

By: Representative Moore

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 855

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) Those who are qualified for public assistance
39 grants under provisions of Title IV-A and E of the federal Social
40 Security Act, as amended, including those statutorily deemed to be
41 IV-A and low income families and children under Section 1931 of
42 the federal Social Security Act. For the purposes of this
43 paragraph (1) and paragraphs (8), (17) and (18) of this section,
44 any reference to Title IV-A or to Part A of Title IV of the
45 federal Social Security Act, as amended, or the state plan under
46 Title IV-A or Part A of Title IV, shall be considered as a
47 reference to Title IV-A of the federal Social Security Act, as
48 amended, and the state plan under Title IV-A, including the income
49 and resource standards and methodologies under Title IV-A and the
50 state plan, as they existed on July 16, 1996. The Department of
51 Human Services shall determine Medicaid eligibility for children
52 receiving public assistance grants under Title IV-E. The division
53 shall determine eligibility for low income families under Section
54 1931 of the federal Social Security Act and shall redetermine
55 eligibility for those continuing under Title IV-A grants.

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

62 (3) Qualified pregnant women who would be eligible for
63 Medicaid as a low income family member under Section 1931 of the
64 federal Social Security Act if her child were born. The
65 eligibility of the individuals covered under this paragraph shall
66 be determined by the division.

67 (4) [Deleted]

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

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

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

95 benefits under Title XVI or state supplements if they were not
96 institutionalized in a medical facility but whose income is below
97 the maximum standard set by the Division of Medicaid, which
98 standard shall not exceed that prescribed by federal regulation;

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

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

109 (9) Individuals who are:

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

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

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

122 The eligibility of individuals covered in (a), (b) and (c) of
123 this paragraph shall be determined by the division.

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

128 therefore for Medicaid under the plan, and for whom the state has
129 made a determination as required under Section 1902(e)(3)(b) of
130 the federal Social Security Act, as amended. The eligibility of
131 individuals under this paragraph shall be determined by the
132 Division of Medicaid.

133 (11) [Deleted]

134 (12) Individuals who are qualified Medicare
135 beneficiaries (QMB) entitled to Part A Medicare as defined under
136 Section 301, Public Law 100-360, known as the Medicare
137 Catastrophic Coverage Act of 1988, and whose income does not
138 exceed one hundred percent (100%) of the nonfarm official poverty
139 level as defined by the Office of Management and Budget and
140 revised annually.

141 The eligibility of individuals covered under this paragraph
142 shall be determined by the Division of Medicaid, and those
143 individuals determined eligible shall receive Medicare
144 cost-sharing expenses only as more fully defined by the Medicare
145 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
146 1997.

147 (13) (a) Individuals who are entitled to Medicare Part
148 A as defined in Section 4501 of the Omnibus Budget Reconciliation
149 Act of 1990, and whose income does not exceed one hundred twenty
150 percent (120%) of the nonfarm official poverty level as defined by
151 the Office of Management and Budget and revised annually.

152 Eligibility for Medicaid benefits is limited to full payment of
153 Medicare Part B premiums.

154 (b) Individuals entitled to Part A of Medicare,
155 with income above one hundred twenty percent (120%), but less than
156 one hundred thirty-five percent (135%) of the federal poverty
157 level, and not otherwise eligible for Medicaid Eligibility for
158 Medicaid benefits is limited to full payment of Medicare Part B
159 premiums. The number of eligible individuals is limited by the
160 availability of the federal capped allocation at one hundred

161 percent (100%) of federal matching funds, as more fully defined in
162 the Balanced Budget Act of 1997.

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

165 (14) [Deleted]

166 (15) Disabled workers who are eligible to enroll in
167 Part A Medicare as required by Public Law 101-239, known as the
168 Omnibus Budget Reconciliation Act of 1989, and whose income does
169 not exceed two hundred percent (200%) of the federal poverty level
170 as determined in accordance with the Supplemental Security Income
171 (SSI) program. The eligibility of individuals covered under this
172 paragraph shall be determined by the Division of Medicaid and
173 those individuals shall be entitled to buy-in coverage of Medicare
174 Part A premiums only under the provisions of this paragraph (15).

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

181 (17) In accordance with the terms of the federal
182 Personal Responsibility and Work Opportunity Reconciliation Act of
183 1996 (Public Law 104-193), persons who become ineligible for
184 assistance under Title IV-A of the federal Social Security Act, as
185 amended, because of increased income from or hours of employment
186 of the caretaker relative or because of the expiration of the
187 applicable earned income disregards, who were eligible for
188 Medicaid for at least three (3) of the six (6) months preceding
189 the month in which the ineligibility begins, shall be eligible for
190 Medicaid for up to twelve (12) months. The eligibility of the
191 individuals covered under this paragraph shall be determined by
192 the division.

193 (18) Persons who become ineligible for assistance under
194 Title IV-A of the federal Social Security Act, as amended, as a
195 result, in whole or in part, of the collection or increased
196 collection of child or spousal support under Title IV-D of the
197 federal Social Security Act, as amended, who were eligible for
198 Medicaid for at least three (3) of the six (6) months immediately
199 preceding the month in which the ineligibility begins, shall be
200 eligible for Medicaid for an additional four (4) months beginning
201 with the month in which the ineligibility begins. The eligibility
202 of the individuals covered under this paragraph shall be
203 determined by the division.

204 (19) Disabled workers, whose incomes are above the
205 Medicaid eligibility limits, but below two hundred fifty percent
206 (250%) of the federal poverty level, shall be allowed to purchase
207 Medicaid coverage on a sliding fee scale developed by the Division
208 of Medicaid.

209 (20) Medicaid eligible children under age eighteen (18)
210 shall remain eligible for Medicaid benefits until the end of a
211 period of twelve (12) months following an eligibility
212 determination, or until such time that the individual exceeds age
213 eighteen (18).

214 (21) Women of childbearing age whose family income does
215 not exceed one hundred eighty-five percent (185%) of the federal
216 poverty level. The eligibility of individuals covered under this
217 paragraph (21) shall be determined by the Division of Medicaid,
218 and those individuals determined eligible shall only receive
219 family planning services covered under Section 43-13-117(13) and
220 not any other services covered under Medicaid. However, any
221 individual eligible under this paragraph (21) who is also eligible
222 under any other provision of this section shall receive the
223 benefits to which he or she is entitled under that other
224 provision, in addition to family planning services covered under
225 Section 43-13-117(13).

226 The Division of Medicaid shall apply to the United States
227 Secretary of Health and Human Services for a federal waiver of the
228 applicable provisions of Title XIX of the federal Social Security
229 Act, as amended, and any other applicable provisions of federal
230 law as necessary to allow for the implementation of this paragraph
231 (21). The provisions of this paragraph (21) shall be implemented
232 from and after the date that the Division of Medicaid receives the
233 federal waiver.

234 (22) Persons who are workers with a potentially severe
235 disability, as determined by the division, shall be allowed to
236 purchase Medicaid coverage. The term "worker with a potentially
237 severe disability" means a person who is at least sixteen (16)
238 years of age but under sixty-five (65) years of age, who has a
239 physical or mental impairment that is reasonably expected to cause
240 the person to become blind or disabled as defined under Section
241 1614(a) of the federal Social Security Act, as amended, if the
242 person does not receive items and services provided under
243 Medicaid.

244 The eligibility of persons under this paragraph (22) shall be
245 conducted as a demonstration project that is consistent with
246 Section 204 of the Ticket to Work and Work Incentives Improvement
247 Act of 1999, Public Law 106-170, for a certain number of persons
248 as specified by the division. The eligibility of individuals
249 covered under this paragraph (22) shall be determined by the
250 Division of Medicaid.

251 (23) Children certified by the Mississippi Department
252 of Human Services for whom the state and county departments of
253 human services have custody and financial responsibility who are
254 in foster care on their eighteenth birthday as reported by the
255 Mississippi Department of Human Services shall be certified
256 Medicaid eligible by the Division of Medicaid until their
257 twenty-first birthday.

258 (24) Individuals who have not attained age sixty-five
259 (65), are not otherwise covered by creditable coverage as defined
260 in the Public Health Services Act, and have been screened for
261 breast and cervical cancer under the Centers for Disease Control
262 and Prevention Breast and Cervical Cancer Early Detection Program
263 established under Title XV of the Public Health Service Act in
264 accordance with the requirements of that act and who need
265 treatment for breast or cervical cancer. Eligibility of
266 individuals under this paragraph (24) shall be determined by the
267 Division of Medicaid.

268 (25) The division shall apply to the Centers for
269 Medicare and Medicaid Services (CMS) for any necessary waivers to
270 provide services to individuals who are sixty-five (65) years of
271 age or older or are disabled as determined under Section
272 1614(a)(3) of the federal Social Security Act, as amended, and
273 whose income does not exceed one hundred thirty-five percent
274 (135%) of the nonfarm official poverty level as defined by the
275 Office of Management and Budget and revised annually, and whose
276 resources do not exceed those established by the Division of
277 Medicaid, and who are not otherwise covered by Medicare. Nothing
278 contained in this paragraph (25) shall entitle an individual to
279 benefits. The eligibility of individuals covered under this
280 paragraph shall be determined by the Division of Medicaid.

281 (26) The division shall apply to the Centers for
282 Medicare and Medicaid Services (CMS) for any necessary waivers to
283 provide services to individuals who are sixty-five (65) years of
284 age or older or are disabled as determined under Section
285 1614(a)(3) of the federal Social Security Act, as amended, who are
286 end stage renal disease patients on dialysis, cancer patients on
287 chemotherapy or organ transplant recipients on anti-rejection
288 drugs, whose income does not exceed one hundred thirty-five
289 percent (135%) of the nonfarm official poverty level as defined by
290 the Office of Management and Budget and revised annually, and

291 whose resources do not exceed those established by the division.
292 Nothing contained in this paragraph (26) shall entitle an
293 individual to benefits. The eligibility of individuals covered
294 under this paragraph shall be determined by the Division of
295 Medicaid.

296 B. Before a person will be eligible for Medicaid under this
297 article, the person must demonstrate that he or she is able to
298 speak and understand the English language, as required by Section
299 1 of this act.

300 C. The division shall redetermine eligibility for all
301 categories of recipients described in each paragraph of this
302 section not less frequently than required by federal law.

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

305 43-17-1. (1) The State of Mississippi * * * accepts all of
306 the mandatory provisions and benefits, with the exception of those
307 provisions under which the state may exercise its options, of
308 Title I of an act passed by the Senate and House of
309 Representatives of the United States of America, in Congress
310 assembled, entitled: "The Personal Responsibility and Work
311 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
312 known as the Temporary Assistance to Needy Families (TANF)
313 program.

314 (2) The Department of Human Services shall have all
315 necessary authority to cooperate with the federal government in
316 the administration of Public Law 104-193 and all subsequent
317 federal amendments thereto, to administer any legislation pursuant
318 thereto enacted by the State of Mississippi, and to administer the
319 funds provided by the federal government and the State of
320 Mississippi under the provisions of Section 43-17-1 et seq., for
321 providing temporary assistance for needy families with minor
322 children. The Department of Human Services shall have full
323 authority to formulate state plans consistent with state law as

324 necessary to administer and operate federal grant funds which
325 provide temporary assistance for needy families with minor
326 children under Title IV-A of the federal Social Security Act. The
327 Department of Human Services shall identify in any state plan
328 submitted to implement the TANF program those requirements or
329 restrictions, including persons excluded from program
330 participation which are required under federal law, and those
331 program requirements or restrictions which the federal law
332 authorizes but does not require.

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

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

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

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

347 (c) Prevent and reduce the incidence of out-of-wedlock
348 pregnancies and establish annual numerical goals for preventing
349 and reducing the incidence of these pregnancies;

350 (d) Encourage the formation and maintenance of
351 two-parent families; and

352 (e) Prevent program fraud and abuse.

353 (5) The Department of Human Services shall develop outcome
354 and output indicators for each program established under the
355 authority of this section. These measures shall provide
356 legislators and administrators with information which measures the

357 success or failure of the department in implementing the programs
358 implemented under the authority of this section. The department
359 shall annually report to the Legislature the outputs and outcomes
360 of these programs, with the first report due by December 15, 1997.
361 Such reports shall include recommendations for making programs
362 more effective or efficient which can be effected in accordance
363 with federal law.

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

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

373 **SECTION 6.** This act shall take effect and be in force from
374 and after July 1, 2005.