

By: Representatives Moore, Lott

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 498

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 BE A CITIZEN OR PERMANENT RESIDENT OF THE UNITED
4 STATES AND MUST DEMONSTRATE THAT HE OR SHE IS ABLE TO SPEAK AND
5 UNDERSTAND THE ENGLISH LANGUAGE BEFORE HE OR SHE WILL BE ELIGIBLE
6 TO RECEIVE THE LICENSE OR THE PUBLIC ASSISTANCE BENEFITS; TO AMEND
7 SECTIONS 43-13-115 AND 43-17-1, MISSISSIPPI CODE OF 1972, TO
8 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Because state benefits and privileges should be
11 provided only to those who have an official and permanent
12 relationship to the United States, and because the English
13 language is the official language of the State of Mississippi, as
14 provided in Section 3-3-31, it is the policy of the State of
15 Mississippi that any person who receives a state license or
16 receives state-funded public assistance benefits must be a citizen
17 or permanent resident of the United States and must be able to
18 speak and understand the English language.

19 **SECTION 2.** As used in this act, the following words shall
20 have the meanings ascribed in this section:

21 (a) "License" means a license, certificate, permit,
22 credential, registration, or any other authorization that allows a
23 person to engage in a business, occupation or profession, or to
24 operate a motor vehicle.

25 (b) "Public assistance benefits" means any payments or
26 grants under the Temporary Assistance to Needy Families (TANF)
27 program, medical assistance services under the Medicaid program,
28 and any other economic assistance payments or services provided by
29 the Department of Human Services that are funded in whole or in
30 part with state funds.

31 **SECTION 3.** Any person who applies for a license issued by an
32 agency, department or institution of the state or applies for
33 public assistance benefits must be a citizen or permanent resident
34 of the United States, as provided under federal law, and must
35 demonstrate that he or she is able to speak and understand the
36 English language before he or she will be eligible to receive the
37 license or the public assistance benefits. State agencies shall
38 require applicants for a license or public assistance benefits to
39 show an official state or federal identification document that
40 verifies their status as a United States citizen or permanent
41 resident. The method used by state agencies to determine an
42 applicant's abilities in the English language shall be developed
43 by the State Department of Education and provided to the state
44 agencies.

45 **SECTION 4.** Section 43-13-115, Mississippi Code of 1972, is
46 amended as follows:

47 43-13-115. A. Recipients of Medicaid shall be the following
48 persons only:

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

64 shall determine eligibility for low income families under Section
65 1931 of the federal Social Security Act and shall redetermine
66 eligibility for those continuing under Title IV-A grants.

67 (2) Those qualified for Supplemental Security Income
68 (SSI) benefits under Title XVI of the federal Social Security Act,
69 as amended, and those who are deemed SSI eligible as contained in
70 federal statute. The eligibility of individuals covered in this
71 paragraph shall be determined by the Social Security
72 Administration and certified to the Division of Medicaid.

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

78 (4) [Deleted]

79 (5) A child born on or after October 1, 1984, to a
80 woman eligible for and receiving Medicaid under the state plan on
81 the date of the child's birth shall be deemed to have applied for
82 Medicaid and to have been found eligible for Medicaid under the
83 plan on the date of that birth, and will remain eligible for
84 Medicaid for a period of one (1) year so long as the child is a
85 member of the woman's household and the woman remains eligible for
86 Medicaid or would be eligible for Medicaid if pregnant. The
87 eligibility of individuals covered in this paragraph shall be
88 determined by the Division of Medicaid.

89 (6) Children certified by the State Department of Human
90 Services to the Division of Medicaid of whom the state and county
91 departments of human services have custody and financial
92 responsibility, and children who are in adoptions subsidized in
93 full or part by the Department of Human Services, including
94 special needs children in non-Title IV-E adoption assistance, who
95 are approvable under Title XIX of the Medicaid program. The

96 eligibility of the children covered under this paragraph shall be
97 determined by the State Department of Human Services.

98 (7) Persons certified by the Division of Medicaid who
99 are patients in a medical facility (nursing home, hospital,
100 tuberculosis sanatorium or institution for treatment of mental
101 diseases), and who, except for the fact that they are patients in
102 that medical facility, would qualify for grants under Title IV,
103 Supplementary Security Income (SSI) benefits under Title XVI or
104 state supplements, and those aged, blind and disabled persons who
105 would not be eligible for Supplemental Security Income (SSI)
106 benefits under Title XVI or state supplements if they were not
107 institutionalized in a medical facility but whose income is below
108 the maximum standard set by the Division of Medicaid, which
109 standard shall not exceed that prescribed by federal regulation.

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

116 (9) Individuals who are:

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

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

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

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

131 (10) Certain disabled children age eighteen (18) or
132 under who are living at home, who would be eligible, if in a
133 medical institution, for SSI or a state supplemental payment under
134 Title XVI of the federal Social Security Act, as amended, and
135 therefore for Medicaid under the plan, and for whom the state has
136 made a determination as required under Section 1902(e)(3)(b) of
137 the federal Social Security Act, as amended. The eligibility of
138 individuals under this paragraph shall be determined by the
139 Division of Medicaid.

140 (11) Until the end of the day on December 31, 2005,
141 individuals who are sixty-five (65) years of age or older or are
142 disabled as determined under Section 1614(a)(3) of the federal
143 Social Security Act, as amended, and whose income does not exceed
144 one hundred thirty-five percent (135%) of the nonfarm official
145 poverty level as defined by the Office of Management and Budget
146 and revised annually, and whose resources do not exceed those
147 established by the Division of Medicaid. The eligibility of
148 individuals covered under this paragraph shall be determined by
149 the Division of Medicaid. After December 31, 2005, only those
150 individuals covered under the 1115(c) Healthier Mississippi waiver
151 will be covered under this category.

152 Any individual who applied for Medicaid during the period
153 from July 1, 2004, through March 31, 2005, who otherwise would
154 have been eligible for coverage under this paragraph (11) if it
155 had been in effect at the time the individual submitted his or her
156 application and is still eligible for coverage under this
157 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
158 coverage under this paragraph (11) from March 31, 2005, through
159 December 31, 2005. The division shall give priority in processing
160 the applications for those individuals to determine their
161 eligibility under this paragraph (11).

162 (12) Individuals who are qualified Medicare
163 beneficiaries (QMB) entitled to Part A Medicare as defined under
164 Section 301, Public Law 100-360, known as the Medicare
165 Catastrophic Coverage Act of 1988, and whose income does not
166 exceed one hundred percent (100%) of the nonfarm official poverty
167 level as defined by the Office of Management and Budget and
168 revised annually.

169 The eligibility of individuals covered under this paragraph
170 shall be determined by the Division of Medicaid, and those
171 individuals determined eligible shall receive Medicare
172 cost-sharing expenses only as more fully defined by the Medicare
173 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
174 1997.

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

182 (b) Individuals entitled to Part A of Medicare,
183 with income above one hundred twenty percent (120%), but less than
184 one hundred thirty-five percent (135%) of the federal poverty
185 level, and not otherwise eligible for Medicaid Eligibility for
186 Medicaid benefits is limited to full payment of Medicare Part B
187 premiums. The number of eligible individuals is limited by the
188 availability of the federal capped allocation at one hundred
189 percent (100%) of federal matching funds, as more fully defined in
190 the Balanced Budget Act of 1997.

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

193 (14) [Deleted]

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

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

209 (17) In accordance with the terms of the federal
210 Personal Responsibility and Work Opportunity Reconciliation Act of
211 1996 (Public Law 104-193), persons who become ineligible for
212 assistance under Title IV-A of the federal Social Security Act, as
213 amended, because of increased income from or hours of employment
214 of the caretaker relative or because of the expiration of the
215 applicable earned income disregards, who were eligible for
216 Medicaid for at least three (3) of the six (6) months preceding
217 the month in which the ineligibility begins, shall be eligible for
218 Medicaid for up to twelve (12) months. The eligibility of the
219 individuals covered under this paragraph shall be determined by
220 the division.

221 (18) Persons who become ineligible for assistance under
222 Title IV-A of the federal Social Security Act, as amended, as a
223 result, in whole or in part, of the collection or increased
224 collection of child or spousal support under Title IV-D of the
225 federal Social Security Act, as amended, who were eligible for
226 Medicaid for at least three (3) of the six (6) months immediately

227 preceding the month in which the ineligibility begins, shall be
228 eligible for Medicaid for an additional four (4) months beginning
229 with the month in which the ineligibility begins. The eligibility
230 of the individuals covered under this paragraph shall be
231 determined by the division.

232 (19) Disabled workers, whose incomes are above the
233 Medicaid eligibility limits, but below two hundred fifty percent
234 (250%) of the federal poverty level, shall be allowed to purchase
235 Medicaid coverage on a sliding fee scale developed by the Division
236 of Medicaid.

237 (20) Medicaid eligible children under age eighteen (18)
238 shall remain eligible for Medicaid benefits until the end of a
239 period of twelve (12) months following an eligibility
240 determination, or until such time that the individual exceeds age
241 eighteen (18).

242 (21) Women of childbearing age whose family income does
243 not exceed one hundred eighty-five percent (185%) of the federal
244 poverty level. The eligibility of individuals covered under this
245 paragraph (21) shall be determined by the Division of Medicaid,
246 and those individuals determined eligible shall only receive
247 family planning services covered under Section 43-13-117(13) and
248 not any other services covered under Medicaid. However, any
249 individual eligible under this paragraph (21) who is also eligible
250 under any other provision of this section shall receive the
251 benefits to which he or she is entitled under that other
252 provision, in addition to family planning services covered under
253 Section 43-13-117(13).

254 The Division of Medicaid shall apply to the United States
255 Secretary of Health and Human Services for a federal waiver of the
256 applicable provisions of Title XIX of the federal Social Security
257 Act, as amended, and any other applicable provisions of federal
258 law as necessary to allow for the implementation of this paragraph
259 (21). The provisions of this paragraph (21) shall be implemented

260 from and after the date that the Division of Medicaid receives the
261 federal waiver.

262 (22) Persons who are workers with a potentially severe
263 disability, as determined by the division, shall be allowed to
264 purchase Medicaid coverage. The term "worker with a potentially
265 severe disability" means a person who is at least sixteen (16)
266 years of age but under sixty-five (65) years of age, who has a
267 physical or mental impairment that is reasonably expected to cause
268 the person to become blind or disabled as defined under Section
269 1614(a) of the federal Social Security Act, as amended, if the
270 person does not receive items and services provided under
271 Medicaid.

272 The eligibility of persons under this paragraph (22) shall be
273 conducted as a demonstration project that is consistent with
274 Section 204 of the Ticket to Work and Work Incentives Improvement
275 Act of 1999, Public Law 106-170, for a certain number of persons
276 as specified by the division. The eligibility of individuals
277 covered under this paragraph (22) shall be determined by the
278 Division of Medicaid.

279 (23) Children certified by the Mississippi Department
280 of Human Services for whom the state and county departments of
281 human services have custody and financial responsibility who are
282 in foster care on their eighteenth birthday as reported by the
283 Mississippi Department of Human Services shall be certified
284 Medicaid eligible by the Division of Medicaid until their
285 twenty-first birthday.

286 (24) Individuals who have not attained age sixty-five
287 (65), are not otherwise covered by creditable coverage as defined
288 in the Public Health Services Act, and have been screened for
289 breast and cervical cancer under the Centers for Disease Control
290 and Prevention Breast and Cervical Cancer Early Detection Program
291 established under Title XV of the Public Health Service Act in
292 accordance with the requirements of that act and who need

293 treatment for breast or cervical cancer. Eligibility of
294 individuals under this paragraph (24) shall be determined by the
295 Division of Medicaid.

296 (25) The division shall apply to the Centers for
297 Medicare and Medicaid Services (CMS) for any necessary waivers to
298 provide services to individuals who are sixty-five (65) years of
299 age or older or are disabled as determined under Section
300 1614(a)(3) of the federal Social Security Act, as amended, and
301 whose income does not exceed one hundred thirty-five percent
302 (135%) of the nonfarm official poverty level as defined by the
303 Office of Management and Budget and revised annually, and whose
304 resources do not exceed those established by the Division of
305 Medicaid, and who are not otherwise covered by Medicare. Nothing
306 contained in this paragraph (25) shall entitle an individual to
307 benefits. The eligibility of individuals covered under this
308 paragraph shall be determined by the Division of Medicaid.

309 (26) The division shall apply to the Centers for
310 Medicare and Medicaid Services (CMS) for any necessary waivers to
311 provide services to individuals who are sixty-five (65) years of
312 age or older or are disabled as determined under Section
313 1614(a)(3) of the federal Social Security Act, as amended, who are
314 end stage renal disease patients on dialysis, cancer patients on
315 chemotherapy or organ transplant recipients on anti-rejection
316 drugs, whose income does not exceed one hundred thirty-five
317 percent (135%) of the nonfarm official poverty level as defined by
318 the Office of Management and Budget and revised annually, and
319 whose resources do not exceed those established by the division.
320 Nothing contained in this paragraph (26) shall entitle an
321 individual to benefits. The eligibility of individuals covered
322 under this paragraph shall be determined by the Division of
323 Medicaid.

324 (27) Individuals who are entitled to Medicare Part D
325 and whose income does not exceed one hundred fifty percent (150%)

326 of the nonfarm official poverty level as defined by the Office of
327 Management and Budget and revised annually. Eligibility for
328 payment of the Medicare Part D subsidy under this paragraph shall
329 be determined by the division.

330 B. Before a person will be eligible for Medicaid under this
331 article, the person must be a citizen or permanent resident of the
332 United States and must demonstrate that he or she is able to speak
333 and understand the English language, as required by Section 1 of
334 this act.

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

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

340 43-17-1. (1) The State of Mississippi * * * accepts all of
341 the mandatory provisions and benefits, with the exception of those
342 provisions under which the state may exercise its options, of
343 Title I of an act passed by the Senate and House of
344 Representatives of the United States of America, in Congress
345 assembled, entitled: "The Personal Responsibility and Work
346 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
347 known as the Temporary Assistance to Needy Families (TANF)
348 program.

349 (2) The Department of Human Services shall have all
350 necessary authority to cooperate with the federal government in
351 the administration of Public Law 104-193 and all subsequent
352 federal amendments thereto, to administer any legislation pursuant
353 thereto enacted by the State of Mississippi, and to administer the
354 funds provided by the federal government and the State of
355 Mississippi under the provisions of Section 43-17-1 et seq., for
356 providing temporary assistance for needy families with minor
357 children. The Department of Human Services shall have full
358 authority to formulate state plans consistent with state law as

359 necessary to administer and operate federal grant funds which
360 provide temporary assistance for needy families with minor
361 children under Title IV-A of the federal Social Security Act. The
362 Department of Human Services shall identify in any state plan
363 submitted to implement the TANF program those requirements or
364 restrictions, including persons excluded from program
365 participation which are required under federal law, and those
366 program requirements or restrictions which the federal law
367 authorizes but does not require.

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

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

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

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

382 (c) Prevent and reduce the incidence of out-of-wedlock
383 pregnancies and establish annual numerical goals for preventing
384 and reducing the incidence of these pregnancies;

385 (d) Encourage the formation and maintenance of
386 two-parent families; and

387 (e) Prevent program fraud and abuse.

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

392 success or failure of the department in implementing the programs
393 implemented under the authority of this section. The department
394 shall annually report to the Legislature the outputs and outcomes
395 of these programs, with the first report due by December 15, 1997.
396 Such reports shall include recommendations for making programs
397 more effective or efficient which can be effected in accordance
398 with federal law.

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

404 (7) Before a person will be eligible for assistance under
405 this chapter, the person must be a citizen or permanent resident
406 of the United States and must demonstrate that he or she is able
407 to speak and understand the English language, as required by
408 Section 1 of this act.

409 **SECTION 6.** This act shall take effect and be in force from
410 and after July 1, 2006.