

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.