

By: Representative Evans

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1034

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE MEDICAID ELIGIBILITY FOR CHILDREN UNDER NINETEEN YEARS
3 OF AGE AND THEIR PARENTS OR CARETAKER RELATIVES IN FAMILIES WITH
4 FAMILY INCOME THAT DOES NOT EXCEED 133% OF THE FEDERAL POVERTY
5 LEVEL; TO AMEND SECTION 41-86-15, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT THE PARENTS OR CARETAKER RELATIVES OF CHILDREN WHOSE
7 FAMILY INCOME DOES NOT EXCEED 200% OF THE POVERTY LEVEL WILL BE
8 ELIGIBLE TO RECEIVE BENEFITS UNDER THE CHIP PROGRAM IF A FEDERAL
9 WAIVER IS OBTAINED THAT ALLOWS THOSE PERSONS TO BE ELIGIBLE AND
10 ALLOWS FEDERAL MATCHING CHIP FUNDS TO BE USED TO PAY FOR COVERAGE
11 OF THOSE PERSONS; TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR
12 A FEDERAL WAIVER FOR THAT PURPOSE; AND FOR RELATED PURPOSES.

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

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

16 43-13-115. Recipients of medical assistance shall be the
17 following persons only:

18 (1) Who are qualified for public assistance grants
19 under provisions of Title IV-E of the federal Social Security Act,
20 as amended, as determined by the State Department of Human
21 Services * * *.

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

27 (3) Children under nineteen (19) years of age and their
28 parents or caretaker relatives in families with family income that
29 does not exceed one hundred thirty-three percent (133%) of the
30 federal poverty level. This paragraph (3) is implementing the
31 state option under Section 1931(b)(2)(C) of the federal Social
32 Security Act, as amended (42 USCS Section 1396u-1(b)(2)(C)), which



33 allows states to use income and resource methodologies that are
34 less restrictive than the methodologies used under the state plan
35 as of July 16, 1996.

36 (4) [Deleted]

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

49 (6) Children certified by the State Department of Human
50 Services to the Division of Medicaid of whom the state and county
51 human services agency has custody and financial responsibility,
52 and children who are in adoptions subsidized in full or part by
53 the Department of Human Services, including special needs children
54 in non-Title IV-E adoption assistance, who are approvable under
55 Title 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) * * * Pregnant women (including those in intact
73 families) who meet the AFDC financial standards of the state plan
74 approved under Title IV-A of the federal Social Security Act, as
75 amended, as they existed on July 16, 1996. The eligibility of
76 persons covered under this paragraph shall be determined by the
77 State Department of Human Services and certified to the Division
78 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 whose income does
107 not exceed one hundred thirty-five percent (135%) of the nonfarm
108 official poverty line as defined by the Office of Management and
109 Budget and revised annually, and whose resources do not exceed
110 those established by the Division of Medicaid.

111 The eligibility of individuals covered under this paragraph
112 shall be determined by the Division of Medicaid, and such
113 individuals determined eligible shall receive the same Medicaid
114 services as other categorical eligible individuals.

115 (12) Individuals who are qualified Medicare
116 beneficiaries (QMB) entitled to Part A Medicare as defined under
117 Section 301, Public Law 100-360, known as the Medicare
118 Catastrophic Coverage Act of 1988, and whose income does not
119 exceed one hundred percent (100%) of the nonfarm official poverty
120 line as defined by the Office of Management and Budget and revised
121 annually.

122 The eligibility of individuals covered under this paragraph
123 shall be determined by the Division of Medicaid, and such
124 individuals determined eligible shall receive Medicare
125 cost-sharing expenses only as more fully defined by the Medicare
126 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
127 1997.

128 (13) (a) Individuals who are entitled to Medicare Part
129 A as defined in Section 4501 of the Omnibus Budget Reconciliation
130 Act of 1990, and whose income does not exceed one hundred twenty
131 percent (120%) of the nonfarm official poverty line as defined by



132 the Office of Management and Budget and revised annually.
133 Eligibility for Medicaid benefits is limited to full payment of
134 Medicare Part B premiums.

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

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

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

155 (14) [Deleted]

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



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

171 (17) In accordance with the terms of the federal
172 Personal Responsibility and Work Opportunity Reconciliation Act of
173 1996 (Public Law 104-193), persons who become ineligible for
174 assistance under paragraph (3) of this section because of
175 increased income from or hours of employment of the caretaker
176 relative or because of the expiration of the applicable earned
177 income disregards, who were eligible for Medicaid for at least
178 three (3) of the six (6) months preceding the month in which such
179 ineligibility begins, shall be eligible for Medicaid assistance
180 for up to twenty-four (24) months; however, Medicaid assistance
181 for more than twelve (12) months may be provided only if a federal
182 waiver is obtained to provide such assistance for more than twelve
183 (12) months and federal and state funds are available to provide
184 such assistance.

185 (18) Persons who become ineligible for assistance under
186 paragraph (3) of this section as a result, in whole or in part, of
187 the collection or increased collection of child or spousal support
188 under Title IV-D of the federal Social Security Act, as amended,
189 who were eligible for Medicaid for at least three (3) of the six
190 (6) months immediately preceding the month in which such
191 ineligibility begins, shall be eligible for Medicaid for an
192 additional four (4) months beginning with the month in which such
193 ineligibility begins.

194 (19) Disabled workers, whose incomes are above the
195 Medicaid eligibility limits, but below two hundred fifty percent
196 (250%) of the federal poverty level, shall be allowed to purchase



197 Medicaid coverage on a sliding fee scale developed by the Division
198 of Medicaid.

199 (20) Medicaid eligible children under age eighteen (18)
200 shall remain eligible for Medicaid benefits until the end of a
201 period of twelve (12) months following an eligibility
202 determination, or until such time that the individual exceeds age
203 eighteen (18).

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

216 The Division of Medicaid shall apply to the United States
217 Secretary of Health and Human Services for a federal waiver of the
218 applicable provisions of Title XIX of the federal Social Security
219 Act, as amended, and any other applicable provisions of federal
220 law as necessary to allow for the implementation of this paragraph
221 (21). The provisions of this paragraph (21) shall be implemented
222 from and after the date that the Division of Medicaid receives the
223 federal waiver.

224 (22) Persons who are workers with a potentially severe
225 disability, as determined by the division, shall be allowed to
226 purchase Medicaid coverage. The term "worker with a potentially
227 severe disability" means a person who is at least sixteen (16)
228 years of age but under sixty-five (65) years of age, who has a
229 physical or mental impairment that is reasonably expected to cause



230 the person to become blind or disabled as defined under Section
231 1614(a) of the federal Social Security Act, as amended, if the
232 person does not receive items and services provided under
233 Medicaid.

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

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

249 (23) Children certified by the Mississippi Department
250 of Human Services for whom the state and county human services
251 agency has custody and financial responsibility who are in foster
252 care on their eighteenth birthday as reported by the Mississippi
253 Department of Human Services shall be certified Medicaid eligible
254 by the Division of Medicaid until their twenty-first birthday.

255 (24) Individuals who have not attained age sixty-five
256 (65), are not otherwise covered by creditable coverage as defined
257 in the Public Health Services Act, and have been screened for
258 breast and cervical cancer under the Centers for Disease Control
259 and Prevention Breast and Cervical Cancer Early Detection Program
260 established under Title XV of the Public Health Service Act in
261 accordance with the requirements of that act and who need
262 treatment for breast or cervical cancer. Eligibility of



263 individuals under this paragraph (24) shall be determined by the
264 Division of Medicaid.

265 (25) Individuals who would be eligible for services in
266 a nursing home but who live in a noninstitutional setting, whose
267 income does not exceed the amount prescribed by federal regulation
268 for nursing home care, and who regularly expend more than fifty
269 percent (50%) of their monthly income on prescription drugs and
270 over-the-counter drugs.

271 The eligibility of individuals covered under this paragraph
272 (25) shall be determined by the Division of Medicaid. The
273 individuals determined eligible shall be eligible only for
274 prescription drugs and over-the-counter drugs covered under
275 Section 43-13-117(9) and not for any other services covered under
276 Section 43-13-117.

277 The Division of Medicaid shall apply to the United States
278 Secretary of Health and Human Services for a federal waiver of the
279 applicable provisions of Title XIX of the federal Social Security
280 Act, as amended, and any other applicable provisions of federal
281 law as necessary to allow for the implementation of this paragraph
282 (25). The provisions of this paragraph (25) shall be implemented
283 from and after the date that the Division of Medicaid receives the
284 federal waiver.

285 **SECTION 2.** Section 41-86-15, Mississippi Code of 1972, is
286 amended as follows:

287 41-86-15. (1) Persons eligible to receive covered benefits
288 under Sections 41-86-5 through 41-86-17 shall be low-income
289 children who meet the eligibility standards set forth in the plan.
290 In addition, the parents or caretaker relatives of low-income
291 children will be eligible to receive covered benefits under
292 Sections 41-86-5 through 41-86-17 if a federal waiver is obtained
293 that allows those persons to be eligible for covered benefits and
294 allows federal matching funds under Title XXI of the federal



295 Social Security Act, as amended, to be used to pay for coverage of
296 those persons.

297 The Division of Medicaid shall apply to the United States
298 Secretary of Health and Human Services for a federal waiver of the
299 applicable provisions of Title XXI and any other applicable
300 provisions of federal law as necessary to allow the parents or
301 caretaker relatives of low-income children to be eligible to
302 receive covered benefits under Sections 41-86-5 through 41-86-17
303 and to allow Title XXI federal matching funds to be used to pay
304 for coverage of those persons. After the date that the Division
305 of Medicaid obtains that federal waiver, then the parents or
306 caretaker relatives of low-income children will be eligible to
307 receive covered benefits under Sections 41-86-5 through 41-86-17.

308 (2) Any person who is eligible for benefits under the
309 Mississippi Medicaid Law, Section 43-13-101 et seq., shall not be
310 eligible to receive benefits under Sections 41-86-5 through
311 41-86-17.

312 (3) A person who is without insurance coverage at the time
313 of application for the program and who meets the other eligibility
314 criteria in the plan shall be eligible to receive covered benefits
315 under the program * * *.

316 (4) The eligibility of persons for covered benefits under
317 the program shall be determined annually by the same agency or
318 entity that determines eligibility under Section 43-13-115(9) and
319 shall cover twelve (12) continuous months under the program.

320 (5) There will be presumptive eligibility under this chapter
321 for children under nineteen (19) years of age, in accordance with
322 the following provisions:

323 (a) A child will be deemed to be presumptively eligible
324 for covered benefits and services under this chapter if a
325 qualified entity as defined under federal law (42 USCS Section
326 1396r-1a) determines, on the basis of preliminary information,



327 that the family income of the child does not exceed the applicable
328 income level of eligibility under the plan.

329 (b) A child will be presumptively eligible under this
330 chapter from the date that the qualified entity determines that
331 the child is presumptively eligible until the earlier of either:

332 (i) The date on which a determination is made with
333 respect to the eligibility of the child for covered benefits and
334 services under this chapter, or

335 (ii) The last day of the month following the month
336 in which presumptive eligibility is determined, if an application
337 has not been filed on behalf of the child by that day.

338 (c) For the period during which a child is
339 presumptively eligible under this chapter, the child will be
340 eligible to receive all covered benefits and services under this
341 chapter.

342 (d) If a child is determined to be presumptively
343 eligible under this chapter, the child's parent, guardian or
344 caretaker relative must submit a completed application for
345 assistance under the program no later than the last day of the
346 month following the month in which presumptive eligibility is
347 determined. The qualified entity shall inform the parent,
348 guardian or caretaker relative of this requirement at the time the
349 qualified entity makes the determination of presumptive
350 eligibility.

351 (e) The qualified entity shall notify the Division of
352 Medicaid of the determination of presumptive eligibility within
353 five (5) working days after the date on which the determination is
354 made.

355 (f) The Division of Medicaid shall provide qualified
356 entities with such forms as are necessary for an application to be
357 made on behalf of a child for eligibility under this chapter. The
358 Division of Medicaid shall make those application forms and the
359 application process itself as simple as possible.



360 **SECTION 3.** This act shall take effect and be in force from
361 and after July 1, 2002.

