

By: Senator(s) Butler

To: Insurance

SENATE BILL NO. 2541

1 AN ACT TO CREATE A HEALTH INSURANCE REVIEW PANEL TO BE
 2 ESTABLISHED BY THE COMMISSIONER OF INSURANCE; TO PROVIDE THAT UPON
 3 DENIAL OF A HEALTH INSURANCE CLAIM, THE INSURED MAY REQUEST FOR A
 4 REVIEW OF THE CLAIM; TO PROVIDE THAT THE PANEL SHALL HAVE THE SOLE
 5 DUTY TO EXPRESS ITS EXPERT OPINION AS TO WHETHER OR NOT THE
 6 EVIDENCE SUPPORTS THE CONCLUSION THAT THE CLAIM SHOULD HAVE BEEN
 7 DENIED; TO PROVIDE THAT ANY REPORT OF THE EXPERT OPINION REACHED
 8 BY THE HEALTH INSURANCE REVIEW PANEL SHALL BE ADMISSIBLE AS
 9 EVIDENCE IN ANY ACTION SUBSEQUENTLY BROUGHT BY THE CLAIMANT IN A
 10 COURT OF LAW; TO PROVIDE THAT EACH MEMBER OF THE HEALTH INSURANCE
 11 REVIEW PANEL SHALL BE PAID A PER DIEM; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) All health insurance disputes, other than
 14 claims validly agreed for submission to a lawfully binding
 15 arbitration procedure, shall be reviewed by a health insurance
 16 review panel established by the Commissioner of Insurance.

17 (2) Upon denial of a health insurance claim, the insured may
 18 request for a review of the claim by the health insurance review
 19 panel. It shall be the duty of the board within fifteen (15) days
 20 of the receipt of the claim to:

21 (a) Confirm to the claimant that the filing has been
 22 officially received; and

23 (b) Notify the insurer that a filing has been made and
 24 forward a copy of the proposed complaint to the insured at his
 25 usual place of business.

26 (3) The evidence to be considered by the health insurance
 27 review panel shall be promptly submitted by the respective
 28 parties.

29 (4) The panel shall have the right and duty to request and
 30 procure all necessary information.

31 (5) The panel shall have the sole duty to express its expert
32 opinion as to whether or not the evidence supports the conclusion
33 that the claim should have been denied.

34 (6) Any report of the expert opinion reached by the health
35 insurance review panel shall be admissible as evidence in any
36 action subsequently brought by the claimant in a court of law, but
37 such expert opinion shall not be conclusive and either party shall
38 have the right to call, at his cost, any member of the health
39 insurance review panel as a witness. If called, the witness shall
40 be required to appear and testify. A panelist shall have absolute
41 immunity from civil liability for all communications, findings,
42 opinions and conclusions made in the course and scope of duties
43 prescribed by this act.

44 (7) (a) Each member of the health insurance review panel
45 shall be paid a per diem, as provided in Section 25-3-69, for all
46 work performed as a member of the panel exclusive of time involved
47 if called as a witness to testify in a court of law regarding the
48 communications, findings and conclusions made in the course and
49 scope of duties as a member of the health insurance review panel,
50 and in addition thereto, as reasonable travel expenses as provided
51 in Section 25-3-41.

52 (b) (i) The costs of the health insurance review panel
53 shall be paid by the insurer if the opinion of the health
54 insurance review panel is in favor of the insurer.

55 (ii) The claimant shall pay the costs of the
56 health insurance review panel if the opinion of the health
57 insurance review panel is in favor of said claimant. However, if
58 the claimant is unable to pay, the claimant shall swear under oath
59 to the health insurance review panel that said claimant cannot
60 afford the costs of the health insurance review panel as they
61 accrue, then the costs of the health insurance review panel shall
62 be paid by the insurer, with the proviso that if the claimant
63 subsequently receives a settlement or receives a judgment, the

64 advance payment of the health insurance review panel costs will be
65 offset.

66 (c) If the health insurance review panel decides that
67 there is a material issue of fact bearing on liability for
68 consideration by the court, the claimant and the insurer shall
69 split the costs of the health insurance review panel. However, in
70 those instances in which the claimant is unable to pay his share
71 of the costs of the health insurance review panel, the claimant
72 shall swear under oath by the health insurance review panel that
73 said claimant cannot pay his share of the costs of the health
74 insurance review panel as they accrue. The claimant's share of
75 the costs of the health insurance review panel shall then be paid
76 by the insurer with the proviso that if the claimant subsequently
77 receives a settlement or receives a judgment, the advance payment
78 of the claimant's share of the costs of the health insurance
79 review panel will be offset.

80 (8) The chairman shall submit a copy of the panel's report
81 to the board and all parties by registered or certified mail
82 within five (5) days after the panel renders its opinion.

83 (9) The Commissioner of Insurance may adopt any rules and
84 regulations necessary to carry out the provisions of this act.

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