

By: Senator(s) Smith

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2884

1 AN ACT ENTITLES THE "MEDICAID BEST PRACTICES FOR MANAGING  
2 CHRONIC ILLNESS AND DISABILITIES PROGRAM"; TO ESTABLISH AND  
3 EMPOWER A MEDICAID BEST PRACTICES TASK FORCE; TO AMEND SECTION  
4 43-13-121, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DIVISION OF  
5 MEDICAID TO ADOPT REGULATIONS TO IMPLEMENT THE RECOMMENDATIONS OF  
6 THE TASK FORCE IN A COST EFFECTIVE MANNER; AND FOR RELATED  
7 PURPOSES.

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

9 **SECTION 1.** (1) This act shall be known and may be cited as  
10 the "Mississippi Medicaid Best Practices for Managing Chronic  
11 Illness and Disabilities Program."

12 (2) The Legislature finds that:

13 (a) Disease and care management programs are an  
14 integrated approach to delivering health care services which  
15 target specific diseases or conditions or individuals and provide  
16 treatment mechanisms based on best practices and the coordination  
17 of care between health care providers.

18 (b) Disease and care management programs have become an  
19 innovative way for states to control rising costs while not  
20 hindering access to prescription drugs. These programs are an  
21 effective alternative to component management techniques such as  
22 prior authorization or restrictive formularies which can have the  
23 unintended, but real, consequences of harming patients and costing  
24 states more than they save.

25 (c) Medicaid patients are often the state's most  
26 disadvantaged citizens, burdened with significant medical,  
27 financial and social needs. Medicaid patients benefit from an  
28 integrated approach to health care with open and continuous access  
29 to physician prescribed medicines.



30 (d) The state should encourage the use of disease  
31 management, case management and utilization review programs to  
32 coordinate care, improve health status and reduce inappropriate  
33 care.

34 (e) The Medicaid Best Practices Task Force shall advise  
35 the state, and specifically the Department of Health, on the  
36 establishment and implementation of programs specifically targeted  
37 at improving the health care of Medicaid patients and reducing  
38 state costs without restricting patient access to appropriate  
39 care.

40 (3) As used in this section, "division" means the Division  
41 of Medicaid, Office of the Governor.

42 (4) The Medicaid Best Practices Task Force (Task Force) is  
43 hereby established within the Division of Medicaid. The Task  
44 Force shall consist of seven (7) members as appointed by the  
45 Director of the Division of Medicaid as follows:

46 (a) Three (3) physicians licensed in this state and  
47 actively engaged in the practice of medicine chosen from a list of  
48 nominees provided by the Mississippi Medical Association;

49 (b) Two (2) pharmacists licensed in this state,  
50 actively engaged in the practice of pharmacy, and chosen from a  
51 list of nominees provided by the Mississippi Pharmaceutical  
52 Association;

53 (c) One (1) person who is a resident of this state  
54 chosen to represent program beneficiaries in this state; and

55 (d) One (1) person representing the pharmaceutical  
56 industry chosen from a list of nominees provided by the  
57 Pharmaceutical Research and Manufacturers of America.

58 Task Force members shall serve staggered three-year terms.  
59 One (1) physician, one (1) pharmacist and the beneficiary  
60 representative shall each be initially appointed for two-year  
61 terms, and two (2) physicians, one (1) pharmacist and the industry  
62 representative shall each be initially appointed for one-year



63 terms. Members may be reappointed for a period not to exceed  
64 three (3), three-year terms. Vacancies on the Task Force shall be  
65 filled for the balance of the unexpired term from nominee lists  
66 for the appropriate Task Force category as under subsection (4).  
67 Task Force members shall select a chairperson and a vice  
68 chairperson on an annual basis from the Task Force membership.  
69 The Task Force shall meet at least quarterly and may meet at other  
70 times at the discretion of the chairperson.

71 (5) The Task Force shall have the power and duty to:

72 (a) Identify Medicaid patients who require ongoing and  
73 expensive care and develop interventions to improve their health,  
74 functional status and independence;

75 (b) Promote adherence to best medical practices;

76 (c) Encourage health plans and health care systems  
77 participating in the Medicaid program to:

78 (i) Conduct patient needs assessments upon  
79 enrollment;

80 (ii) Develop individual, patient-centered plans;  
81 and

82 (iii) Use case management incorporating  
83 evidence-based practice guidelines.

84 (d) Advise and make recommendations to the division  
85 regarding program-wide initiatives to use disease management, case  
86 management and utilization review programs to improve the health  
87 status of Medicaid patients and reduce Medicaid costs.

88 **SECTION 2.** Section 43-13-121, Mississippi Code of 1972, is  
89 amended as follows:

90 43-13-121. (1) The division is authorized and empowered to  
91 administer a program of medical assistance under the provisions of  
92 this article, and to do the following:

93 (a) Adopt and promulgate reasonable rules, regulations  
94 and standards, with approval of the Governor, and in accordance  
95 with the Administrative Procedures Law, Section 25-43-1 et seq.:



96 (i) Establishing methods and procedures as may be  
97 necessary for the proper and efficient administration of this  
98 article;

99 (ii) Providing medical assistance to all qualified  
100 recipients under the provisions of this article as the division  
101 may determine and within the limits of appropriated funds;

102 (iii) Establishing reasonable fees, charges and  
103 rates for medical services and drugs; and in doing so shall fix  
104 all such fees, charges and rates at the minimum levels absolutely  
105 necessary to provide the medical assistance authorized by this  
106 article, and shall not change any such fees, charges or rates  
107 except as may be authorized in Section 43-13-117;

108 (iv) Providing for fair and impartial hearings;

109 (v) Providing safeguards for preserving the  
110 confidentiality of records; and

111 (vi) For detecting and processing fraudulent  
112 practices and abuses of the program;

113 (b) Receive and expend state, federal and other funds  
114 in accordance with court judgments or settlements and agreements  
115 between the State of Mississippi and the federal government, the  
116 rules and regulations promulgated by the division, with the  
117 approval of the Governor, and within the limitations and  
118 restrictions of this article and within the limits of funds  
119 available for such purpose;

120 (c) Subject to the limits imposed by this article, to  
121 submit a plan for medical assistance to the federal Department of  
122 Health and Human Services for approval pursuant to the provisions  
123 of the Social Security Act, to act for the state in making  
124 negotiations relative to the submission and approval of such plan,  
125 to make such arrangements, not inconsistent with the law, as may  
126 be required by or pursuant to federal law to obtain and retain  
127 such approval and to secure for the state the benefits of the  
128 provisions of such law;



129           No agreements, specifically including the general plan for  
130 the operation of the Medicaid program in this state, shall be made  
131 by and between the division and the Department of Health and Human  
132 Services unless the Attorney General of the State of Mississippi  
133 has reviewed the agreements, specifically including the  
134 operational plan, and has certified in writing to the Governor and  
135 to the director of the division that the agreements, including the  
136 plan of operation, have been drawn strictly in accordance with the  
137 terms and requirements of this article;

138           (d) Pursuant to the purposes and intent of this article  
139 and in compliance with its provisions, provide for aged persons  
140 otherwise eligible for the benefits provided under Title XVIII of  
141 the federal Social Security Act by expenditure of funds available  
142 for such purposes;

143           (e) To make reports to the federal Department of Health  
144 and Human Services as from time to time may be required by such  
145 federal department and to the Mississippi Legislature as  
146 hereinafter provided;

147           (f) Define and determine the scope, duration and amount  
148 of medical assistance which may be provided in accordance with  
149 this article and establish priorities therefor in conformity with  
150 this article;

151           (g) Cooperate and contract with other state agencies  
152 for the purpose of coordinating medical assistance rendered under  
153 this article and eliminating duplication and inefficiency in the  
154 program;

155           (h) Adopt and use an official seal of the division;

156           (i) Sue in its own name on behalf of the State of  
157 Mississippi and employ legal counsel on a contingency basis with  
158 the approval of the Attorney General;

159           (j) To recover any and all payments incorrectly made by  
160 the division or by the Medicaid Commission to a recipient or  
161 provider from the recipient or provider receiving the payments;



162           (k) To recover any and all payments by the division or  
163 by the Medicaid Commission fraudulently obtained by a recipient or  
164 provider. Additionally, if recovery of any payments fraudulently  
165 obtained by a recipient or provider is made in any court, then,  
166 upon motion of the Governor, the judge of the court may award  
167 twice the payments recovered as damages;

168           (1) Have full, complete and plenary power and authority  
169 to conduct such investigations as it may deem necessary and  
170 requisite of alleged or suspected violations or abuses of the  
171 provisions of this article or of the regulations adopted hereunder  
172 including, but not limited to, fraudulent or unlawful act or deed  
173 by applicants for medical assistance or other benefits, or  
174 payments made to any person, firm or corporation under the terms,  
175 conditions and authority of this article, to suspend or disqualify  
176 any provider of services, applicant or recipient for gross abuse,  
177 fraudulent or unlawful acts for such periods, including  
178 permanently, and under such conditions as the division may deem  
179 proper and just, including the imposition of a legal rate of  
180 interest on the amount improperly or incorrectly paid. Recipients  
181 who are found to have misused or abused medical assistance  
182 benefits may be locked into one (1) physician and/or one (1)  
183 pharmacy of the recipient's choice for a reasonable amount of time  
184 in order to educate and promote appropriate use of medical  
185 services, in accordance with federal regulations. Should an  
186 administrative hearing become necessary, the division shall be  
187 authorized, should the provider not succeed in his defense, in  
188 taxing the costs of the administrative hearing, including the  
189 costs of the court reporter or stenographer and transcript, to the  
190 provider. The convictions of a recipient or a provider in a state  
191 or federal court for abuse, fraudulent or unlawful acts under this  
192 chapter shall constitute an automatic disqualification of the  
193 recipient or automatic disqualification of the provider from  
194 participation under the Medicaid program.



195 A conviction, for the purposes of this chapter, shall include  
196 a judgment entered on a plea of nolo contendere or a  
197 nonadjudicated guilty plea and shall have the same force as a  
198 judgment entered pursuant to a guilty plea or a conviction  
199 following trial. A certified copy of the judgment of the court of  
200 competent jurisdiction of such conviction shall constitute prima  
201 facie evidence of such conviction for disqualification purposes;

202 (m) Establish and provide such methods of  
203 administration as may be necessary for the proper and efficient  
204 operation of the program, fully utilizing computer equipment as  
205 may be necessary to oversee and control all current expenditures  
206 for purposes of this article, and to closely monitor and supervise  
207 all recipient payments and vendors rendering such services  
208 hereunder;

209 (n) To cooperate and contract with the federal  
210 government for the purpose of providing medical assistance to  
211 Vietnamese and Cambodian refugees, pursuant to the provisions of  
212 Public Law 94-23 and Public Law 94-24, including any amendments  
213 thereto, only to the extent that such assistance and the  
214 administrative cost related thereto are one hundred percent (100%)  
215 reimbursable by the federal government. For the purposes of  
216 Section 43-13-117, persons receiving medical assistance pursuant  
217 to Public Law 94-23 and Public Law 94-24, including any amendments  
218 thereto, shall not be considered a new group or category of  
219 recipient; \* \* \*

220 (o) The division shall impose penalties upon Medicaid  
221 only, Title XIX participating long-term care facilities found to  
222 be in noncompliance with division and certification standards in  
223 accordance with federal and state regulations, including interest  
224 at the same rate calculated by the Department of Health and Human  
225 Services and/or the Health Care Financing Administration under  
226 federal regulations; and



227           (p) The division shall promulgate and adopt rules and  
228 regulations as are necessary to study and implement the  
229 recommendations of the Medicaid Best Practices Task Force  
230 established and empowered in Section 1 of this act in a  
231 cost-effective manner. Any such recommendations which require  
232 statutory revision shall be reported to the Legislature for  
233 appropriate action. The division shall maintain data to evaluate  
234 the cost and effectiveness of the Task Force recommendations and  
235 report to the Chairmen of the Public Health and Welfare Committees  
236 of both houses of the Legislature on annual basis.

237           (2) The division also shall exercise such additional powers  
238 and perform such other duties as may be conferred upon the  
239 division by act of the Legislature hereafter.

240           (3) The division, and the State Department of Health as the  
241 agency for licensure of health care facilities and certification  
242 and inspection for the Medicaid and/or Medicare programs, shall  
243 contract for or otherwise provide for the consolidation of on-site  
244 inspections of health care facilities which are necessitated by  
245 the respective programs and functions of the division and the  
246 department.

247           (4) The division and its hearing officers shall have power  
248 to preserve and enforce order during hearings; to issue subpoenas  
249 for, to administer oaths to and to compel the attendance and  
250 testimony of witnesses, or the production of books, papers,  
251 documents and other evidence, or the taking of depositions before  
252 any designated individual competent to administer oaths; to  
253 examine witnesses; and to do all things conformable to law which  
254 may be necessary to enable them effectively to discharge the  
255 duties of their office. In compelling the attendance and  
256 testimony of witnesses, or the production of books, papers,  
257 documents and other evidence, or the taking of depositions, as  
258 authorized by this section, the division or its hearing officers  
259 may designate an individual employed by the division or some other



260 suitable person to execute and return such process, whose action  
261 in executing and returning such process shall be as lawful as if  
262 done by the sheriff or some other proper officer authorized to  
263 execute and return process in the county where the witness may  
264 reside. In carrying out the investigatory powers under the  
265 provisions of this article, the director or other designated  
266 person or persons shall be authorized to examine, obtain, copy or  
267 reproduce the books, papers, documents, medical charts,  
268 prescriptions and other records relating to medical care and  
269 services furnished by the provider to a recipient or designated  
270 recipients of Medicaid services under investigation. In the  
271 absence of the voluntary submission of the books, papers,  
272 documents, medical charts, prescriptions and other records, the  
273 Governor, the director, or other designated person shall be  
274 authorized to issue and serve subpoenas instantly upon such  
275 provider, his agent, servant or employee for the production of the  
276 books, papers, documents, medical charts, prescriptions or other  
277 records during an audit or investigation of the provider. If any  
278 provider or his agent, servant or employee should refuse to  
279 produce the records after being duly subpoenaed, the director  
280 shall be authorized to certify such facts and institute contempt  
281 proceedings in the manner, time, and place as authorized by law  
282 for administrative proceedings. As an additional remedy, the  
283 division shall be authorized to recover all amounts paid to the  
284 provider covering the period of the audit or investigation,  
285 inclusive of a legal rate of interest and a reasonable attorney's  
286 fee and costs of court if suit becomes necessary. Division staff  
287 shall have immediate access to the provider's physical location,  
288 facilities, records, documents, books, and any other records  
289 relating to medical care and services rendered to recipients  
290 during regular business hours.

291 (5) If any person in proceedings before the division  
292 disobeys or resists any lawful order or process, or misbehaves



293 during a hearing or so near the place thereof as to obstruct the  
294 same, or neglects to produce, after having been ordered to do so,  
295 any pertinent book, paper or document, or refuses to appear after  
296 having been subpoenaed, or upon appearing refuses to take the oath  
297 as a witness, or after having taken the oath refuses to be  
298 examined according to law, the director shall certify the facts to  
299 any court having jurisdiction in the place in which it is sitting,  
300 and the court shall thereupon, in a summary manner, hear the  
301 evidence as to the acts complained of, and if the evidence so  
302 warrants, punish such person in the same manner and to the same  
303 extent as for a contempt committed before the court, or commit  
304 such person upon the same condition as if the doing of the  
305 forbidden act had occurred with reference to the process of, or in  
306 the presence of, the court.

307 (6) In suspending or terminating any provider from  
308 participation in the Medicaid program, the division shall preclude  
309 such provider from submitting claims for payment, either  
310 personally or through any clinic, group, corporation or other  
311 association to the division or its fiscal agents for any services  
312 or supplies provided under the Medicaid program except for those  
313 services or supplies provided prior to the suspension or  
314 termination. No clinic, group, corporation or other association  
315 which is a provider of services shall submit claims for payment to  
316 the division or its fiscal agents for any services or supplies  
317 provided by a person within such organization who has been  
318 suspended or terminated from participation in the Medicaid program  
319 except for those services or supplies provided prior to the  
320 suspension or termination. When this provision is violated by a  
321 provider of services which is a clinic, group, corporation or  
322 other association, the division may suspend or terminate such  
323 organization from participation. Suspension may be applied by the  
324 division to all known affiliates of a provider, provided that each  
325 decision to include an affiliate is made on a case-by-case basis



326 after giving due regard to all relevant facts and circumstances.  
327 The violation, failure, or inadequacy of performance may be  
328 imputed to a person with whom the provider is affiliated where  
329 such conduct was accomplished with the course of his official duty  
330 or was effectuated by him with the knowledge or approval of such  
331 person.

332 (7) If the division ascertains that a provider has been  
333 convicted of a felony under federal or state law for an offense  
334 which the division determines is detrimental to the best interests  
335 of the program or of Medicaid recipients, the division may refuse  
336 to enter into an agreement with such provider, or may terminate or  
337 refuse to renew an existing agreement.

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

