

By: Senator(s) Smith

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2960

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE DIVISION OF MEDICAID TO APPLY FOR A FEDERAL 1115
3 WAIVER FOR A PHARMACEUTICAL DRUG PROGRAM FOR NEEDY SENIORS AND THE
4 DISABLED; AND FOR RELATED PURPOSES.

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

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

8 43-13-115. Recipients of medical assistance shall be the
9 following persons only:

10 (1) Who are qualified for public assistance grants
11 under provisions of Title IV-A and E of the federal Social
12 Security Act, as amended, as determined by the State Department of
13 Human Services, including those statutorily deemed to be IV-A and
14 low-income families and children under Section 1931 of the Social
15 Security Act as determined by the State Department of Human
16 Services and certified to the Division of Medicaid, but not
17 optional groups except as specifically covered in this section.

18 For the purposes of this paragraph (1) and paragraphs (8), (17)
19 and (18) of this section, any reference to Title IV-A or to Part A
20 of Title IV of the federal Social Security Act, as amended, or the
21 state plan under Title IV-A or Part A of Title IV, shall be
22 considered as a reference to Title IV-A of the federal Social
23 Security Act, as amended, and the state plan under Title IV-A,
24 including the income and resource standards and methodologies
25 under Title IV-A and the state plan, as they existed on July 16,
26 1996.

27 (2) Those qualified for Supplemental Security Income
28 (SSI) benefits under Title XVI of the federal Social Security Act,



29 as amended. The eligibility of individuals covered in this
30 paragraph shall be determined by the Social Security
31 Administration and certified to the Division of Medicaid.

32 (3) [Deleted]

33 (4) [Deleted]

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

46 (6) Children certified by the State Department of Human
47 Services to the Division of Medicaid of whom the state and county
48 human services agency has custody and financial responsibility,
49 and children who are in adoptions subsidized in full or part by
50 the Department of Human Services, including special needs children
51 in non-Title IV-E adoption assistance, who are approvable under
52 Title XIX of the Medicaid program.

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



62 in a medical facility but whose income is below the maximum
63 standard set by the Division of Medicaid, which standard shall not
64 exceed that prescribed by federal regulation;

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

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

76 (9) Individuals who are:

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

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

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

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

92 (10) Certain disabled children age eighteen (18) or
93 under who are living at home, who would be eligible, if in a
94 medical institution, for SSI or a state supplemental payment under



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

101 (11) Individuals who are sixty-five (65) years of age
102 or older or are disabled as determined under Section 1614(a)(3) of
103 the federal Social Security Act, as amended, and whose income does
104 not exceed one hundred thirty-five percent (135%) of the nonfarm
105 official poverty line as defined by the Office of Management and
106 Budget and revised annually, and whose resources do not exceed
107 those established by the Division of Medicaid.

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

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

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

125 (13) (a) Individuals who are entitled to Medicare Part
126 A as defined in Section 4501 of the Omnibus Budget Reconciliation
127 Act of 1990, and whose income does not exceed one hundred twenty



128 percent (120%) of the nonfarm official poverty line as defined by
129 the Office of Management and Budget and revised annually.
130 Eligibility for Medicaid benefits is limited to full payment of
131 Medicare Part B premiums.

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

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

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

152 (14) [Deleted]

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



160 individuals shall be entitled to buy-in coverage of Medicare Part
161 A premiums only under the provisions of this paragraph (15).

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

168 (17) In accordance with the terms of the federal
169 Personal Responsibility and Work Opportunity Reconciliation Act of
170 1996 (Public Law 104-193), persons who become ineligible for
171 assistance under Title IV-A of the federal Social Security Act, as
172 amended, because of increased income from or hours of employment
173 of the caretaker relative or because of the expiration of the
174 applicable earned income disregards, who were eligible for
175 Medicaid for at least three (3) of the six (6) months preceding
176 the month in which such ineligibility begins, shall be eligible
177 for Medicaid assistance for up to twenty-four (24) months;
178 however, Medicaid assistance for more than twelve (12) months may
179 be provided only if a federal waiver is obtained to provide such
180 assistance for more than twelve (12) months and federal and state
181 funds are available to provide such assistance.

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

191 (19) Disabled workers, whose incomes are above the
192 Medicaid eligibility limits, but below two hundred fifty percent



193 (250%) of the federal poverty level, shall be allowed to purchase
194 Medicaid coverage on a sliding fee scale developed by the Division
195 of Medicaid.

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

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

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

221 (22) Persons who are workers with a potentially severe
222 disability, as determined by the division, shall be allowed to
223 purchase Medicaid coverage. The term "worker with a potentially
224 severe disability" means a person who is at least sixteen (16)
225 years of age but under sixty-five (65) years of age, who has a



226 physical or mental impairment that is reasonably expected to cause
227 the person to become blind or disabled as defined under Section
228 1614(a) of the federal Social Security Act, as amended, if the
229 person does not receive items and services provided under
230 Medicaid.

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

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

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

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



259 treatment for breast or cervical cancer. Eligibility of
260 individuals under this paragraph (24) shall be determined by the
261 Division of Medicaid.

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

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

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

282 (26) With respect to the Medicaid Rx Senior and
283 Disabled Eligibility Waiver Program in this paragraph (26):

284 (a) "Qualified Medicare Beneficiaries" means Medicare
285 beneficiaries with incomes equal to or below one hundred percent
286 (100%) of the federal poverty level who are eligible for Medicaid
287 assistance for the Part A and Part B Medicare premiums and for
288 Medicare deductibles and co-insurance requirements as set forth in
289 Section 1905(p)(1) of Title XIX of the Social Security Act.

290 (b) "Specified Low-income Medicare Beneficiaries" means
291 Medicare beneficiaries who have incomes greater than one hundred



292 percent (100%) of the federal poverty level and less than one
293 hundred twenty percent (120%) of the federal poverty level and
294 meet the requirements set forth in Section 1902(a)(10)(E)(iii) of
295 Title 19 of the Social Security Act.

296 Individuals eligible for the Medicaid Rx Senior and Disabled
297 Eligibility Expansion Waiver Program shall be entitled to the
298 Medicaid prescription drug coverage as provided to Medicaid
299 recipients as set forth in Title XIX of the Social Security Act.
300 To be eligible for the program, an individual shall meet the
301 following requirements: (a) be a United States citizen or a
302 lawfully admitted alien; (b) be a resident of the State of
303 Mississippi; (c) be at least sixty-five (65) years of age or an
304 individual between the ages of nineteen (19) and sixty-four (64)
305 who is otherwise eligible for benefits under Title II of the
306 Social Security Act (Federal Old Age, Survivors and Disability
307 Insurance); (d) meet the definition of a Qualified Medicare
308 Beneficiary or a Specified Low-income Medicare Beneficiary as set
309 forth in this paragraph (26); and (e) be ineligible for and/or not
310 receiving a prescription drug benefit through a Medicare
311 supplemental policy or any other third-party payer prescription
312 benefit. The eligibility of individuals covered under this
313 paragraph (26) shall be determined by the Division of Medicaid.

314 The Division of Medicaid shall apply to the United States
315 Secretary of Health and Human Services for a federal 1115 waiver
316 of the applicable provisions of Title XIX of the federal Social
317 Security Act, as amended, and any other applicable provisions of
318 federal law as necessary to allow for the implementation of this
319 paragraph (26). The provisions of this paragraph (26) shall be
320 implemented from and after the date that the Division of Medicaid
321 receives the federal waiver.

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

