

By: Representative Moore

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1166

1 AN ACT TO PROVIDE THAT ANY PERSON WHO APPLIES FOR A LICENSE
2 ISSUED BY A STATE AGENCY OR FOR STATE-FUNDED PUBLIC ASSISTANCE
3 BENEFITS MUST DEMONSTRATE THAT HE OR SHE IS ABLE TO SPEAK AND
4 UNDERSTAND THE ENGLISH LANGUAGE BEFORE HE OR SHE WILL BE ELIGIBLE
5 TO RECEIVE THE LICENSE OR THE PUBLIC ASSISTANCE BENEFITS; TO AMEND
6 SECTIONS 43-13-115 AND 43-17-1, MISSISSIPPI CODE OF 1972, TO
7 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Because the English language is the official
10 language of the State of Mississippi, as provided in Section
11 3-3-31, it is the policy of the State of Mississippi that any
12 person who receives a state license or receives state-funded
13 public assistance must be able to speak and understand English.

14 **SECTION 2.** As used in this act, the following words shall
15 have the meanings ascribed in this section:

16 (a) "License" means a license, certificate, permit,
17 credential, registration, or any other authorization that allows a
18 person to engage in a business, occupation or profession, or to
19 operate a motor vehicle.

20 (b) "Public assistance benefits" means any payments or
21 grants under the Temporary Assistance to Needy Families (TANF)
22 program, medical assistance services under the Medicaid program,
23 and any other economic assistance payments or services provided by
24 the Department of Human Services that are funded in whole or in
25 part with state funds.

26 **SECTION 3.** Any person who applies for a license issued by an
27 agency, department or institution of the state or applies for
28 public assistance benefits must demonstrate that he or she is able
29 to speak and understand the English language before he or she will

30 be eligible to receive the license or the public assistance
31 benefits. The method used by state agencies to determine an
32 applicant's abilities in English shall be developed by the State
33 Department of Education and provided to the state agencies.

34 **SECTION 4.** Section 43-13-115, Mississippi Code of 1972, is
35 amended as follows:

36 43-13-115. A. Recipients of Medicaid shall be the following
37 persons only:

38 (1) Who are qualified for public assistance grants
39 under provisions of Title IV-A and E of the federal Social
40 Security Act, as amended, as determined by the State Department of
41 Human Services, including those statutorily deemed to be IV-A and
42 low-income families and children under Section 1931 of the Social
43 Security Act as determined by the State Department of Human
44 Services and certified to the Division of Medicaid, but not
45 optional groups except as specifically covered in this section.
46 For the purposes of this paragraph (1) and paragraphs (8), (17)
47 and (18) of this section, any reference to Title IV-A or to Part A
48 of Title IV of the federal Social Security Act, as amended, or the
49 state plan under Title IV-A or Part A of Title IV, shall be
50 considered as a reference to Title IV-A of the federal Social
51 Security Act, as amended, and the state plan under Title IV-A,
52 including the income and resource standards and methodologies
53 under Title IV-A and the state plan, as they existed on July 16,
54 1996.

55 (2) Those qualified for Supplemental Security Income
56 (SSI) benefits under Title XVI of the federal Social Security Act,
57 as amended, and those who are deemed SSI eligible as contained in
58 federal statute. The eligibility of individuals covered in this
59 paragraph shall be determined by the Social Security
60 Administration and certified to the Division of Medicaid.

61 (3) Qualified pregnant women who would be eligible for
62 Medicaid as a low income family member under Section 1931 of the
63 federal Social Security Act if her child were born.

64 (4) [Deleted]

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

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

83 (7) (a) Persons certified by the Division of Medicaid
84 who are patients in a medical facility (nursing home, hospital,
85 tuberculosis sanatorium or institution for treatment of mental
86 diseases), and who, except for the fact that they are patients in
87 that medical facility, would qualify for grants under Title IV,
88 Supplementary Security Income (SSI) benefits under Title XVI or
89 state supplements, and those aged, blind and disabled persons who
90 would not be eligible for Supplemental Security Income (SSI)
91 benefits under Title XVI or state supplements if they were not
92 institutionalized in a medical facility but whose income is below

93 the maximum standard set by the Division of Medicaid, which
94 standard shall not exceed that prescribed by federal regulation;

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

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

106 (9) Individuals who are:

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

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

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

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

122 (10) Certain disabled children age eighteen (18) or
123 under who are living at home, who would be eligible, if in a
124 medical institution, for SSI or a state supplemental payment under
125 Title XVI of the federal Social Security Act, as amended, and

126 therefore for Medicaid under the plan, and for whom the state has
127 made a determination as required under Section 1902(e)(3)(b) of
128 the federal Social Security Act, as amended. The eligibility of
129 individuals under this paragraph shall be determined by the
130 Division of Medicaid; * * * however, * * * the division may apply
131 to the Centers for Medicare and Medicaid Services (CMS) for a
132 waiver that will allow flexibility in the benefit design for the
133 Disabled Children Living at Home eligibility category authorized
134 in this paragraph (10), and the division may establish an
135 expenditure/enrollment cap for this category. Nothing contained
136 in this paragraph (10) shall entitle an individual for benefits.

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

144 The eligibility of individuals covered under this paragraph
145 shall be determined by the Division of Medicaid; * * *
146 however, * * * the division may apply to the Centers for Medicare
147 and Medicaid Services (CMS) for a waiver that will allow
148 flexibility in the benefit design and buy-in options for the
149 Poverty Level Aged and Disabled (PLAD) eligibility category
150 authorized in this paragraph (11), and the division may establish
151 an expenditure/enrollment cap for this category. Nothing
152 contained in this paragraph (11) shall entitle an individual for
153 benefits.

154 (12) Individuals who are qualified Medicare
155 beneficiaries (QMB) entitled to Part A Medicare as defined under
156 Section 301, Public Law 100-360, known as the Medicare
157 Catastrophic Coverage Act of 1988, and whose income does not
158 exceed one hundred percent (100%) of the nonfarm official poverty

159 level as defined by the Office of Management and Budget and
160 revised annually.

161 The eligibility of individuals covered under this paragraph
162 shall be determined by the Division of Medicaid, and those
163 individuals determined eligible shall receive Medicare
164 cost-sharing expenses only as more fully defined by the Medicare
165 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
166 1997.

167 (13) (a) Individuals who are entitled to Medicare Part
168 A as defined in Section 4501 of the Omnibus Budget Reconciliation
169 Act of 1990, and whose income does not exceed one hundred twenty
170 percent (120%) of the nonfarm official poverty level as defined by
171 the Office of Management and Budget and revised annually.
172 Eligibility for Medicaid benefits is limited to full payment of
173 Medicare Part B premiums.

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

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

185 (14) [Deleted]

186 (15) Disabled workers who are eligible to enroll in
187 Part A Medicare as required by Public Law 101-239, known as the
188 Omnibus Budget Reconciliation Act of 1989, and whose income does
189 not exceed two hundred percent (200%) of the federal poverty level
190 as determined in accordance with the Supplemental Security Income
191 (SSI) program. The eligibility of individuals covered under this

192 paragraph shall be determined by the Division of Medicaid, and
193 those individuals shall be entitled to buy-in coverage of Medicare
194 Part A premiums only under the provisions of this paragraph (15).

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

201 (17) In accordance with the terms of the federal
202 Personal Responsibility and Work Opportunity Reconciliation Act of
203 1996 (Public Law 104-193), persons who become ineligible for
204 assistance under Title IV-A of the federal Social Security Act, as
205 amended, because of increased income from or hours of employment
206 of the caretaker relative or because of the expiration of the
207 applicable earned income disregards, who were eligible for
208 Medicaid for at least three (3) of the six (6) months preceding
209 the month in which the ineligibility begins, shall be eligible for
210 Medicaid * * * for up to twelve (12) months.

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

220 (19) Disabled workers, whose incomes are above the
221 Medicaid eligibility limits, but below two hundred fifty percent
222 (250%) of the federal poverty level, shall be allowed to purchase
223 Medicaid coverage on a sliding fee scale developed by the Division
224 of Medicaid.

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

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

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

250 (22) Persons who are workers with a potentially severe
251 disability, as determined by the division, shall be allowed to
252 purchase Medicaid coverage. The term "worker with a potentially
253 severe disability" means a person who is at least sixteen (16)
254 years of age but under sixty-five (65) years of age, who has a
255 physical or mental impairment that is reasonably expected to cause
256 the person to become blind or disabled as defined under Section
257 1614(a) of the federal Social Security Act, as amended, if the

258 person does not receive items and services provided under
259 Medicaid.

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

267 (23) Children certified by the Mississippi Department
268 of Human Services for whom the state and county departments of
269 human services have custody and financial responsibility who are
270 in foster care on their eighteenth birthday as reported by the
271 Mississippi Department of Human Services shall be certified
272 Medicaid eligible by the Division of Medicaid until their
273 twenty-first birthday.

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

284 B. Before a person will be eligible for Medicaid under this
285 article, the person must demonstrate that he or she is able to
286 speak and understand the English language, as required by Section
287 1 of this act.

288 **SECTION 5.** Section 43-17-1, Mississippi Code of 1972, is
289 amended as follows:

290 43-17-1. (1) The State of Mississippi * * * accepts all of
291 the mandatory provisions and benefits, with the exception of those
292 provisions under which the state may exercise its options, of
293 Title I of an act passed by the Senate and House of
294 Representatives of the United States of America, in Congress
295 assembled, entitled: "The Personal Responsibility and Work
296 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
297 known as the Temporary Assistance to Needy Families (TANF)
298 program.

299 (2) The Department of Human Services shall have all
300 necessary authority to cooperate with the federal government in
301 the administration of Public Law 104-193 and all subsequent
302 federal amendments thereto, to administer any legislation pursuant
303 thereto enacted by the State of Mississippi, and to administer the
304 funds provided by the federal government and the State of
305 Mississippi under the provisions of Section 43-17-1 et seq., for
306 providing temporary assistance for needy families with minor
307 children. The Department of Human Services shall have full
308 authority to formulate state plans consistent with state law as
309 necessary to administer and operate federal grant funds which
310 provide temporary assistance for needy families with minor
311 children under Title IV-A of the federal Social Security Act. The
312 Department of Human Services shall identify in any state plan
313 submitted to implement the TANF program those requirements or
314 restrictions, including persons excluded from program
315 participation which are required under federal law, and those
316 program requirements or restrictions which the federal law
317 authorizes but does not require.

318 (3) Any funds received by the State of Mississippi under the
319 provisions of Public Law 104-193 shall be subject to appropriation
320 by the Legislature and consistent with the terms and conditions
321 required under such appropriation.

322 (4) The purpose of the Mississippi Temporary Assistance to
323 Needy Families (TANF) program shall be to:

324 (a) Provide assistance to needy families so that
325 children may be cared for in their own homes or in the homes of
326 relatives when such care is beneficial and may be monitored on a
327 random basis by the Department of Human Services or the State
328 Department of Health;

329 (b) End the dependence of needy families on government
330 benefits by promoting job preparation, work and marriage through,
331 among other things, job placement, job training and job retention;

332 (c) Prevent and reduce the incidence of out-of-wedlock
333 pregnancies and establish annual numerical goals for preventing
334 and reducing the incidence of these pregnancies;

335 (d) Encourage the formation and maintenance of
336 two-parent families; and

337 (e) Prevent program fraud and abuse.

338 (5) The Department of Human Services shall develop outcome
339 and output indicators for each program established under the
340 authority of this section. These measures shall provide
341 legislators and administrators with information which measures the
342 success or failure of the department in implementing the programs
343 implemented under the authority of this section. The department
344 shall annually report to the Legislature the outputs and outcomes
345 of these programs, with the first report due by December 15, 1997.
346 Such reports shall include recommendations for making programs
347 more effective or efficient which can be effected in accordance
348 with federal law.

349 (6) Assistance may be granted under this chapter to any
350 dependent child and a caretaker relative who are living in a
351 suitable family home meeting the standards of care and health and
352 work requirements fixed by the laws of this state, and the rules
353 and regulations of the State Department of Human Services.

354 (7) Before a person will be eligible for assistance under
355 this chapter, the person must demonstrate that he or she is able
356 to speak and understand the English language, as required by
357 Section 1 of this act.

358 **SECTION 6.** This act shall take effect and be in force from
359 and after July 1, 2004.