

By: Representative Guice (By Request)

To: Medicaid; Appropriations

HOUSE BILL NO. 1091

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO REINSTATE MEDICAID ELIGIBILITY FOR THE POVERTY LEVEL AGED AND
3 DISABLED (PLAD) GROUP THROUGH DECEMBER 31, 2005; TO AMEND SECTION
4 43-13-407, MISSISSIPPI CODE OF 1972, TO TRANSFER \$157 MILLION FROM
5 THE HEALTH CARE TRUST FUND INTO THE HEALTH CARE EXPENDABLE FUND,
6 WHICH SHALL BE APPROPRIATED TO THE DIVISION OF MEDICAID TO FULLY
7 FUND MEDICAID SERVICES FOR THE PLAD GROUP THROUGH DECEMBER 31,
8 2005; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 43-13-115, Mississippi Code of 1972, is
11 amended as follows:

12 43-13-115. Recipients of Medicaid shall be the following
13 persons only:

14 (1) Those who are qualified for public assistance
15 grants under provisions of Title IV-A and E of the federal Social
16 Security Act, as amended, including those statutorily deemed to be
17 IV-A and low income families and children under Section 1931 of
18 the federal Social Security Act. For the purposes of this
19 paragraph (1) and paragraphs (8), (17) and (18) of this section,
20 any reference to Title IV-A or to Part A of Title IV of the
21 federal Social Security Act, as amended, or the state plan under
22 Title IV-A or Part A of Title IV, shall be considered as a
23 reference to Title IV-A of the federal Social Security Act, as
24 amended, and the state plan under Title IV-A, including the income
25 and resource standards and methodologies under Title IV-A and the
26 state plan, as they existed on July 16, 1996. The Department of
27 Human Services shall determine Medicaid eligibility for children
28 receiving public assistance grants under Title IV-E. The division
29 shall determine eligibility for low income families under Section

30 1931 of the federal Social Security Act and shall redetermine
31 eligibility for those continuing under Title IV-A grants.

32 (2) Those qualified for Supplemental Security Income
33 (SSI) benefits under Title XVI of the federal Social Security Act,
34 as amended, and those who are deemed SSI eligible as contained in
35 federal statute. The eligibility of individuals covered in this
36 paragraph shall be determined by the Social Security
37 Administration and certified to the Division of Medicaid.

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

43 (4) [Deleted]

44 (5) A child born on or after October 1, 1984, to a
45 woman eligible for and receiving Medicaid under the state plan on
46 the date of the child's birth shall be deemed to have applied for
47 Medicaid and to have been found eligible for Medicaid under the
48 plan on the date of that birth, and will remain eligible for
49 Medicaid for a period of one (1) year so long as the child is a
50 member of the woman's household and the woman remains eligible for
51 Medicaid or would be eligible for Medicaid if pregnant. The
52 eligibility of individuals covered in this paragraph shall be
53 determined by the Division of Medicaid.

54 (6) Children certified by the State Department of Human
55 Services to the Division of Medicaid of whom the state and county
56 departments of human services have custody and financial
57 responsibility, and children who are in adoptions subsidized in
58 full or part by the Department of Human Services, including
59 special needs children in non-Title IV-E adoption assistance, who
60 are approvable under Title XIX of the Medicaid program. The
61 eligibility of the children covered under this paragraph shall be
62 determined by the State Department of Human Services.

63 (7) (a) Persons certified by the Division of Medicaid
64 who are patients in a medical facility (nursing home, hospital,
65 tuberculosis sanatorium or institution for treatment of mental
66 diseases), and who, except for the fact that they are patients in
67 that medical facility, would qualify for grants under Title IV,
68 Supplementary Security Income (SSI) benefits under Title XVI or
69 state supplements, and those aged, blind and disabled persons who
70 would not be eligible for Supplemental Security Income (SSI)
71 benefits under Title XVI or state supplements if they were not
72 institutionalized in a medical facility but whose income is below
73 the maximum standard set by the Division of Medicaid, which
74 standard shall not exceed that prescribed by federal regulation;

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

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

85 (9) Individuals who are:

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

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

94 (c) Pregnant women and infants who have not
95 attained the age of one (1), with family income that does not

96 exceed one hundred eighty-five percent (185%) of the federal
97 poverty level.

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

100 (10) Certain disabled children age eighteen (18) or
101 under who are living at home, who would be eligible, if in a
102 medical institution, for SSI or a state supplemental payment under
103 Title XVI of the federal Social Security Act, as amended, and
104 therefore for Medicaid under the plan, and for whom the state has
105 made a determination as required under Section 1902(e)(3)(b) of
106 the federal Social Security Act, as amended. The eligibility of
107 individuals under this paragraph shall be determined by the
108 Division of Medicaid.

109 (11) Individuals who are sixty-five (65) years of age
110 or older or are disabled as determined under Section 1614(a)(3) of
111 the federal Social Security Act, as amended, and whose income does
112 not exceed one hundred thirty-five percent (135%) of the nonfarm
113 official poverty line as defined by the Office Of Management and
114 Budget and revised annually, and whose resources do not exceed
115 those established by the Division of Medicaid. The eligibility of
116 individuals covered under this paragraph shall be determined by
117 the Division of Medicaid. This paragraph (11) shall stand
118 repealed on January 1, 2006.

119 (12) Individuals who are qualified Medicare
120 beneficiaries (QMB) entitled to Part A Medicare as defined under
121 Section 301, Public Law 100-360, known as the Medicare
122 Catastrophic Coverage Act of 1988, and whose income does not
123 exceed one hundred percent (100%) of the nonfarm official poverty
124 level as defined by the Office of Management and Budget and
125 revised annually.

126 The eligibility of individuals covered under this paragraph
127 shall be determined by the Division of Medicaid, and those
128 individuals determined eligible shall receive Medicare

129 cost-sharing expenses only as more fully defined by the Medicare
130 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
131 1997.

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

139 (b) Individuals entitled to Part A of Medicare,
140 with income above one hundred twenty percent (120%), but less than
141 one hundred thirty-five percent (135%) of the federal poverty
142 level, and not otherwise eligible for Medicaid Eligibility for
143 Medicaid benefits is limited to full payment of Medicare Part B
144 premiums. The number of eligible individuals is limited by the
145 availability of the federal capped allocation at one hundred
146 percent (100%) of federal matching funds, as more fully defined in
147 the Balanced Budget Act of 1997.

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

150 (14) [Deleted]

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

160 (16) In accordance with the terms and conditions of
161 approved Title XIX waiver from the United States Department of

162 Health and Human Services, persons provided home- and
163 community-based services who are physically disabled and certified
164 by the Division of Medicaid as eligible due to applying the income
165 and deeming requirements as if they were institutionalized.

166 (17) In accordance with the terms of the federal
167 Personal Responsibility and Work Opportunity Reconciliation Act of
168 1996 (Public Law 104-193), persons who become ineligible for
169 assistance under Title IV-A of the federal Social Security Act, as
170 amended, because of increased income from or hours of employment
171 of the caretaker relative or because of the expiration of the
172 applicable earned income disregards, who were eligible for
173 Medicaid for at least three (3) of the six (6) months preceding
174 the month in which the ineligibility begins, shall be eligible for
175 Medicaid for up to twelve (12) months. The eligibility of the
176 individuals covered under this paragraph shall be determined by
177 the division.

178 (18) Persons who become ineligible for assistance under
179 Title IV-A of the federal Social Security Act, as amended, as a
180 result, in whole or in part, of the collection or increased
181 collection of child or spousal support under Title IV-D of the
182 federal Social Security Act, as amended, who were eligible for
183 Medicaid for at least three (3) of the six (6) months immediately
184 preceding the month in which the ineligibility begins, shall be
185 eligible for Medicaid for an additional four (4) months beginning
186 with the month in which the ineligibility begins. The eligibility
187 of the individuals covered under this paragraph shall be
188 determined by the division.

189 (19) Disabled workers, whose incomes are above the
190 Medicaid eligibility limits, but below two hundred fifty percent
191 (250%) of the federal poverty level, shall be allowed to purchase
192 Medicaid coverage on a sliding fee scale developed by the Division
193 of Medicaid.

194 (20) Medicaid eligible children under age eighteen (18)
195 shall remain eligible for Medicaid benefits until the end of a
196 period of twelve (12) months following an eligibility
197 determination, or until such time that the individual exceeds age
198 eighteen (18).

199 (21) Women of childbearing age whose family income does
200 not exceed one hundred eighty-five percent (185%) of the federal
201 poverty level. The eligibility of individuals covered under this
202 paragraph (21) shall be determined by the Division of Medicaid,
203 and those individuals determined eligible shall only receive
204 family planning services covered under Section 43-13-117(13) and
205 not any other services covered under Medicaid. However, any
206 individual eligible under this paragraph (21) who is also eligible
207 under any other provision of this section shall receive the
208 benefits to which he or she is entitled under that other
209 provision, in addition to family planning services covered under
210 Section 43-13-117(13).

211 The Division of Medicaid shall apply to the United States
212 Secretary of Health and Human Services for a federal waiver of the
213 applicable provisions of Title XIX of the federal Social Security
214 Act, as amended, and any other applicable provisions of federal
215 law as necessary to allow for the implementation of this paragraph
216 (21). The provisions of this paragraph (21) shall be implemented
217 from and after the date that the Division of Medicaid receives the
218 federal waiver.

219 (22) Persons who are workers with a potentially severe
220 disability, as determined by the division, shall be allowed to
221 purchase Medicaid coverage. The term "worker with a potentially
222 severe disability" means a person who is at least sixteen (16)
223 years of age but under sixty-five (65) years of age, who has a
224 physical or mental impairment that is reasonably expected to cause
225 the person to become blind or disabled as defined under Section
226 1614(a) of the federal Social Security Act, as amended, if the

227 person does not receive items and services provided under
228 Medicaid.

229 The eligibility of persons under this paragraph (22) shall be
230 conducted as a demonstration project that is consistent with
231 Section 204 of the Ticket to Work and Work Incentives Improvement
232 Act of 1999, Public Law 106-170, for a certain number of persons
233 as specified by the division. The eligibility of individuals
234 covered under this paragraph (22) shall be determined by the
235 Division of Medicaid.

236 (23) Children certified by the Mississippi Department
237 of Human Services for whom the state and county departments of
238 human services have custody and financial responsibility who are
239 in foster care on their eighteenth birthday as reported by the
240 Mississippi Department of Human Services shall be certified
241 Medicaid eligible by the Division of Medicaid until their
242 twenty-first birthday.

243 (24) Individuals who have not attained age sixty-five
244 (65), are not otherwise covered by creditable coverage as defined
245 in the Public Health Services Act, and have been screened for
246 breast and cervical cancer under the Centers for Disease Control
247 and Prevention Breast and Cervical Cancer Early Detection Program
248 established under Title XV of the Public Health Service Act in
249 accordance with the requirements of that act and who need
250 treatment for breast or cervical cancer. Eligibility of
251 individuals under this paragraph (24) shall be determined by the
252 Division of Medicaid.

253 (25) The division shall apply to the Centers for
254 Medicare and Medicaid Services (CMS) for any necessary waivers to
255 provide services to individuals who are sixty-five (65) years of
256 age or older or are disabled as determined under Section
257 1614(a)(3) of the federal Social Security Act, as amended, and
258 whose income does not exceed one hundred thirty-five percent
259 (135%) of the nonfarm official poverty level as defined by the

260 Office of Management and Budget and revised annually, and whose
261 resources do not exceed those established by the Division of
262 Medicaid, and who are not otherwise covered by Medicare. Nothing
263 contained in this paragraph (25) shall entitle an individual to
264 benefits. The eligibility of individuals covered under this
265 paragraph shall be determined by the Division of Medicaid.

266 (26) The division shall apply to the Centers for
267 Medicare and Medicaid Services (CMS) for any necessary waivers to
268 provide services to individuals who are sixty-five (65) years of
269 age or older or are disabled as determined under Section
270 1614(a)(3) of the federal Social Security Act, as amended, who are
271 end stage renal disease patients on dialysis, cancer patients on
272 chemotherapy or organ transplant recipients on anti-rejection
273 drugs, whose income does not exceed one hundred thirty-five
274 percent (135%) of the nonfarm official poverty level as defined by
275 the Office of Management and Budget and revised annually, and
276 whose resources do not exceed those established by the division.
277 Nothing contained in this paragraph (26) shall entitle an
278 individual to benefits. The eligibility of individuals covered
279 under this paragraph shall be determined by the Division of
280 Medicaid.

281 The division shall redetermine eligibility for all categories
282 of recipients described in each paragraph of this section not less
283 frequently than required by federal law.

284 **SECTION 2.** Section 43-13-407, Mississippi Code of 1972, is
285 amended as follows:

286 43-13-407. (1) In accordance with the purposes of this
287 article, there is established in the State Treasury the Health
288 Care Expendable Fund, into which shall be transferred from the
289 Health Care Trust Fund the following sums:

290 (a) In fiscal year 2005, Two Hundred Sixteen Million
291 Dollars (\$216,000,000.00);

292 (b) In fiscal year 2006, One Hundred Eighty-six Million
293 Dollars (\$186,000,000.00);

294 (c) In fiscal year 2007, One Hundred Forty-six Million
295 Dollars (\$146,000,000.00);

296 (d) In fiscal year 2008, One Hundred Six Million
297 Dollars (\$106,000,000.00);

298 (e) In fiscal year 2009, Sixty-six Million Dollars
299 (\$66,000,000.00);

300 (f) In fiscal year 2010 and each fiscal year
301 thereafter, a sum equal to the average annual amount of the
302 dividends, interest and other income, including increases in value
303 of the principal, earned on the funds in the Health Care Trust
304 Fund during the preceding four (4) fiscal years.

305 In addition to the other amounts transferred in this
306 subsection, on the effective date of House Bill No. 1091, 2005
307 Regular Session, there shall be transferred from the Health Care
308 Trust Fund into the Health Care Expendable Fund the sum of One
309 Hundred Fifty-seven Million Dollars (\$157,000,000.00), which shall
310 be appropriated by the Legislature to the Division of Medicaid to
311 fully fund Medicaid services for persons eligible for Medicaid
312 under Section 43-13-115(11) from the effective date of House Bill
313 No. 1091, 2005 Regular Session, through December 31, 2005.

314 (2) In any fiscal year in which interest, dividends and
315 other income from the investment of the funds in the Health Care
316 Trust Fund are not sufficient to fund the full amount of the
317 annual transfer into the Health Care Expendable Fund as required
318 in subsection (1)(f) of this section, the State Treasurer shall
319 transfer from tobacco settlement installment payments an amount
320 that is sufficient to fully fund the amount of the annual
321 transfer.

322 (3) (a) On March 6, 2002, the State Treasurer shall
323 transfer the sum of Eighty-seven Million Dollars (\$87,000,000.00)
324 from the Health Care Trust Fund into the Health Care Expendable

325 Fund. In addition, at the time the State of Mississippi receives
326 the tobacco settlement installment payments for each of the
327 calendar years 2002 and 2003, the State Treasurer shall deposit
328 the full amount of each of those installment payments into the
329 Health Care Expendable Fund.

330 (b) If during any fiscal year after March 6, 2002, the
331 general fund revenues received by the state exceed the general
332 fund revenues received during the previous fiscal year by more
333 than five percent (5%), the Legislature shall repay to the Health
334 Care Trust Fund one-third (1/3) of the amount of the general fund
335 revenues that exceed the five percent (5%) growth in general fund
336 revenues. The repayment required by this paragraph shall continue
337 in each fiscal year in which there is more than five percent (5%)
338 growth in general fund revenues, until the full amount of the
339 funds that were transferred and deposited into the Health Care
340 Expendable Fund under the provisions of paragraph (a) of this
341 subsection have been repaid to the Health Care Trust Fund.

342 (4) All income from the investment of the funds in the
343 Health Care Expendable Fund shall be credited to the account of
344 the Health Care Expendable Fund. Any funds in the Health Care
345 Expendable Fund at the end of a fiscal year shall not lapse into
346 the State General Fund.

347 (5) The funds in the Health Care Expendable Fund shall be
348 available for expenditure under specific appropriation by the
349 Legislature beginning in fiscal year 2000, and shall be expended
350 exclusively for health care purposes.

351 (6) The provisions of subsection (1) of this section may not
352 be changed in any manner except upon amendment to that subsection
353 by a bill enacted by the Legislature with a vote of not less than
354 three-fifths (3/5) of the members of each house present and
355 voting.

356 (7) Subsections (1), (2), (4) and (5) of this section shall
357 stand repealed on July 1, 2009.

358 **SECTION 3.** This act shall take effect and be in force from
359 and after its passage.