

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.

