

By: Representative Lott

To: Medicaid

HOUSE BILL NO. 1220

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ILLEGAL IMMIGRANTS ARE NOT ELIGIBLE FOR MEDICAID;
3 AND FOR RELATED PURPOSES.

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

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

7 43-13-115. Recipients of Medicaid shall be the following
8 persons only:

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

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

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

38 (4) [Deleted]

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

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

58 (7) (a) Persons certified by the Division of Medicaid
59 who are patients in a medical facility (nursing home, hospital,

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

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

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

80 (9) Individuals who are:

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

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

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

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

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

104 (11) [Deleted]

105 (12) Individuals who are qualified Medicare
106 beneficiaries (QMB) entitled to Part A Medicare as defined under
107 Section 301, Public Law 100-360, known as the Medicare
108 Catastrophic Coverage Act of 1988, and whose income does not
109 exceed one hundred percent (100%) of the nonfarm official poverty
110 level as defined by the Office of Management and Budget and
111 revised annually.

112 The eligibility of individuals covered under this paragraph
113 shall be determined by the Division of Medicaid, and those
114 individuals determined eligible shall receive Medicare
115 cost-sharing expenses only as more fully defined by the Medicare
116 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
117 1997.

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

125 (b) Individuals entitled to Part A of Medicare,
126 with income above one hundred twenty percent (120%), but less than
127 one hundred thirty-five percent (135%) of the federal poverty
128 level, and not otherwise eligible for Medicaid Eligibility for
129 Medicaid benefits is limited to full payment of Medicare Part B
130 premiums. The number of eligible individuals is limited by the
131 availability of the federal capped allocation at one hundred
132 percent (100%) of federal matching funds, as more fully defined in
133 the Balanced Budget Act of 1997.

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

136 (14) [Deleted]

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

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

152 (17) In accordance with the terms of the federal
153 Personal Responsibility and Work Opportunity Reconciliation Act of
154 1996 (Public Law 104-193), persons who become ineligible for
155 assistance under Title IV-A of the federal Social Security Act, as
156 amended, because of increased income from or hours of employment
157 of the caretaker relative or because of the expiration of the

158 applicable earned income disregards, who were eligible for
159 Medicaid for at least three (3) of the six (6) months preceding
160 the month in which the ineligibility begins, shall be eligible for
161 Medicaid for up to twelve (12) months. The eligibility of the
162 individuals covered under this paragraph shall be determined by
163 the division.

164 (18) Persons who become ineligible for assistance under
165 Title IV-A of the federal Social Security Act, as amended, as a
166 result, in whole or in part, of the collection or increased
167 collection of child or spousal support under Title IV-D of the
168 federal Social Security Act, as amended, who were eligible for
169 Medicaid for at least three (3) of the six (6) months immediately
170 preceding the month in which the ineligibility begins, shall be
171 eligible for Medicaid for an additional four (4) months beginning
172 with the month in which the ineligibility begins. The eligibility
173 of the individuals covered under this paragraph shall be
174 determined by the division.

175 (19) Disabled workers, whose incomes are above the
176 Medicaid eligibility limits, but below two hundred fifty percent
177 (250%) of the federal poverty level, shall be allowed to purchase
178 Medicaid coverage on a sliding fee scale developed by the Division
179 of Medicaid.

180 (20) Medicaid eligible children under age eighteen (18)
181 shall remain eligible for Medicaid benefits until the end of a
182 period of twelve (12) months following an eligibility
183 determination, or until such time that the individual exceeds age
184 eighteen (18).

185 (21) Women of childbearing age whose family income does
186 not exceed one hundred eighty-five percent (185%) of the federal
187 poverty level. The eligibility of individuals covered under this
188 paragraph (21) shall be determined by the Division of Medicaid,
189 and those individuals determined eligible shall only receive
190 family planning services covered under Section 43-13-117(13) and

191 not any other services covered under Medicaid. However, any
192 individual eligible under this paragraph (21) who is also eligible
193 under any other provision of this section shall receive the
194 benefits to which he or she is entitled under that other
195 provision, in addition to family planning services covered under
196 Section 43-13-117(13).

197 The Division of Medicaid shall apply to the United States
198 Secretary of Health and Human Services for a federal waiver of the
199 applicable provisions of Title XIX of the federal Social Security
200 Act, as amended, and any other applicable provisions of federal
201 law as necessary to allow for the implementation of this paragraph
202 (21). The provisions of this paragraph (21) shall be implemented
203 from and after the date that the Division of Medicaid receives the
204 federal waiver.

205 (22) Persons who are workers with a potentially severe
206 disability, as determined by the division, shall be allowed to
207 purchase Medicaid coverage. The term "worker with a potentially
208 severe disability" means a person who is at least sixteen (16)
209 years of age but under sixty-five (65) years of age, who has a
210 physical or mental impairment that is reasonably expected to cause
211 the person to become blind or disabled as defined under Section
212 1614(a) of the federal Social Security Act, as amended, if the
213 person does not receive items and services provided under
214 Medicaid.

215 The eligibility of persons under this paragraph (22) shall be
216 conducted as a demonstration project that is consistent with
217 Section 204 of the Ticket to Work and Work Incentives Improvement
218 Act of 1999, Public Law 106-170, for a certain number of persons
219 as specified by the division. The eligibility of individuals
220 covered under this paragraph (22) shall be determined by the
221 Division of Medicaid.

222 (23) Children certified by the Mississippi Department
223 of Human Services for whom the state and county departments of

224 human services have custody and financial responsibility who are
225 in foster care on their eighteenth birthday as reported by the
226 Mississippi Department of Human Services shall be certified
227 Medicaid eligible by the Division of Medicaid until their
228 twenty-first birthday.

229 (24) Individuals who have not attained age sixty-five
230 (65), are not otherwise covered by creditable coverage as defined
231 in the Public Health Services Act, and have been screened for
232 breast and cervical cancer under the Centers for Disease Control
233 and Prevention Breast and Cervical Cancer Early Detection Program
234 established under Title XV of the Public Health Service Act in
235 accordance with the requirements of that act and who need
236 treatment for breast or cervical cancer. Eligibility of
237 individuals under this paragraph (24) shall be determined by the
238 Division of Medicaid.

239 (25) The division shall apply to the Centers for
240 Medicare and Medicaid Services (CMS) for any necessary waivers to
241 provide services to individuals who are sixty-five (65) years of
242 age or older or are disabled as determined under Section
243 1614(a)(3) of the federal Social Security Act, as amended, and
244 whose income does not exceed one hundred thirty-five percent
245 (135%) of the nonfarm official poverty level as defined by the
246 Office of Management and Budget and revised annually, and whose
247 resources do not exceed those established by the Division of
248 Medicaid, and who are not otherwise covered by Medicare. Nothing
249 contained in this paragraph (25) shall entitle an individual to
250 benefits. The eligibility of individuals covered under this
251 paragraph shall be determined by the Division of Medicaid.

252 (26) The division shall apply to the Centers for
253 Medicare and Medicaid Services (CMS) for any necessary waivers to
254 provide services to individuals who are sixty-five (65) years of
255 age or older or are disabled as determined under Section
256 1614(a)(3) of the federal Social Security Act, as amended, who are

257 end stage renal disease patients on dialysis, cancer patients on
258 chemotherapy or organ transplant recipients on anti-rejection
259 drugs, whose income does not exceed one hundred thirty-five
260 percent (135%) of the nonfarm official poverty level as defined by
261 the Office of Management and Budget and revised annually, and
262 whose resources do not exceed those established by the division.
263 Nothing contained in this paragraph (26) shall entitle an
264 individual to benefits. The eligibility of individuals covered
265 under this paragraph shall be determined by the Division of
266 Medicaid.

267 (27) Notwithstanding any provision of this section to
268 the contrary, a person who is not a United States citizen who does
269 not have documented legal immigration status is not eligible for
270 Medicaid.

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

274 **SECTION 2.** This act shall take effect and be in force from
275 and after July 1, 2005.