

By: Senator(s) Burton

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2382

1 AN ACT TO AMEND SECTION 43-13-115, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE DIVISION OF MEDICAID TO ESTABLISH A MEDICAID
3 BUY-IN PROGRAM FOR WORKING INDIVIDUALS WITH DISABILITIES; TO
4 PRESCRIBE ELIGIBILITY, PREMIUMS AND COST SHARING UNDER THE
5 PROGRAM; TO PROVIDE WORK-RELATED PROTECTIONS UNDER THE PROGRAM; TO
6 AUTHORIZE THE DIVISION TO ISSUE REGULATIONS UNDER THE PROGRAM; AND
7 FOR RELATED PURPOSES.

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

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

11 43-13-115. Recipients of Medicaid shall be the following
12 persons only:

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

29 1931 of the federal Social Security Act and shall redetermine
30 eligibility for those continuing under Title IV-A grants.

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

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

42 (4) [Deleted]

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

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

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

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

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

84 (9) Individuals who are:

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

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

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

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

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

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

108 (11) [Deleted]

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

116 The eligibility of individuals covered under this paragraph
117 shall be determined by the Division of Medicaid, and those
118 individuals determined eligible shall receive Medicare
119 cost-sharing expenses only as more fully defined by the Medicare
120 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
121 1997.

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

127 Eligibility for Medicaid benefits is limited to full payment of
128 Medicare Part B premiums.

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

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

140 (14) [Deleted]

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

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

156 (17) In accordance with the terms of the federal
157 Personal Responsibility and Work Opportunity Reconciliation Act of
158 1996 (Public Law 104-193), persons who become ineligible for
159 assistance under Title IV-A of the federal Social Security Act, as

160 amended, because of increased income from or hours of employment
161 of the caretaker relative or because of the expiration of the
162 applicable earned income disregards, who were eligible for
163 Medicaid for at least three (3) of the six (6) months preceding
164 the month in which the ineligibility begins, shall be eligible for
165 Medicaid for up to twelve (12) months. The eligibility of the
166 individuals covered under this paragraph shall be determined by
167 the division.

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

179 (19) Disabled workers, whose incomes are above the
180 Medicaid eligibility limits, but below two hundred fifty percent
181 (250%) of the federal poverty level, shall be allowed to purchase
182 Medicaid coverage on a sliding fee scale developed by the Division
183 of Medicaid.

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

189 (21) Women of childbearing age whose family income does
190 not exceed one hundred eighty-five percent (185%) of the federal
191 poverty level. The eligibility of individuals covered under this
192 paragraph (21) shall be determined by the Division of Medicaid,

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

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

209 (22) Persons who are workers with a potentially severe
210 disability, as determined by the division, shall be allowed to
211 purchase Medicaid coverage. The term "worker with a potentially
212 severe disability" means a person who is at least sixteen (16)
213 years of age but under sixty-five (65) years of age, who has a
214 physical or mental impairment that is reasonably expected to cause
215 the person to become blind or disabled as defined under Section
216 1614(a) of the federal Social Security Act, as amended, if the
217 person does not receive items and services provided under
218 Medicaid.

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

226 (23) Children certified by the Mississippi Department
227 of Human Services for whom the state and county departments of
228 human services have custody and financial responsibility who are
229 in foster care on their eighteenth birthday as reported by the
230 Mississippi Department of Human Services shall be certified
231 Medicaid eligible by the Division of Medicaid until their
232 twenty-first birthday.

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

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

256 (26) The division shall apply to the Centers for
257 Medicare and Medicaid Services (CMS) for any necessary waivers to
258 provide services to individuals who are sixty-five (65) years of

259 age or older or are disabled as determined under Section
260 1614(a)(3) of the federal Social Security Act, as amended, who are
261 end stage renal disease patients on dialysis, cancer patients on
262 chemotherapy or organ transplant recipients on anti-rejection
263 drugs, whose income does not exceed one hundred thirty-five
264 percent (135%) of the nonfarm official poverty level as defined by
265 the Office of Management and Budget and revised annually, and
266 whose resources do not exceed those established by the division.
267 Nothing contained in this paragraph (26) shall entitle an
268 individual to benefits. The eligibility of individuals covered
269 under this paragraph shall be determined by the Division of
270 Medicaid.

271 (27) (a) The Division of Medicaid is hereby authorized
272 to establish a Medicaid buy-in program pursuant to the "Balanced
273 Budget Act of 1997" [42 USC Section 1396a(a)(10)(ii)(XIII)].

274 (b) The purpose of the Medicaid buy-in program is
275 to:

276 (i) Enable individuals with disabilities to
277 enter and reenter the workforce as soon as possible;

278 (ii) Provide health care and social services
279 to individuals with disabilities that will enable those
280 individuals to reduce their dependency on cash benefit programs;

281 (iii) Allow individuals with disabilities the
282 option to purchase Medicaid coverage that is necessary to enable
283 such individuals to obtain and/or maintain employment; and

284 (iv) Authorize the division to amend the
285 state plan for personal care services limited to
286 employment-related personal care services for individuals with
287 disabilities to continue their employment activity.

288 (c) As used in this paragraph (27), the term:

289 (i) "Individual with a disability" means a
290 person who has been designated, but without regard to his or her
291 ability to engage in substantial gainful activity, as specified in

292 the Social Security Act [42 USC 423(d)(4)], as a totally and
293 permanently disabled individual by the Social Security
294 Administration or the Mississippi Medicaid program, pursuant to an
295 application for benefits under Title II, Title XVI or Title XIX of
296 the Social Security Act, regardless of current receipt of cash
297 benefits under the Social Security Act.

298 (ii) "Employed" means the individual with
299 disabilities is engaged in a work effort that meets substantial
300 and reasonable threshold criteria for hours of work, wages or
301 other measures, as defined by the division and as permitted by
302 federal law.

303 (d) The division is hereby authorized and directed
304 to amend its Title XIX state plan to initiate a Medicaid buy-in
305 program for employed individuals with disabilities.

306 (e) To be eligible for benefits under the Medicaid
307 buy-in program:

308 (i) The person shall be an individual with
309 disabilities as defined in federal regulation, but without regard
310 to his or her ability to engage in substantial gainful activity,
311 as specified in the Social Security Act [42 USC 423(d)(4)];

312 (ii) The person shall be employed as defined
313 in applicable federal regulation;

314 (iii) The person's net accountable income
315 shall not exceed two hundred fifty percent (250%) of the federal
316 poverty level, taking into account the SSI program disregards and
317 impairment-related work expenses as defined in 42 USC Section
318 1396a(r)(2);

319 (iv) A maximum of Ten Thousand Dollars
320 (\$10,000.00) of available resources for an individual and Twenty
321 Thousand Dollars (\$20,000.00) for a couple shall be disregarded as
322 shall any additional resources held in a retirement account, in a
323 medical savings account, or any other account, related to

324 enhancing the independence of the individual and approved under
325 rules to be adopted by the division.

326 (f) (i) The division is authorized and directed
327 to promulgate such rules to establish the monthly premium payments
328 for employed individuals with disabilities who opt to participate
329 directly in the Medicaid buy-in program. To participate in the
330 Medicaid buy-in program, the employed individual with disabilities
331 shall be required to make payment for coverage in accordance with
332 a monthly payment formula to be established by the division which
333 shall count the individual's monthly unearned income in excess of
334 the medically needy income limit (MNIL), and shall count a portion
335 of their earned income on a sliding scale basis, in accordance
336 with rules to be established by the division.

337 (ii) The division is further authorized and
338 directed to promulgate such rules to allow employed individuals
339 with disabilities who have access to employer-based health
340 insurance and who are determined eligible by the division pursuant
341 to this paragraph, to either:

342 1. Enroll themselves and/or their family
343 in the employer-based health insurance plan as a condition of
344 participation in the Medicaid buy-in program under this paragraph;
345 and provided further, that enrollment in the employer-based health
346 insurance plan is cost-effective and its benefits are comparable
347 to the benefits provided by the Medicaid buy-in program; or

348 2. Enroll in the Mississippi Medicaid
349 buy-in program with employer/employee premium payments for
350 coverage under the Medicaid buy-in program; provided, that these
351 premium payments are not greater than the employer's and
352 employee's premiums in the existing employer-based health
353 insurance.

354 (g) (i) Medicaid buy-in participants shall
355 continue on the Medicaid buy-in program for up to four (4) months
356 after loss of employment due to a medical condition. If the loss

357 of employment is not due to a medical condition, the individual
358 may continue to be eligible for up to four (4) months, but must
359 pay a monthly premium equal to their monthly unearned income in
360 excess of the medically needy income limit.

361 (ii) Medicaid buy-in participants who return
362 to other Medicaid eligibility categories shall have their accrued
363 savings in a retirement account and/or a medical savings account
364 excluded from countable assets.

365 (iii) The division shall promulgate rules and
366 regulations necessary to institute the work-related protections of
367 this section.

368 (iv) The division shall promulgate the rules
369 and regulations necessary to implement the provisions of this
370 paragraph by July 1, 2005, and enrollment of individuals with
371 disabilities in the Medicaid buy-in program shall commence on
372 January 1, 2006.

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

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