions of this paragraph (21) shall be implemented

227 from and after the date that the Division of Medicaid receives the
228 federal waiver.

229 (22) Persons who are workers with a potentially severe
230 disability, as determined by the division, shall be allowed to
231 purchase Medicaid coverage. The term "worker with a potentially
232 severe disability" means a person who is at least sixteen (16)
233 years of age but under sixty-five (65) years of age, who has a
234 physical or mental impairment that is reasonably expected to cause
235 the person to become blind or disabled as defined under Section
236 1614(a) of the federal Social Security Act, as amended, if the
237 person does not receive items and services provided under
238 Medicaid.

239 The eligibility of persons under this paragraph (22) shall be
240 conducted as a demonstration project that is consistent with
241 Section 204 of the Ticket to Work and Work Incentives Improvement
242 Act of 1999, Public Law 106-170, for a certain number of persons
243 as specified by the division. The eligibility of individuals
244 covered under this paragraph (22) shall be determined by the
245 Division of Medicaid.

246 The Division of Medicaid shall apply to the United States
247 Secretary of Health and Human Services for a federal waiver of the
248 applicable provisions of Title XIX of the federal Social Security
249 Act, as amended, and any other applicable provisions of federal
250 law as necessary to allow for the implementation of this paragraph
251 (22). The provisions of this paragraph (22) shall be implemented
252 from and after the date that the Division of Medicaid receives the
253 federal waiver.

254 (23) Individuals who would be eligible for services in
255 a nursing home but who live in their own place of residence, whose
256 income does not exceed the amount prescribed by federal regulation
257 for nursing home care, and who regularly expend more than fifty
258 percent (50%) of their monthly income on prescription drugs and
259 over-the-counter drugs.

260 The eligibility of individuals covered under this paragraph
261 (23) shall be determined by the Division of Medicaid. The
262 individuals determined eligible shall be eligible only for
263 prescription drugs and over-the-counter drugs covered under
264 Section 43-13-117(9) and not for any other services covered under
265 Section 43-13-117.

266 The Division of Medicaid shall apply to the United States
267 Secretary of Health and Human Services for a federal waiver of the
268 applicable provisions of Title XIX of the federal Social Security
269 Act, as amended, and any other applicable provisions of federal
270 law as necessary to allow for the implementation of this paragraph
271 (23). The provisions of this paragraph (23) shall be implemented
272 from and after the date that the Division of Medicaid receives the
273 federal waiver.

274 SECTION 2. This act shall take effect and be in force from
275 and after July 1, 2001.