MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representative Fleming

To: Insurance

HOUSE BILL NO. 337

1 AN ACT TO REQUIRE THAT CERTAIN INSURANCE POLICIES DELIVERED
2 OR ISSUED FOR DELIVERY TO ANY PERSON IN THIS STATE SHALL CONTAIN A
3 PROVISION REQUIRING PAYMENT OF CLEAN CLAIMS WITHIN NINETY DAYS;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Except as otherwise provided for accident and
7 health insurance policies in Section 83-9-1 et seq., each
8 insurance policy delivered or issued for delivery after January 1,
9 2008, to any person in this state shall contain the following
10 provisions:

11 (a) Notice of claim:

12 Written notice of claim must be given to the insurer within
13 thirty (30) days after the occurrence or commencement of any loss
14 covered by the policy, or as soon thereafter as is reasonably
15 possible. Notice given by or on behalf of the insured or the
16 beneficiary to the insurer at ________________ (insert the
17 location of such office as the insurer may designate for the
18 purpose), or to any authorized agent of the insurer, with
19 information sufficient to identify the insured, shall be deemed
20 notice to the insurer.

21 (b) Claim forms:

22 The insurer, upon receipt of a notice of claim, shall furnish
23 to the claimant such forms as are usually furnished by it for
24 filing proofs of loss. If such forms are not furnished within
25 fifteen (15) days after the giving of such notice, the claimant
26 shall be deemed to have complied with the requirements of this
27 policy as to proof of loss upon submitting, within the time fixed
28 in the policy for filing proofs of loss, written proof covering

29 the occurrence, the character and the extent of the loss for which
30 claim is made.
31 (c) Proofs of loss:
32 Written proof of loss must be furnished to the insurer at its
33 office, in case of claim for loss for which this policy provides
34 any periodic payment contingent upon continuing loss, within
35 ninety (90) days after the termination of the period for which the
36 insurer is liable, and in case of claim for any other loss, within
37 ninety (90) days after the date of such loss. Failure to furnish
38 such proof within the time required shall not invalidate or reduce
39 any claim if it was not reasonably possible to give proof within
40 such time, provided such proof is furnished as soon as reasonably
41 possible and in no event, except in the absence of legal capacity,
42 later than one (1) year from the time proof is otherwise required.
43 (d) Time of payment of claims:
44 All benefits payable under this policy for any loss, other
45 than loss for which this policy provides any periodic payment,
46 shall be paid within eighty (80) days after receipt of due written
47 proof of such loss in the form of a clean claim where claims are
48 submitted electronically, and shall be paid within ninety (90)
49 days after receipt of due written proof of such loss in the form
50 of a clean claim where claims are submitted in paper format.
51 Benefits due under the policies and claims are overdue if not paid
52 within eighty (80) days or ninety (90) days, whichever is
53 applicable, after the insurer receives a clean claim containing
54 necessary medical information or other information essential for
55 the insurer to administer preexisting condition, coordination of
56 benefits and subrogation provisions. A "clean claim" means a
57 claim received by an insurer for adjudication and which requires
58 no further information, adjustment or alteration by the provider
59 of the services or the insured in order to be processed and paid
60 by the insurer. A claim is clean if it has no defect or

61 impropriety, including any lack of substantiating documentation,
62 or particular circumstance requiring special treatment that
63 prevents timely payment from being made on the claim under this
64 provision. A clean claim includes resubmitted claims with
65 previously identified deficiencies corrected.

66 A clean claim does not include any of the following:

67 (i) A duplicate claim which means an original
68 claim and its duplicate when the duplicate is filed within thirty
69 (30) days of the original claim;

70 (ii) Claims which are submitted fraudulently or
71 that are based upon material misrepresentations;

72 (iii) Claims that require information essential
73 for the insurer to administer coordination of benefits or
74 subrogation provisions; or

75 (iv) Claims submitted by a provider more than
76 thirty (30) days after the date of service; if the provider does
77 not submit the claim on behalf of the insured, then a claim is not
78 clean when submitted more than thirty (30) days after the date of
79 billing by the provider to the insured.

80 Not later than eighty (80) days after the date the insurer
81 actually receives an electronic claim, the insurer shall pay the
82 appropriate benefit in full, or any portion of the claim that is
83 clean, and notify the provider (where the claim is owed to the
84 provider) or the insured (where the claim is owed to the insured)
85 of the reasons why the claim or portion thereof is not clean and
86 will not be paid and what substantiating documentation and
87 information is required to adjudicate the claim as clean. Not
88 later than ninety (90) days after the date the insurer actually
89 receives a paper claim, the insurer shall pay the appropriate
90 benefit in full, or any portion of the claim that is clean, and
91 notify the provider (where the claim is owed to the provider) or
92 the insured (where the claim is owed to the insured) of the
93 reasons why the claim or portion thereof is not clean and will not

94 be paid and what substantiating documentation and information is
95 required to adjudicate the claim as clean. Any claim or portion
96 thereof resubmitted with the supporting documentation and
97 information requested by the insurer shall be paid within twenty
98 (20) days after receipt.
99 For purposes of this provision, the term "pay" means that the
100 insurer shall either send cash or a cash equivalent by United
101 States mail, or send cash or a cash equivalent by other means such
102 as electronic transfer, in full satisfaction of the appropriate
103 benefit due the provider (where the claim is owed to the provider)
104 or the insured (where the claim is owed to the insured). To
105 calculate the extent to which any benefits are overdue, payment
106 shall be treated as made on the date a draft or other valid
107 instrument was placed in the United States mail to the last known
108 address of the provider (where the claim is owed to the provider)
109 or the insured (where the claim is owed to the insured) in a
110 properly addressed, postpaid envelope, or, if not so posted, or
111 not sent by United States mail, on the date of delivery of payment
112 to the provider or insured.
113 Subject to due written proof of loss, all accrued benefits
114 for loss for which this policy provides periodic payment shall be
115 paid _______________ (insert period for payment which must not be
116 less frequently than monthly), and any balance remaining unpaid
117 upon the termination of liability shall be paid within thirty (30)
118 days after receipt of due written proof.
119 If the claim is not denied for valid and proper reasons by
120 the end of the applicable time period prescribed in this
121 provision, the insurer must pay the provider (where the claim is
122 owed to the provider) or the insured (where the claim is owed to
123 the insured) interest on accrued benefits at the rate of one and
124 one-half percent (1-1/2%) per month accruing from the day after
125 payment was due on the amount of the benefits that remain unpaid
126 until the claim is finally settled or adjudicated. Whenever

127 interest due pursuant to this provision is less than One Dollar
128 ($1.00), such amount shall be credited to the account of the
129 person or entity to whom such amount is owed.
130 If the insurer fails to pay benefits when due, the person
131 entitled to such benefits may bring action to recover such
132 benefits, any interest which may accrue as provided in this
133 paragraph (d) and any other damages as may be allowable by law.
134 (e) A provision as follows:
135 Payment of claims:
136 Indemnity for loss of life will be payable in accordance with
137 the beneficiary designation and the provisions respecting such
138 payment which may be prescribed herein and effective at the time
139 of payment. If no such designation or provision is then
140 effective, such indemnity shall be payable to the estate of the
141 insured. Any other accrued indemnities unpaid at the insured's
142 death may, at the option of the insurer, be paid either to such
143 beneficiary or to such estate. All other indemnities will be
144 payable to the insured. When payments of benefits are made to an
145 insured directly for medical care or services rendered by a health
146 care provider, the health care provider shall be notified of such
147 payment. The notification requirement shall not apply to a
148 fixed-indemnity policy, a limited benefit health insurance policy,
149 medical payment coverage or personal injury protection coverage in
150 a motor vehicle policy, coverage issued as a supplement to
151 liability insurance or workers' compensation.
152 (The following provisions, or either of them, may be included
153 with the foregoing provision at the option of the insurer: "If
154 any indemnity of this policy shall be payable to the estate of the
155 insured, or to an insured or beneficiary who is a minor or
156 otherwise not competent to give a valid release, the insurer may
157 pay such indemnity, up to an amount not exceeding $______________
158 (insert an amount which must not exceed One Thousand Dollars
159 ($1,000.00)), to any relative by blood or connection by marriage

160 of the insured or beneficiary who is deemed by the insurer to be
161 equitably entitled thereto. Any payment made by the insurer in
162 good faith pursuant to this provision shall fully discharge the
163 insurer to the extent of such payment.")
164 **SECTION 2.** This act shall take effect and be in force from
165 and after July 1, 2007.

ST: Insurance claims; require settlement within 90 days of filing claims.