

By: Representatives Lott, Cummings

To: Medicaid

HOUSE BILL NO. 1074

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

76 (9) Individuals who are:

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

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

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

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

91 (10) Certain disabled children age eighteen (18) or
92 under who are living at home, who would be eligible, if in a

93 medical institution, for SSI or a state supplemental payment under
94 Title XVI of the federal Social Security Act, as amended, and
95 therefore for Medicaid under the plan, and for whom the state has
96 made a determination as required under Section 1902(e)(3)(b) of
97 the federal Social Security Act, as amended. The eligibility of
98 individuals under this paragraph shall be determined by the
99 Division of Medicaid.

100 (11) Until the end of the day on December 31, 2005,
101 individuals who are sixty-five (65) years of age or older or are
102 disabled as determined under Section 1614(a)(3) of the federal
103 Social Security Act, as amended, and whose income does not exceed
104 one hundred thirty-five percent (135%) of the nonfarm official
105 poverty level as defined by the Office of Management and Budget
106 and revised annually, and whose resources do not exceed those
107 established by the Division of Medicaid. The eligibility of
108 individuals covered under this paragraph shall be determined by
109 the Division of Medicaid. After December 31, 2005, only those
110 individuals covered under the 1115(c) Healthier Mississippi waiver
111 will be covered under this category.

112 Any individual who applied for Medicaid during the period
113 from July 1, 2004, through March 31, 2005, who otherwise would
114 have been eligible for coverage under this paragraph (11) if it
115 had been in effect at the time the individual submitted his or her
116 application and is still eligible for coverage under this
117 paragraph (11) on March 31, 2005, shall be eligible for Medicaid
118 coverage under this paragraph (11) from March 31, 2005, through
119 December 31, 2005. The division shall give priority in processing
120 the applications for those individuals to determine their
121 eligibility under this paragraph (11).

122 (12) Individuals who are qualified Medicare
123 beneficiaries (QMB) entitled to Part A Medicare as defined under
124 Section 301, Public Law 100-360, known as the Medicare
125 Catastrophic Coverage Act of 1988, and whose income does not

126 exceed one hundred percent (100%) of the nonfarm official poverty
127 level as defined by the Office of Management and Budget and
128 revised annually.

129 The eligibility of individuals covered under this paragraph
130 shall be determined by the Division of Medicaid, and those
131 individuals determined eligible shall receive Medicare
132 cost-sharing expenses only as more fully defined by the Medicare
133 Catastrophic Coverage Act of 1988 and the Balanced Budget Act of
134 1997.

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

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

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

153 (14) [Deleted]

154 (15) Disabled workers who are eligible to enroll in
155 Part A Medicare as required by Public Law 101-239, known as the
156 Omnibus Budget Reconciliation Act of 1989, and whose income does
157 not exceed two hundred percent (200%) of the federal poverty level
158 as determined in accordance with the Supplemental Security Income

159 (SSI) program. The eligibility of individuals covered under this
160 paragraph shall be determined by the Division of Medicaid and
161 those individuals shall be entitled to buy-in coverage of Medicare
162 Part A premiums only under the provisions of this paragraph (15).

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

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

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

192 (19) Disabled workers, whose incomes are above the
193 Medicaid eligibility limits, but below two hundred fifty percent
194 (250%) of the federal poverty level, shall be allowed to purchase
195 Medicaid coverage on a sliding fee scale developed by the Division
196 of Medicaid.

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

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

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

222 (22) Persons who are workers with a potentially severe
223 disability, as determined by the division, shall be allowed to
224 purchase Medicaid coverage. The term "worker with a potentially

225 severe disability" means a person who is at least sixteen (16)
226 years of age but under sixty-five (65) years of age, who has a
227 physical or mental impairment that is reasonably expected to cause
228 the person to become blind or disabled as defined under Section
229 1614(a) of the federal Social Security Act, as amended, if the
230 person does not receive items and services provided under
231 Medicaid.

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

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

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

256 (25) 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, and
261 whose income does not exceed one hundred thirty-five percent
262 (135%) of the nonfarm official poverty level as defined by the
263 Office of Management and Budget and revised annually, and whose
264 resources do not exceed those established by the Division of
265 Medicaid, and who are not otherwise covered by Medicare. Nothing
266 contained in this paragraph (25) shall entitle an individual to
267 benefits. The eligibility of individuals covered under this
268 paragraph shall be determined by the Division of Medicaid.

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

284 (27) Individuals who are entitled to Medicare Part D
285 and whose income does not exceed one hundred fifty percent (150%)
286 of the nonfarm official poverty level as defined by the Office of
287 Management and Budget and revised annually. Eligibility for
288 payment of the Medicare Part D subsidy under this paragraph shall
289 be determined by the division.

290 (28) Notwithstanding any provision of this section to
291 the contrary, a person who is not a United States citizen or who
292 does not have documented legal immigration status is not eligible
293 for Medicaid.

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

297 **SECTION 2.** This act shall take effect and be in force from
298 and after July 1, 2006.