

By: Representative Fleming

To: Insurance

HOUSE BILL NO. 147

1 AN ACT TO AMEND SECTION 83-41-409, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE PARTICIPATING PROVIDERS IN MANAGED CARE PLANS TO
 3 PRESCRIBE ANY DRUG THAT THE PROVIDER HAS DETERMINED TO BE THE MOST
 4 APPROPRIATE FOR THE PATIENT, WHETHER THE DRUG IS A BRAND NAME DRUG
 5 OR THE GENERIC EQUIVALENT DRUG; TO AUTHORIZE PARTICIPATING
 6 PROVIDERS TO PROHIBIT THE DISPENSING OF A GENERIC EQUIVALENT DRUG
 7 IN LIEU OF THE DRUG ORDERED BY THE PROVIDER; TO PROHIBIT MANAGED
 8 CARE PLANS FROM PROHIBITING OR RESTRICTING ANY PARTICIPATING
 9 PROVIDER FROM PRESCRIBING ANY BRAND NAME DRUG FOR WHICH A GENERIC
 10 EQUIVALENT DRUG IS AVAILABLE; TO PROHIBIT MANAGED CARE PLANS FROM
 11 INCLUDING ANY FINANCIAL INCENTIVE FOR A PARTICIPATING PROVIDER WHO
 12 PRESCRIBES GENERIC EQUIVALENT DRUGS INSTEAD OF BRAND NAME DRUGS,
 13 OR INCLUDING ANY FINANCIAL DISINCENTIVE FOR A PROVIDER WHO
 14 PRESCRIBES BRAND NAME DRUGS FOR WHICH GENERIC EQUIVALENT DRUGS ARE
 15 AVAILABLE; TO AMEND SECTION 83-41-415, MISSISSIPPI CODE OF 1972,
 16 TO PROVIDE THAT THE PREVIOUS PROVISIONS OF THIS ACT SHALL APPLY TO
 17 ANY MANAGED CARE PLAN FOR MEDICAID PATIENTS; AND FOR RELATED
 18 PURPOSES.

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

20 **SECTION 1.** Section 83-41-409, Mississippi Code of 1972, is
 21 amended as follows:

22 83-41-409. (1) In order to be certified and recertified
 23 under this article, a managed care plan shall:

24 (a) Provide enrollees or other applicants with written
 25 information on the terms and conditions of coverage in easily
 26 understandable language including, but not limited to, information
 27 on the following:

28 (i) Coverage provisions, benefits, limitations,
 29 exclusions and restrictions on the use of any providers of care;

30 (ii) Summary of utilization review and quality
 31 assurance policies; and

32 (iii) Enrollee financial responsibility for
 33 copayments, deductibles and payments for out-of-plan services or
 34 supplies;



35 (b) Demonstrate that its provider network has providers
36 of sufficient number throughout the service area to assure
37 reasonable access to care with minimum inconvenience by plan
38 enrollees;

39 (c) File a summary of the plan credentialing criteria
40 and process and policies with the State Department of Insurance to
41 be available upon request;

42 (d) Provide a participating provider with a copy of
43 his/her individual profile if economic or practice profiles, or
44 both, are used in the credentialing process upon request;

45 (e) When any provider application for participation is
46 denied or contract is terminated, the reasons for denial or
47 termination shall be reviewed by the managed care plan upon the
48 request of the provider; and

49 (f) Establish procedures to ensure that all applicable
50 state and federal laws designed to protect the confidentiality of
51 medical records are followed.

52 (2) (a) Notwithstanding any provision in a managed care
53 plan to the contrary, any participating provider in a managed care
54 plan who is authorized to prescribe drug products shall be
55 authorized, for any person enrolled in the plan or any dependent
56 of the enrollee covered by the plan:

57 (i) To prescribe any drug product that the
58 participating provider in his professional opinion has determined
59 to be the most appropriate for the patient, whether the drug
60 product is a brand name product or the generic equivalent of the
61 brand name product; and

62 (ii) To prohibit the dispensing of a generic
63 equivalent drug product in lieu of the drug product ordered by the
64 participating provider, in accordance with the provisions of
65 Sections 73-21-115 and 73-21-117.

66 (b) A managed care plan shall not:



67 (i) Directly or indirectly prohibit or restrict
68 any participating provider in the managed care plan from
69 prescribing any brand name drug product for which a generic
70 equivalent drug product is available;

71 (ii) Include any financial incentive for a
72 participating provider who prescribes generic equivalent drug
73 products instead of brand name drug products; or

74 (iii) Include any financial disincentive for a
75 participating provider who prescribes brand name drug products for
76 which generic equivalent drug products are available.

77 **SECTION 2.** Section 83-41-415, Mississippi Code of 1972, is
78 amended as follows:

79 83-41-415. Articles 7 and 9 do not apply to the Division of
80 Medicaid in the Office of the Governor. However, the provisions
81 of Section 83-41-409(2) shall apply to any managed care plan
82 administered by the Division of Medicaid for Medicaid patients.

83 **SECTION 3.** This act shall take effect and be in force from
84 and after July 1, 2003.

