

By: Representative Watson

To: Medicaid

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 401

1 AN ACT TO AMEND SECTION 43-13-107, MISSISSIPPI CODE OF 1972,  
2 WHICH CREATES THE DIVISION OF MEDICAID, PRESCRIBES ITS DUTIES AND  
3 RESPONSIBILITIES, PROVIDES FOR THE APPOINTMENT OF AN EXECUTIVE  
4 DIRECTOR OF THE DIVISION, PROVIDES FOR THE AUTHORITY AND  
5 RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR, PROVIDES FOR A MEDICAL  
6 CARE ADVISORY COMMITTEE, PROVIDES FOR A DRUG USE REVIEW BOARD AND  
7 PROVIDES FOR THE PHARMACY AND THERAPEUTICS COMMITTEE, TO EXTEND  
8 THE REPEAL DATE ON THIS SECTION; TO ADD THE CHAIRMAN OF THE HOUSE  
9 MEDICAID COMMITTEE AS A MEMBER OF THE MEDICAL CARE ADVISORY  
10 COMMITTEE; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 43-13-107, Mississippi Code of 1972, is  
13 amended as follows:

14 43-13-107. (1) The Division of Medicaid is created in the  
15 Office of the Governor and established to administer this article  
16 and perform such other duties as are prescribed by law.

17 (2) (a) The Governor shall appoint a full-time executive  
18 director, with the advice and consent of the Senate, who shall be  
19 either (i) a physician with administrative experience in a medical  
20 care or health program, or (ii) a person holding a graduate degree  
21 in medical care administration, public health, hospital  
22 administration, or the equivalent, or (iii) a person holding a  
23 bachelor's degree in business administration or hospital  
24 administration, with at least ten (10) years' experience in  
25 management-level administration of Medicaid programs, and who  
26 shall serve at the will and pleasure of the Governor. The  
27 executive director shall be the official secretary and legal  
28 custodian of the records of the division; shall be the agent of  
29 the division for the purpose of receiving all service of process,  
30 summons and notices directed to the division; and shall perform  
31 such other duties as the Governor may prescribe from time to time.

32           (b) The executive director, with the approval of the  
33 Governor and subject to the rules and regulations of the State  
34 Personnel Board, shall employ such professional, administrative,  
35 stenographic, secretarial, clerical and technical assistance as  
36 may be necessary to perform the duties required in administering  
37 this article and fix the compensation therefor, all in accordance  
38 with a state merit system meeting federal requirements when the  
39 salary of the executive director is not set by law, that salary  
40 shall be set by the State Personnel Board. No employees of the  
41 Division of Medicaid shall be considered to be staff members of  
42 the immediate Office of the Governor; however, the provisions of  
43 Section 25-9-107(c)(xv) shall apply to the executive director and  
44 other administrative heads of the division.

45           (3) (a) There is established a Medical Care Advisory  
46 Committee, which shall be the committee that is required by  
47 federal regulation to advise the Division of Medicaid about health  
48 and medical care services.

49           (b) The advisory committee shall consist of not less  
50 than eleven (11) members, as follows:

51                   (i) The Governor shall appoint five (5) members,  
52 one (1) from each congressional district and one (1) from the  
53 state at large;

54                   (ii) The Lieutenant Governor shall appoint three  
55 (3) members, one (1) from each Supreme Court district;

56                   (iii) The Speaker of the House of Representatives  
57 shall appoint three (3) members, one (1) from each Supreme Court  
58 district.

59           All members appointed under this paragraph shall either be  
60 health care providers or consumers of health care services. One  
61 (1) member appointed by each of the appointing authorities shall  
62 be a board certified physician.

63           (c) The respective Chairmen of the House Medicaid  
64 Committee, the House Public Health and Human Services Committee,

65 the House Appropriations Committee, the Senate Public Health and  
66 Welfare Committee and the Senate Appropriations Committee, or  
67 their designees, one (1) member of the State Senate appointed by  
68 the Lieutenant Governor and one (1) member of the House of  
69 Representatives appointed by the Speaker of the House, shall serve  
70 as ex officio nonvoting members of the advisory committee.

71 (d) In addition to the committee members required by  
72 paragraph (b), the advisory committee shall consist of such other  
73 members as are necessary to meet the requirements of the federal  
74 regulation applicable to the advisory committee, who shall be  
75 appointed as provided in the federal regulation.

76 (e) The chairmanship of the advisory committee shall  
77 alternate for twelve-month periods between the Chairmen of the  
78 House Medicaid Committee and the Senate Public Health and Welfare  
79 Committee \* \* \*.

80 (f) The members of the advisory committee specified in  
81 paragraph (b) shall serve for terms that are concurrent with the  
82 terms of members of the Legislature, and any member appointed  
83 under paragraph (b) may be reappointed to the advisory committee.  
84 The members of the advisory committee specified in paragraph (b)  
85 shall serve without compensation, but shall receive reimbursement  
86 to defray actual expenses incurred in the performance of committee  
87 business as authorized by law. Legislators shall receive per diem  
88 and expenses which may be paid from the contingent expense funds  
89 of their respective houses in the same amounts as provided for  
90 committee meetings when the Legislature is not in session.

91 (g) The advisory committee shall meet not less than  
92 quarterly, and advisory committee members shall be furnished  
93 written notice of the meetings at least ten (10) days before the  
94 date of the meeting.

95 (h) The executive director shall submit to the advisory  
96 committee all amendments, modifications and changes to the state  
97 plan for the operation of the Medicaid program, for review by the

98 advisory committee before the amendments, modifications or changes  
99 may be implemented by the division.

100 (i) The advisory committee, among its duties and  
101 responsibilities, shall:

102 (i) Advise the division with respect to  
103 amendments, modifications and changes to the state plan for the  
104 operation of the Medicaid program;

105 (ii) Advise the division with respect to issues  
106 concerning receipt and disbursement of funds and eligibility for  
107 Medicaid;

108 (iii) Advise the division with respect to  
109 determining the quantity, quality and extent of medical care  
110 provided under this article;

111 (iv) Communicate the views of the medical care  
112 professions to the division and communicate the views of the  
113 division to the medical care professions;

114 (v) Gather information on reasons that medical  
115 care providers do not participate in the Medicaid program and  
116 changes that could be made in the program to encourage more  
117 providers to participate in the Medicaid program, and advise the  
118 division with respect to encouraging physicians and other medical  
119 care providers to participate in the Medicaid program;

120 (vi) Provide a written report on or before  
121 November 30 of each year to the Governor, Lieutenant Governor and  
122 Speaker of the House of Representatives.

123 (4) (a) There is established a Drug Use Review Board, which  
124 shall be the board that is required by federal law to:

125 (i) Review and initiate retrospective drug use,  
126 review including ongoing periodic examination of claims data and  
127 other records in order to identify patterns of fraud, abuse, gross  
128 overuse, or inappropriate or medically unnecessary care, among  
129 physicians, pharmacists and individuals receiving Medicaid  
130 benefits or associated with specific drugs or groups of drugs.

131                   (ii) Review and initiate ongoing interventions for  
132 physicians and pharmacists, targeted toward therapy problems or  
133 individuals identified in the course of retrospective drug use  
134 reviews.

135                   (iii) On an ongoing basis, assess data on drug use  
136 against explicit predetermined standards using the compendia and  
137 literature set forth in federal law and regulations.

138                   (b) The board shall consist of not less than twelve  
139 (12) members appointed by the Governor, or his designee.

140                   (c) The board shall meet at least quarterly, and board  
141 members shall be furnished written notice of the meetings at least  
142 ten (10) days before the date of the meeting.

143                   (d) The board meetings shall be open to the public,  
144 members of the press, legislators and consumers. Additionally,  
145 all documents provided to board members shall be available to  
146 members of the Legislature in the same manner, and shall be made  
147 available to others for a reasonable fee for copying. However,  
148 patient confidentiality and provider confidentiality shall be  
149 protected by blinding patient names and provider names with  
150 numerical or other anonymous identifiers. The board meetings  
151 shall be subject to the Open Meetings Act (Section 25-41-1 et  
152 seq.). Board meetings conducted in violation of this section  
153 shall be deemed unlawful.

154                   (5) (a) There is established a Pharmacy and Therapeutics  
155 Committee, which shall be appointed by the Governor, or his  
156 designee.

157                   (b) The committee shall meet at least quarterly, and  
158 committee members shall be furnished written notice of the  
159 meetings at least ten (10) days before the date of the meeting.

160                   (c) The committee meetings shall be open to the public,  
161 members of the press, legislators and consumers. Additionally,  
162 all documents provided to committee members shall be available to  
163 members of the Legislature in the same manner, and shall be made

164 available to others for a reasonable fee for copying. However,  
165 patient confidentiality and provider confidentiality shall be  
166 protected by blinding patient names and provider names with  
167 numerical or other anonymous identifiers. The committee meetings  
168 shall be subject to the Open Meetings Act (Section 25-41-1 et  
169 seq.). Committee meetings conducted in violation of this section  
170 shall be deemed unlawful.

171 (d) After a thirty-day public notice, the executive  
172 director, or his or her designee, shall present the division's  
173 recommendation regarding prior approval for a therapeutic class of  
174 drugs to the committee. However, in circumstances where the  
175 division deems it necessary for the health and safety of Medicaid  
176 beneficiaries, the division may present to the committee its  
177 recommendations regarding a particular drug without a thirty-day  
178 public notice. In making such presentation, the division shall  
179 state to the committee the circumstances which precipitate the  
180 need for the committee to review the status of a particular drug  
181 without a thirty-day public notice. The committee may determine  
182 whether or not to review the particular drug under the  
183 circumstances stated by the division without a thirty-day public  
184 notice. If the committee determines to review the status of the  
185 particular drug, it shall make its recommendations to the  
186 division, after which the division shall file such recommendations  
187 for a thirty-day public comment under the provisions of Section  
188 25-43-7(1).

189 (e) Upon reviewing the information and recommendations,  
190 the committee shall forward a written recommendation approved by a  
191 majority of the committee to the executive director, or his or her  
192 designee. The decisions of the committee regarding any  
193 limitations to be imposed on any drug or its use for a specified  
194 indication shall be based on sound clinical evidence found in  
195 labeling, drug compendia, and peer reviewed clinical literature  
196 pertaining to use of the drug in the relevant population.

197           (f) Upon reviewing and considering all recommendations,  
198 including recommendation of the committee, comments, and data, the  
199 executive director shall make a final determination whether to  
200 require prior approval of a therapeutic class of drugs, or modify  
201 existing prior approval requirements for a therapeutic class of  
202 drugs.

203           (g) At least thirty (30) days before the executive  
204 director implements new or amended prior authorization decisions,  
205 written notice of the executive director's decision shall be  
206 provided to all prescribing Medicaid providers, all Medicaid  
207 enrolled pharmacies, and any other party who has requested the  
208 notification. However, notice given under Section 25-43-7(1) will  
209 substitute for and meet the requirement for notice under this  
210 subsection.

211           (6) This section shall stand repealed on July 1, 2006.

212           **SECTION 2.** This act shall take effect and be in force from  
213 and after July 1, 2004.