

By: Representative Fleming

To: Insurance; Medicaid

HOUSE BILL NO. 78

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 PROVISIONS OF THIS ACT SHALL APPLY TO ANY
 17 MANAGED CARE PLAN FOR MEDICAID PATIENTS; AND FOR RELATED PURPOSES.

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

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

21 83-41-409. (1) In order to be certified and recertified
 22 under this article, a managed care plan shall:

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

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

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

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

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

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

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

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

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

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

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

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

65 (b) A managed care plan shall not:

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

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

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

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

78 83-41-415. Articles 7 and 9 do not apply to the Division of
79 Medicaid in the Office of the Governor. However, the provisions
80 of Section 83-41-409(2) shall apply to any managed care plan
81 administered by the Division of Medicaid for Medicaid patients.

82 **SECTION 3.** This act shall take effect and be in force from
83 and after July 1, 2005.