SENATE BILL NO. 2960

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

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

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

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

(1) Who are qualified for public assistance grants under provisions of Title IV-A and E of the federal Social Security Act, as amended, as determined by the State Department of Human Services, including those statutorily deemed to be IV-A and low-income families and children under Section 1931 of the Social Security Act as determined by the State Department of Human Services and certified to the Division of Medicaid, but not optional groups except as specifically covered in this section. For the purposes of this paragraph (1) and paragraphs (8), (17) and (18) of this section, any reference to Title IV-A or to Part A of Title IV of the federal Social Security Act, as amended, or the state plan under Title IV-A or Part A of Title IV, shall be considered as a reference to Title IV-A of the federal Social Security Act, as amended, and the state plan under Title IV-A, including the income and resource standards and methodologies under Title IV-A and the state plan, as they existed on July 16, 1996.

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

(3) [Deleted]

(4) [Deleted]

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

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

(7) (a) Persons certified by the Division of Medicaid who are patients in a medical facility (nursing home, hospital, tuberculosis sanatorium or institution for treatment of mental diseases), and who, except for the fact that they are patients in such medical facility, would qualify for grants under Title IV, supplementary security income benefits under Title XVI or state supplements, and those aged, blind and disabled persons who would not be eligible for supplemental security income benefits under Title XVI or state supplements if they were not institutionalized
in a medical facility but whose income is below the maximum
standard set by the Division of Medicaid, which standard shall not
exceed that prescribed by federal regulation;

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

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

(9) Individuals who are:

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

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

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

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

(10) Certain disabled children age eighteen (18) or
under who are living at home, who would be eligible, if in a
medical institution, for SSI or a state supplemental payment under
Title XVI of the federal Social Security Act, as amended, and therefore for Medicaid under the plan, and for whom the state has made a determination as required under Section 1902(e)(3)(b) of the federal Social Security Act, as amended. The eligibility of individuals under this paragraph shall be determined by the Division of Medicaid.

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

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

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

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

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

Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums.

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

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

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

(14) [Deleted]

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

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

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

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

(19) Disabled workers, whose incomes are above the Medicaid eligibility limits, but below two hundred fifty percent...
(250%) of the federal poverty level, shall be allowed to purchase Medicaid coverage on a sliding fee scale developed by the Division of Medicaid.

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

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

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

(22) Persons who are workers with a potentially severe disability, as determined by the division, shall be allowed to purchase Medicaid coverage. The term "worker with a potentially severe disability" means a person who is at least sixteen (16) years of age but under sixty-five (65) years of age, who has a
physical or mental impairment that is reasonably expected to cause
the person to become blind or disabled as defined under Section
1614(a) of the federal Social Security Act, as amended, if the
person does not receive items and services provided under
Medicaid.

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

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

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

(24) Individuals who have not attained age sixty-five
(65), are not otherwise covered by creditable coverage as defined
in the Public Health Services Act, and have been screened for
breast and cervical cancer under the Centers for Disease Control
and Prevention Breast and Cervical Cancer Early Detection Program
established under Title XV of the Public Health Service Act in
accordance with the requirements of that act and who need
treatment for breast or cervical cancer. Eligibility of
individuals under this paragraph (24) shall be determined by the
Division of Medicaid.

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

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

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

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

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

(b) "Specified Low-income Medicare Beneficiaries" means
Medicare beneficiaries who have incomes greater than one hundred
percent (100%) of the federal poverty level and less than one
hundred twenty percent (120%) of the federal poverty level and
meet the requirements set forth in Section 1902(a)(10)(E)(iii) of
Title 19 of the Social Security Act.

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

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

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