

By: Senator(s) Ross

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2079

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO DIRECT THE DIVISION OF MEDICAID TO DENY MEDICAID BENEFITS TO
3 RECIPIENTS WHO HAVE RECEIVED BENEFITS FOR A CERTAIN PERIOD OF
4 TIME, WITH EXCEPTIONS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

39 (4) [Deleted]

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

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

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

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

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

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

81 (9) Individuals who are:

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

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

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

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

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

105 (11) [Deleted]

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

113 The eligibility of individuals covered under this paragraph
114 shall be determined by the Division of Medicaid, and those
115 individuals determined eligible shall receive Medicare
116 cost-sharing expenses only as more fully defined by the Medicare
117 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
118 1997.

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

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

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

137 (14) [Deleted]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

253 (26) 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, who are

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

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

271 The division shall deny Medicaid benefits to the following
272 categories of individuals, except for individuals and families
273 receiving federal disability assistance payments or specifically
274 exempt or excluded for good cause as allowed by federal statute or
275 regulation:

276 (a) An individual twenty-one (21) years of age or
277 older and less than sixty (60) years of age who has received
278 Medicaid assistance for more than thirty-six (36) months after
279 July 1, 2005, without a six (6) month interruption in assistance
280 payments; and

281 (b) An individual twenty-one (21) years of age or
282 older and less than sixty (60) years of age who has received
283 Medicaid assistance for one hundred twenty (120) months after July
284 1, 2005, whether or not such period of time is consecutive.

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