

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.