

By: Representative Holland

To: Judiciary A

HOUSE BILL NO. 727

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT INDIVIDUALS WHO ARE UNDER CONTRACT WITH THE DIVISION  
3 OF MEDICAID TO PROVIDE NONEMERGENCY SERVICES FOR MEDICAID-ELIGIBLE  
4 PERSONS SHALL BE CONSIDERED AS EMPLOYEES OF THE DIVISION OF  
5 MEDICAID FOR THE PURPOSES OF THE TORT CLAIMS ACT; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 11-46-1, Mississippi Code of 1972, is  
9 amended as follows:

10 11-46-1. As used in this chapter the following terms shall  
11 have the meanings \* \* \* ascribed in this section unless the  
12 context otherwise requires:

13 (a) "Claim" means any demand to recover damages from a  
14 governmental entity as compensation for injuries.

15 (b) "Claimant" means any person seeking compensation  
16 under the provisions of this chapter, whether by administrative  
17 remedy or through the courts.

18 (c) "Board" means the Mississippi Tort Claims Board.

19 (d) "Department" means the Department of Finance and  
20 Administration.

21 (e) "Director" means the executive director of the  
22 department who is also the executive director of the board.

23 (f) "Employee" means any officer, employee or servant  
24 of the State of Mississippi or a political subdivision of the  
25 state, including elected or appointed officials and persons acting  
26 on behalf of the state or a political subdivision in any official  
27 capacity, temporarily or permanently, in the service of the state  
28 or a political subdivision whether with or without compensation.

29 The term "employee" shall not mean a person or other legal



30 entity while acting in the capacity of an independent contractor  
31 under contract to the state or a political subdivision. \* \* \*  
32 However, \* \* \* for purposes of the limits of liability provided  
33 for in Section 11-46-15, the term "employee" shall include  
34 physicians under contract to provide health services with the  
35 State Board of Health, the State Board of Mental Health or any  
36 county or municipal jail facility while rendering services under  
37 the contract. In addition, the term "employee" includes  
38 individuals who are under contract with the Division of Medicaid  
39 under Section 43-13-117(36) to provide nonemergency services for  
40 Medicaid-eligible persons, and those individuals shall be  
41 considered as employees of the Division of Medicaid for the  
42 purposes of the Tort Claims Act. The term "employee" shall also  
43 include Mississippi Department of Human Services licensed foster  
44 parents for the limited purposes of coverage under the Tort Claims  
45 Act as provided in Section 11-46-8.

46 (g) "Governmental entity" means and includes the state  
47 and political subdivisions as herein defined.

48 (h) "Injury" means death, injury to a person, damage to  
49 or loss of property or any other injury that a person may suffer  
50 that is actionable at law or in equity.

51 (i) "Political subdivision" means any body politic or  
52 body corporate other than the state responsible for governmental  
53 activities only in geographic areas smaller than that of the  
54 state, including but not limited to any county, municipality,  
55 school district, community hospital as defined in Section  
56 41-13-10, airport authority or other instrumentality thereof,  
57 whether or not the body or instrumentality thereof has the  
58 authority to levy taxes or to sue or be sued in its own name.

59 (j) "State" means the State of Mississippi and any  
60 office, department, agency, division, bureau, commission, board,  
61 institution, hospital, college, university, airport authority or  
62 other instrumentality thereof, whether or not the body or



63 instrumentality thereof has the authority to levy taxes or to sue  
64 or be sued in its own name.

65 (k) "Law" means all species of law including but not  
66 limited to any and all constitutions, statutes, case law, common  
67 law, customary law, court order, court rule, court decision, court  
68 opinion, court judgment or mandate, administrative rule or  
69 regulation, executive order, or principle or rule of equity.

70 **SECTION 2.** This act shall take effect and be in force from  
71 and after July 1, 2002.

